



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.12.

9/7/2023

Subject:

Colleen Mary Golub Revocable Trust (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (23S.12), to change the Future Land Use designation from NC to CC. (23SS00012) (Tax Account 2627864) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners consider a Small Scale Comprehensive Plan Amendment (23S.12), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from NC to CC on a 1.72-acre parcel within the Suntree PUD to develop a commercial car wash with a drive-through lane. The subject parcel currently retains PUD zoning, received under zoning action Z-6806 on August 9, 1984, and is located within Tract 99, a 20-acre commercial portion of the Suntree PUD. Drive through lanes require the CC Future Land Use designation. A companion rezoning application was submitted accompanying this request to amend the PUD zoning classification to allow BU-1 uses on the 1.72-acre subject parcel within the Suntree PUD (23Z00051).

The developed character of the surrounding area is commercial along N. Wickham Road, a commercial corridor that serves local markets. Commercial uses (retail shopping center) adjacent to the north of the subject property were established over 40 years ago. Existing residential uses are located further west of the subject property, across N. Wickham Road, within the Suntree PUD.

The proposed commercial use of the subject property may be considered compatible with the existing pattern of commercial development along N. Wickham Road.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

On August 14, 2023, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Please provide two copies of the executed Ordinance to the Planning and Development Department.



September 8, 2023

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

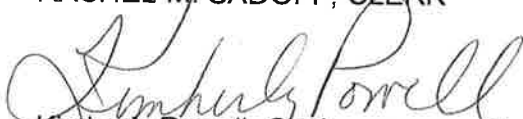
RE: Item G.12., Small Scale Comprehensive Plan Amendment (23S.12)

The Board of County Commissioners, in regular session on September 7, 2023, conducted the public hearing and adopted Ordinance No. 23-19, setting forth the seventh Small Scale Comprehensive Plan Amendment (23S.12) to change the Future Land Use designation from NC to CC. (23SS00012). Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK**


Kimberly Powell, Clerk to the Board

Encl. (1)

ORDINANCE NO. 23- 19

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SEVENTH SMALL SCALE PLAN AMENDMENT OF 2023, 23S.12, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2023 as Plan Amendment 23S.12; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 23S.12; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

Officially filed with the Secretary of the State on September 15, 2023.

WHEREAS, on August 14, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.12, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on September 7, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 23S.12; and

WHEREAS, Plan Amendment 23S.12 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.12 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 23S.12 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 23S.12, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

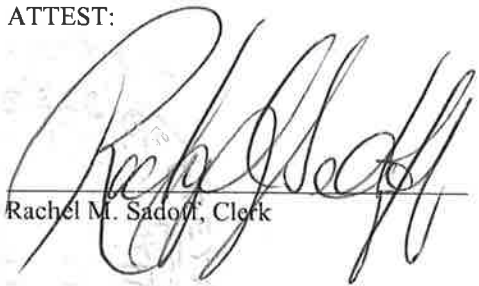
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 7th day of September, 2023.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



By: _____
Rita Pritchett, Chair

As approved by the Board on SEP 07 2023, 2023.

EXHIBIT A
23S.12 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

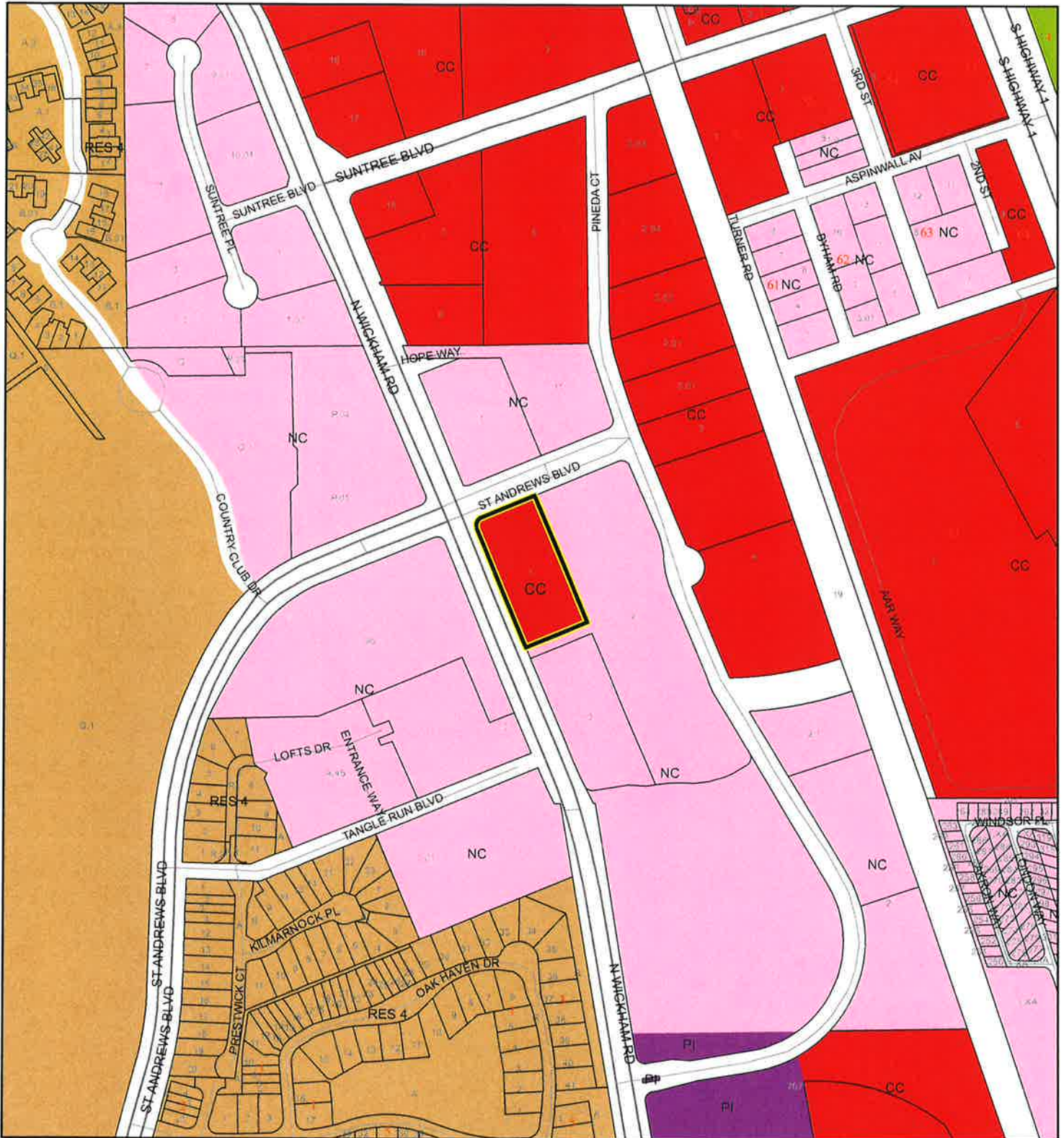
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

— Subject Property

□ Parcels

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

Produced by BoCC - GIS Date: 6/20/2023

EXHIBIT B

Contents

1. Legal Description

DISTRICT 7

(23SS00012) Colleen Mary Golub Revocable Trust (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (23S.12), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Lot 1, Block A, Mercedes Plaza, according to the plat thereof, as recorded in Plat Book 53, Page(s) 47, of the Public Records of Brevard County, Florida. **Section 13, Township 26, Range 36** . (1.72 acres) Located on the southeast corner of N. Wickham Rd. and St. Andrews Blvd. (No assigned address. In the Melbourne area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 23S.102: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled The Comprehensive Plan , amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

September 19, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Attention: Helen Seaman

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of corrected Brevard County Ordinance No. 23-19, which was filed in this office on September 15, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh

Donna Scott

From: Municode Ords Admin <MunicodeOrds@civicplus.com>
Sent: Wednesday, September 20, 2023 11:56 AM
To: Donna Scott
Subject: RE: Brevard County, FL Code of Ordinances - 1993(10473)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

We have received your files.

Thank you and have a nice day.

Ords Administrator
Municodeords@civicplus.com
1-800-262-2633
P.O. Box 2235
Tallahassee, FL 32316

When available, please send all documents in WORD format to Municodeords@civicplus.com. However, if WORD format is not available, we welcome any document format including PDF.

SVj (she/her/hers)

Production Support Specialist Supplement Department • **CivicPlus**
civicplus.com



Powering and Empowering Local Governments

From: Donna Scott <donna.scott@brevardclerk.us>
Sent: Tuesday, September 19, 2023 11:16 AM
To: Municode Ords Admin <MunicodeOrds@civicplus.com>
Cc: Clerk to the Board <ClerktotheBoard@brevardclerk.us>
Subject: Ordinances to file with Municode
Importance: Low

You don't often get email from donna.scott@brevardclerk.us. [Learn why this is important](#)

Hello,

Attached is Ordinance Nos. 23-19, 23-20, 23-21, 23-22, and 22-23 to be filed with Municode.

Thank you,
Donna Scott
Assistant Clerk to the Board
321-637-2001



Brevard County, Florida

Clerk of the Court

Rachel M. Sadoff

This email was scanned by Bitdefender

Under Florida law, all correspondence sent to the Clerk's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

This email was scanned by Bitdefender

Helen Seaman

From: Helen Seaman
Sent: Friday, September 15, 2023 11:24 AM
To: 'CountyOrdinances@dos.myflorida.com'
Cc: Clerk to the Board
Subject: RE: BRE20230905_ORDINANCE2023_19
Attachments: 0913_001.pdf

Good Morning:

Due to a scrivener error, attached is the corrected Ordinance No. 2023-19 to be filed with the State.

Please accept apologies for the inconvenience.

Helen Seaman

Administrative Assistant

Clerk to the Board

(321) 637-2001

Helen.Seaman@brevardclerk.us

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 23S.12 (23SS00012)
Township 26, Range 36, Section 13

Property Information

Owner / Applicant: Colleen Mary Golub Revocable Trust

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 1.72

Tax Account #: 2627864

Site Location: Southeast corner of N. Wickham Road and St. Andrews Boulevard

Commission District: 4

Current Zoning: Planned Unit Development (PUD)

Requested Zoning: Planned Unit Development (PUD) major amendment (23Z00051)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.72-acre parcel within the Suntree PUD to develop a commercial car wash with a drive-through lane. The subject parcel currently retains PUD zoning, received under zoning action **Z-6806** on August 9, 1984, and is located within Tract 99, a 20-acre commercial portion of the Suntree PUD. The subject property is currently undeveloped and designated as NC on the Future Land Use Map (FLUM).

Drive through lanes are prohibited in areas designated as NC on the FLUM and require the Community Commercial (CC) Future Land Use designation. A companion rezoning application was submitted accompanying this request to amend the PUD zoning classification to allow BU-1 uses on the 1.72-acre subject parcel within the Suntree PUD (**23Z00051**).

The existing PUD zoning classification may be considered consistent with the existing NC FLU and the proposed PUD zoning classification can be considered consistent with the proposed Community Commercial (CC) FLU designation.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial retail plaza	PUD	NC
South	Undeveloped commercial	PUD	NC
East	Commercial office building	PUD	NC
West	Stormwater pond – Suntree MHOA (across N. Wickham Road)	PUD	NC

To the north is a 1.87-acre parcel developed as a retail shopping plaza with NC FLU designation.

To the south is an undeveloped 1.91-acre parcel with NC FLU designation.

To the east is a 5.94-acre parcel developed as a multi-story office building with NC FLU designation.

To the west, across N. Wickham Road, is a 5.69-acre parcel developed as a stormwater retention pond in the Suntree PUD with NC FLU designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject property has frontage on N. Wickham Road and St. Andrews Boulevard.

B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

There are NC and CC Future Land Use map designations adjacent to the subject property.

C. Existing commercial development trend in the area;

Existing commercial development in the immediate area includes a retail shopping center to the north and a multi-story office building to the east. Vacant commercial land is located to the south of the subject site. Additional commercial uses are located along N. Wickham Road.

CC FLU is considered an intensification with the introduction of additional uses not allowed in the NC/BU-1 zoning south of St. Andrews Boulevard.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

E. Availability of required infrastructure at/above adopted levels of service;

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposal increases the percentage of MAV utilization by 20.32%. The corridor is anticipated to operate at 78.97% of capacity daily.

The subject parcel is within the City of Cocoa utilities service area for public water. Brevard County sewer lines are located adjacent to the subject site along St. Andrews Boulevard. The proposed development is not anticipated to have an impact on the LOS for potable water service, sanitary sewer or solid waste disposal.

F. Spacing from other commercial activities;

The closest Community Commercial facilities are located 345 feet east of the subject site on Pineda Court. The next closest CC is located 450 feet north of the subject site at the intersection of N. Wickham Road and Suntree Boulevard.

G. Size of proposed commercial designation compared with current need for commercial lands;

The subject site currently retains commercial Future Land Use of NC. This request would represent an increase of approximately 1.72 acres of CC.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

The subject property is currently undeveloped and could be considered infill and not an expansion of strip development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations

FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant is proposing to develop a commercial car wash business with a drive-through on 1.72 acres.

Locational and Development Criteria for Community Commercial Uses

FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The subject site is not located at an arterial/arterial intersection. While N. Wickham Road is classified as an urban principal arterial roadway, St. Andrews Boulevard is a local roadway.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The existing Community Commercial properties to the north and east of the subject property total less than 25 acres. This request, if approved, would represent an increase of 1.37 acres of CC.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

N. Wickham Road is commercial corridor serving the community and the surrounding region. As such, this area represents a historical strip commercial development pattern and does not lend itself to cluster commercial analysis.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

This criterion will be addressed at the site plan review stage of development.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The overall subject site has the potential for a 131,116 sq. ft. of commercial based on a FAR of 1.75. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations.

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

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

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

The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Potential off-site impacts will be addressed with the companion PUD amendment. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

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

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

1. historical land use patterns;

The developed character of the surrounding area is commercial along N. Wickham Road, a commercial corridor that serves local markets. Commercial uses (retail shopping center) adjacent to the north of the subject property were established over 40 years ago. Existing residential uses are located further west of the subject property, across N. Wickham Road, within the Suntree PUD.

The proposed commercial use of the subject property may be considered compatible with the existing pattern of commercial development along N. Wickham Road.

There are two (2) FLU designations within 500 feet of the subject site: CC, NC, and REC. The closest CC is located 345 feet east of the subject site on Pineda Court. The next closest CC is located 450 feet north of the subject site at the intersection of N. Wickham Road and Suntree Boulevard.

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

It appears no changes to the immediate area have occurred within the last three years.

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

While there has not been any actual development within this area in the preceding three (3) years, two zoning actions have been approved within one-half mile:

23Z00008, approved by the Board on May 4, 2023, was a request to rezone from BU-1 and BU-2 to PUD on 11.48 acres located approximately 3,045 feet south of the subject property on N. Wickham Road.

20Z00014, approved by the Board on October 1, 2020, was a request to rezone from PUD and PIP to all PUD on 16.33 acres located approximately 1,505 feet south of the subject property on N. Wickham Road.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The developed character of the surrounding area is commercial along N. Wickham Road, a commercial corridor that serves local markets. Commercial uses (retail shopping center) adjacent to the north of the subject property were established over 40 years ago. Existing residential uses are located further west of the subject property, across N. Wickham Road, within the Suntree PUD.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established 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.

The subject property is located within a commercial corridor.

- 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.

The subject property is located within a commercial corridor along N. Wickham Road. Commercial uses adjacent to the north of the subject property were established over 40 years ago.

- 3) An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The subject parcel is located along a commercial corridor within this section of N. Wickham Road (within the Suntree PUD).

Preliminary Concurrency

The closest concurrency management segment to the subject property is Wickham from Jordan Blass to St. Andrews Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 58.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 20.32%. The corridor is anticipated to operate at 78.97% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

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

The subject parcel is within the City of Cocoa utilities service area for public water. Brevard County sewer lines are located adjacent to the subject site along St. Andrews Boulevard.

Environmental Constraints

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

No noteworthy land use issues were identified. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item # 23SS00012**

Applicant: Kimberly B. Rezanka (Owner: Colleen Mary Golub Revocable Trust)

Zoning Request: NC to CC

Note: Build and operate a car wash with a drive-through lane

LPA Hearing Date: 8/14/2023; **BCC Hearing Date:** 9/7/2023

Tax ID No: 2627864

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

Land Use Comments:

Aquifer Recharge Soils

This parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~28 TO 31 feet NAVD) indicate the soils may consist of Type 2 and Type 3 Aquifer Recharge soils, which have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The development and impervious restrictions can be found within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the

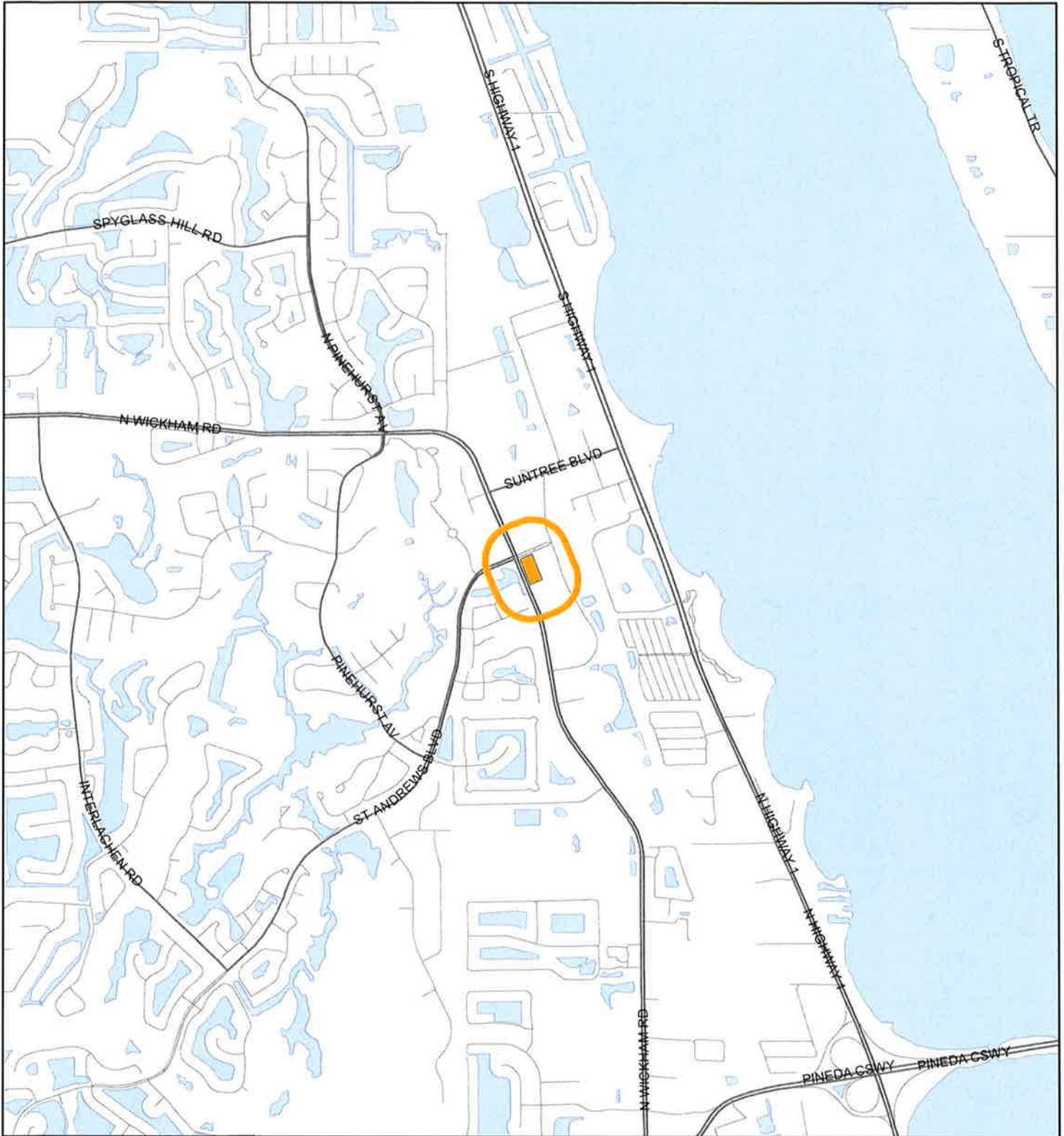
design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils. Specifically, gopher tortoises have been observed in this area. If applicable, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

LOCATION MAP

Colleen Mary Golub Revocable Trust
23SS00012



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

Buffer Distance: 500 feet

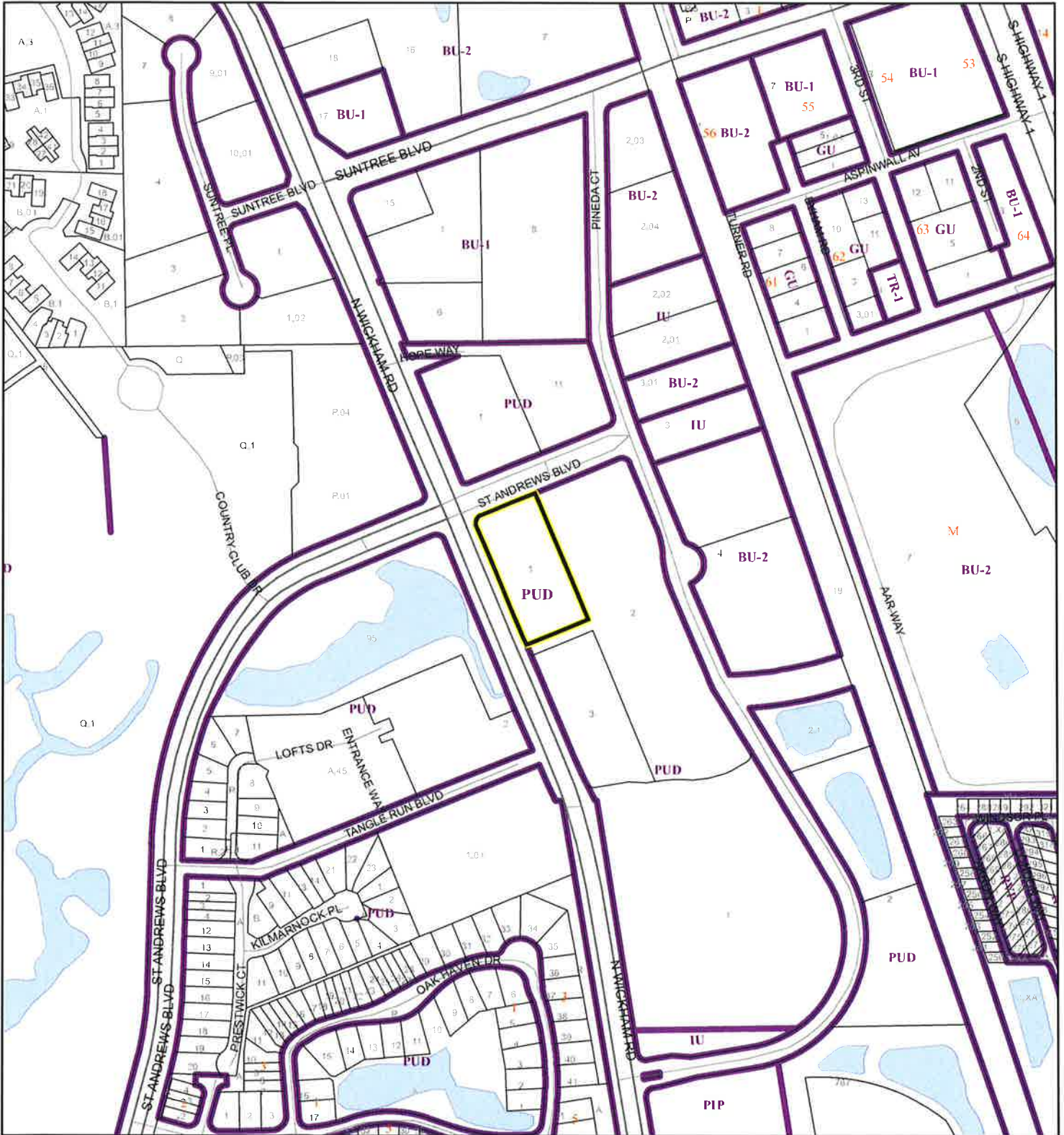
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/20/2023

— Buffer
— Subject Property

ZONING MAP

Colleen Mary Golub Revocable Trust
23SS00012



1:4,800 or 1 inch = 400 feet

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Subject Property

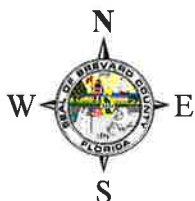
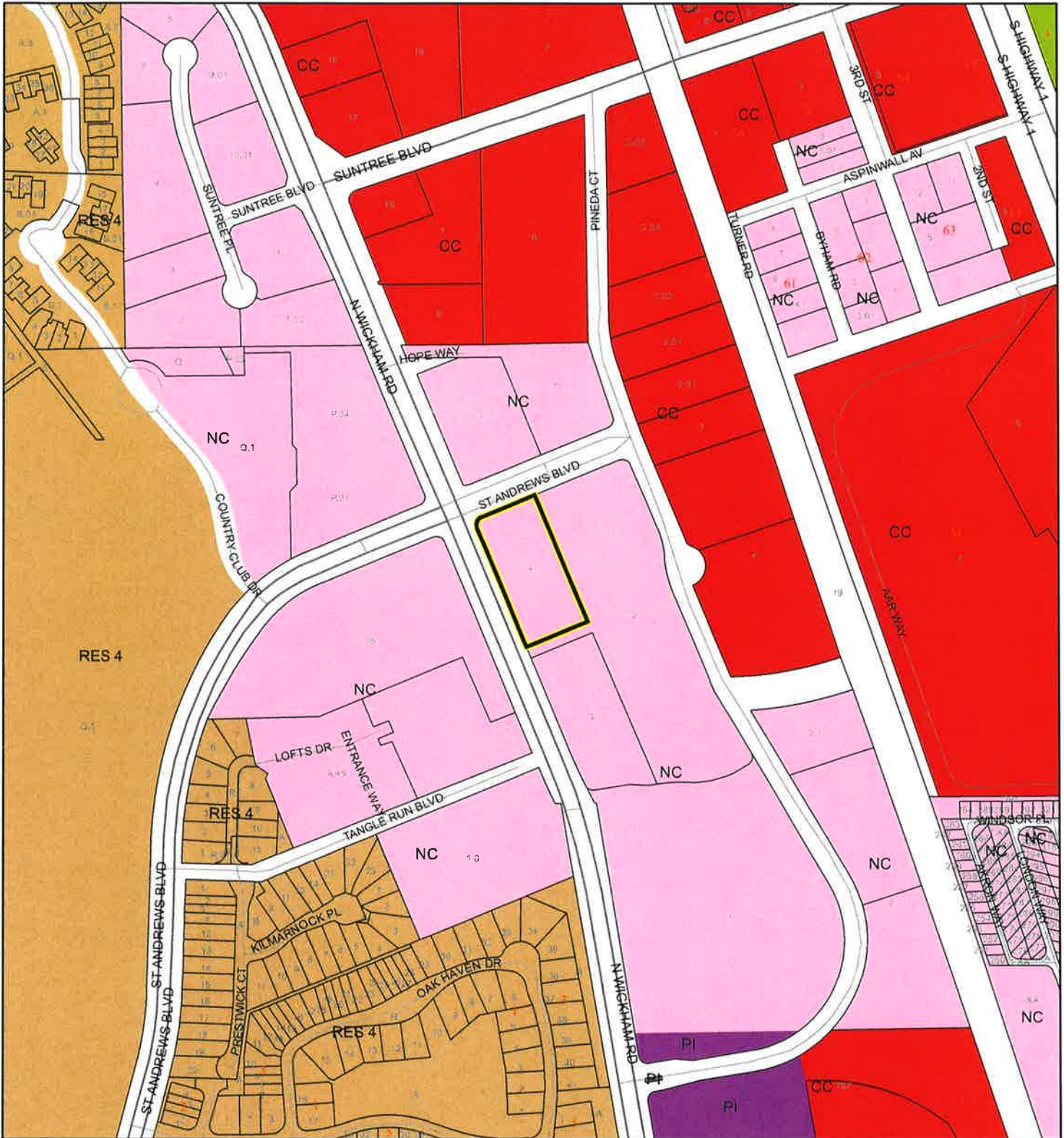
Parcels

Zoning

FUTURE LAND USE MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

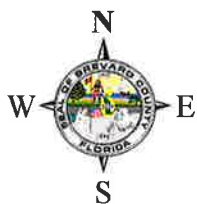
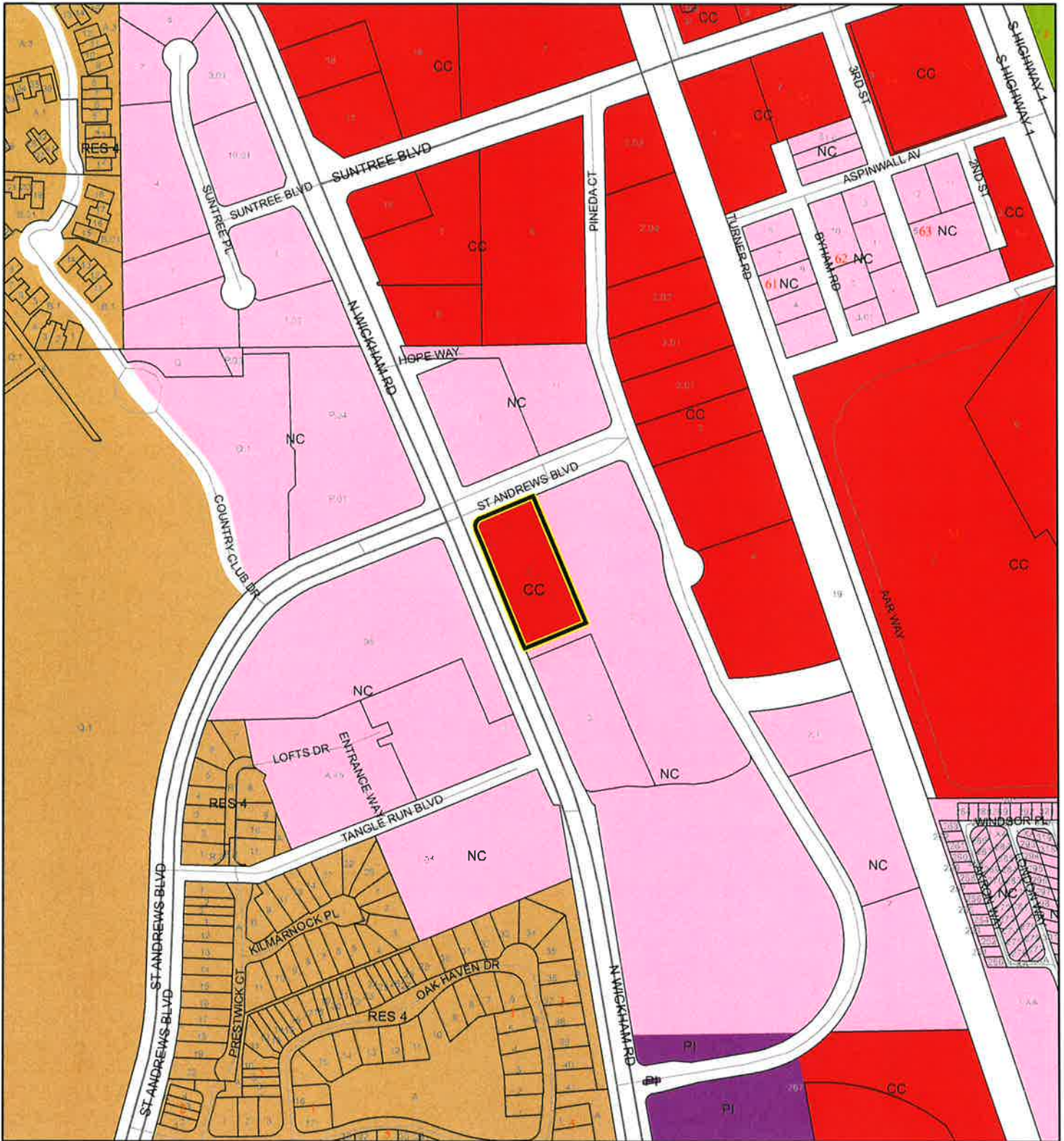
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PROPOSED FUTURE LAND USE MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

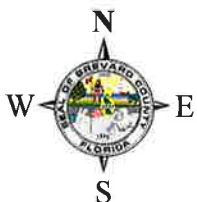
— Subject Property
 □ Parcels

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AERIAL MAP

Colleen Mary Golub Revocable Trust
23SS00012



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

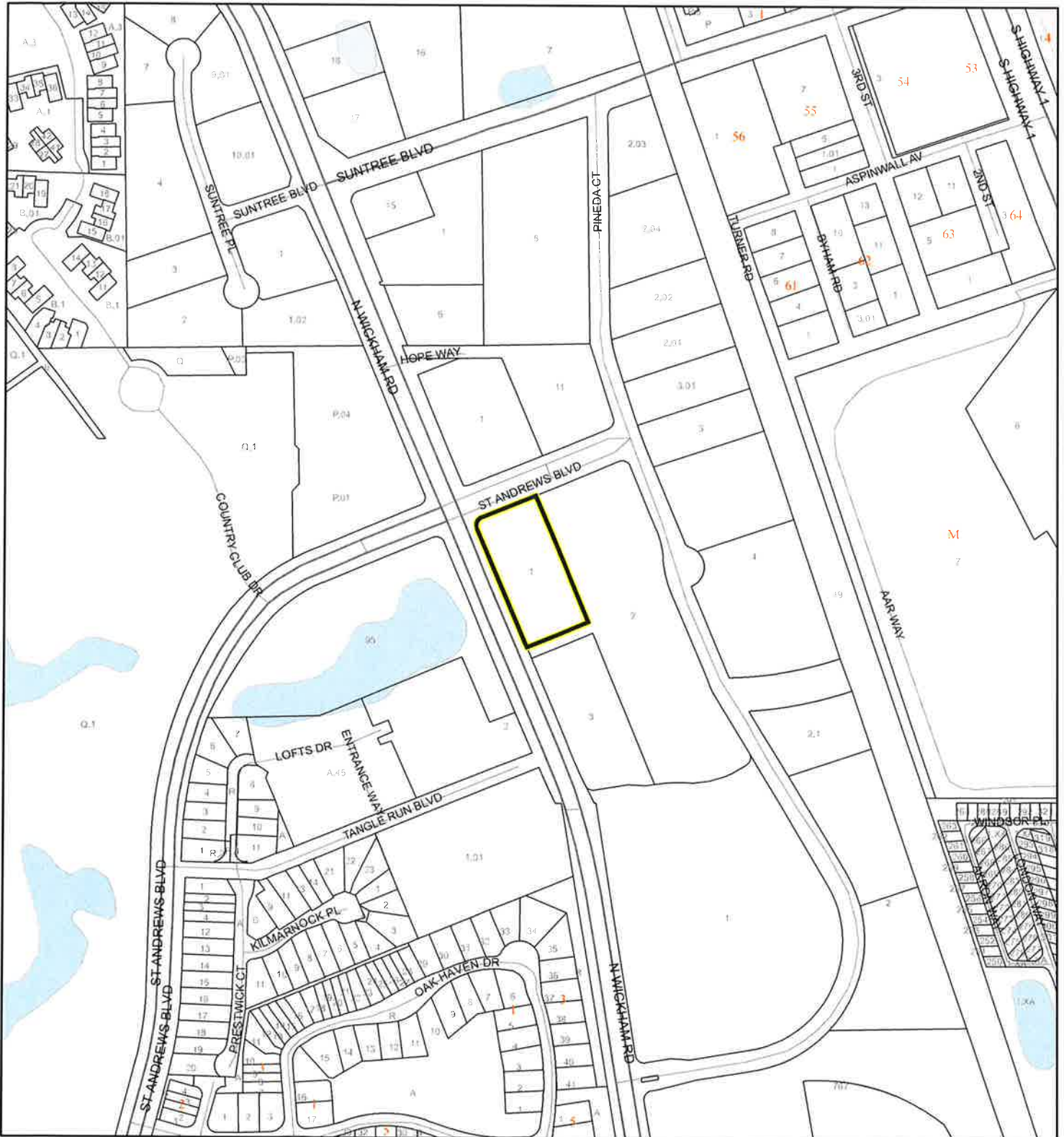
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Produced by BoCC - GIS Date: 6/20/2023

— Subject Property
□ Parcels

NWI WETLANDS MAP

Colleen Mary Golub Revocable Trust
23SS00012



1:4,800 or 1 inch = 400 feet

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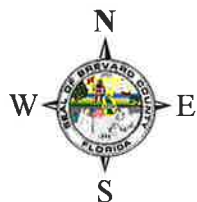
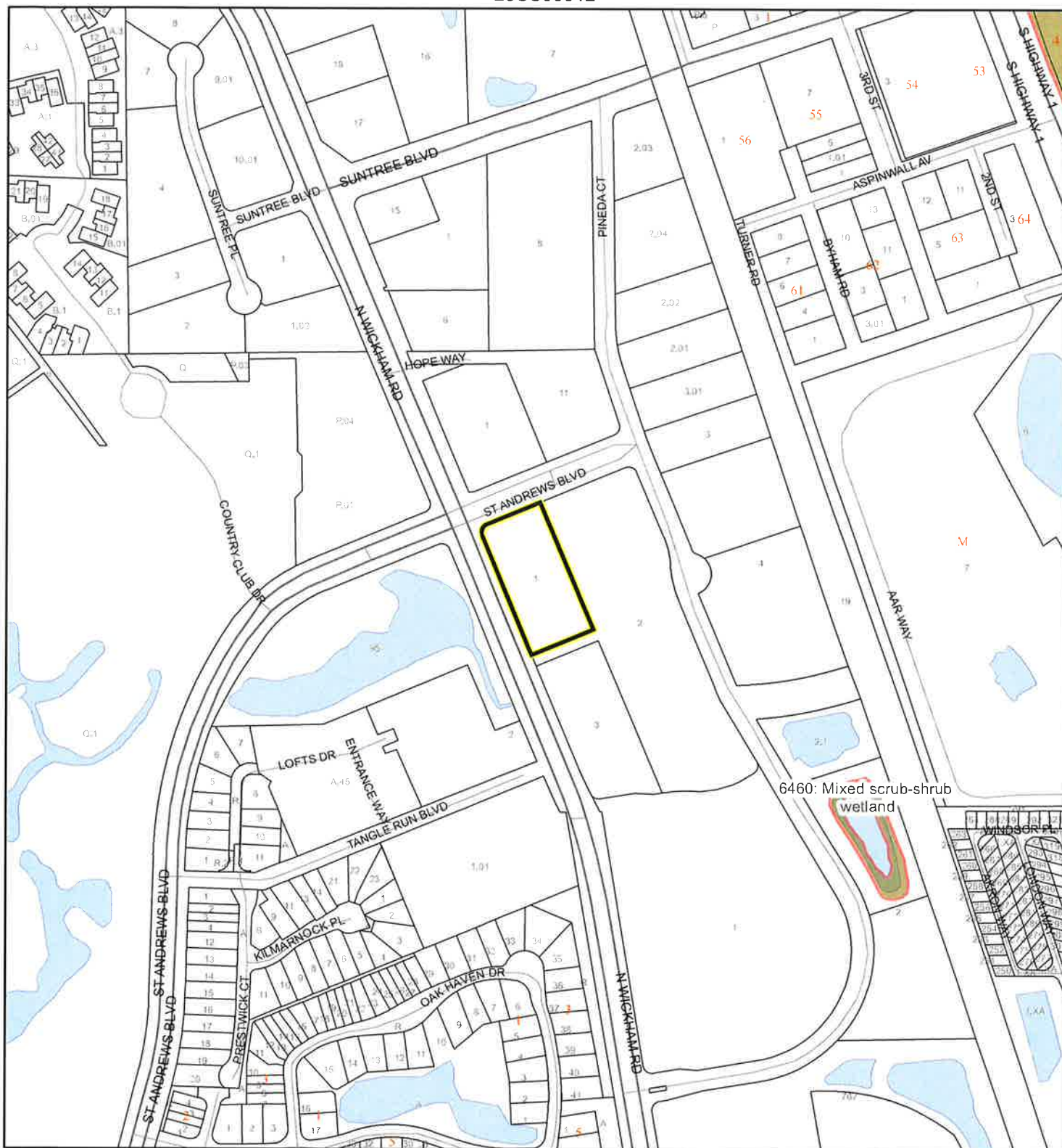
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National Wetlands Inventory (NWI)

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

Colleen Mary Golub Revocable Trust
23SS00012



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

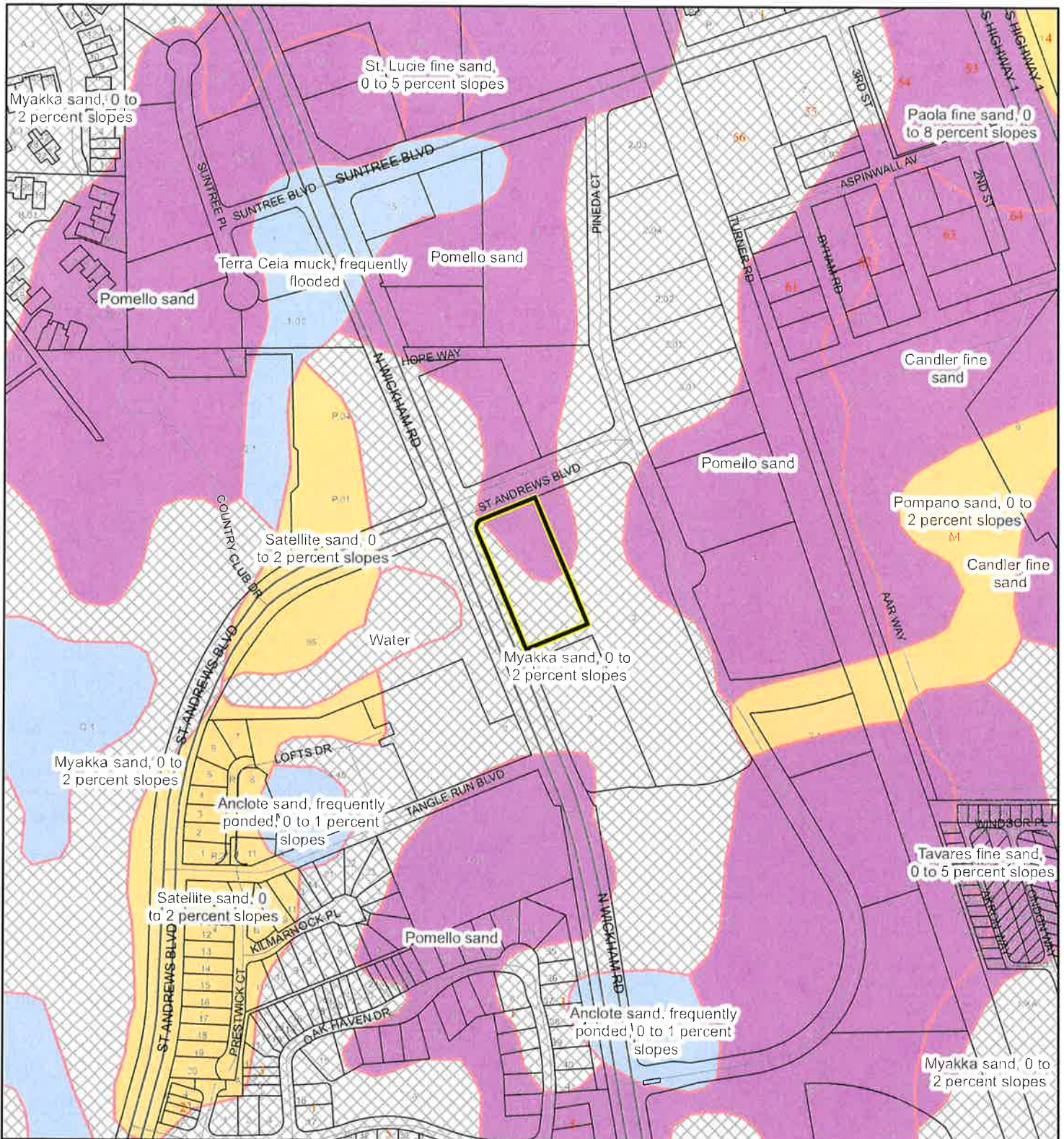
Subject Property

Parcels

USDA SCSSS SOILS MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

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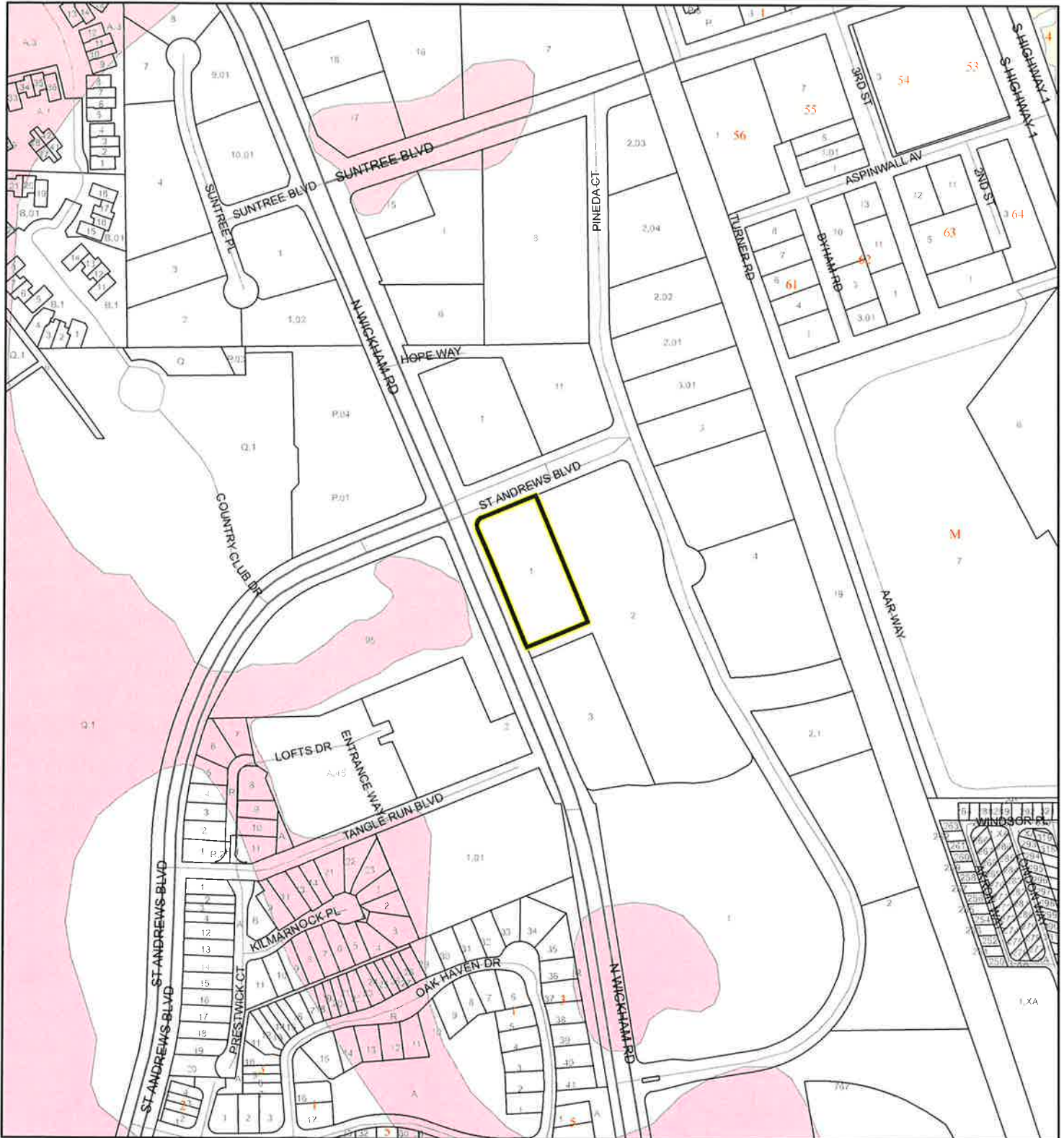
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

Colleen Mary Golub Revocable Trust
23SS00012



1:4,800 or 1 inch = 400 feet

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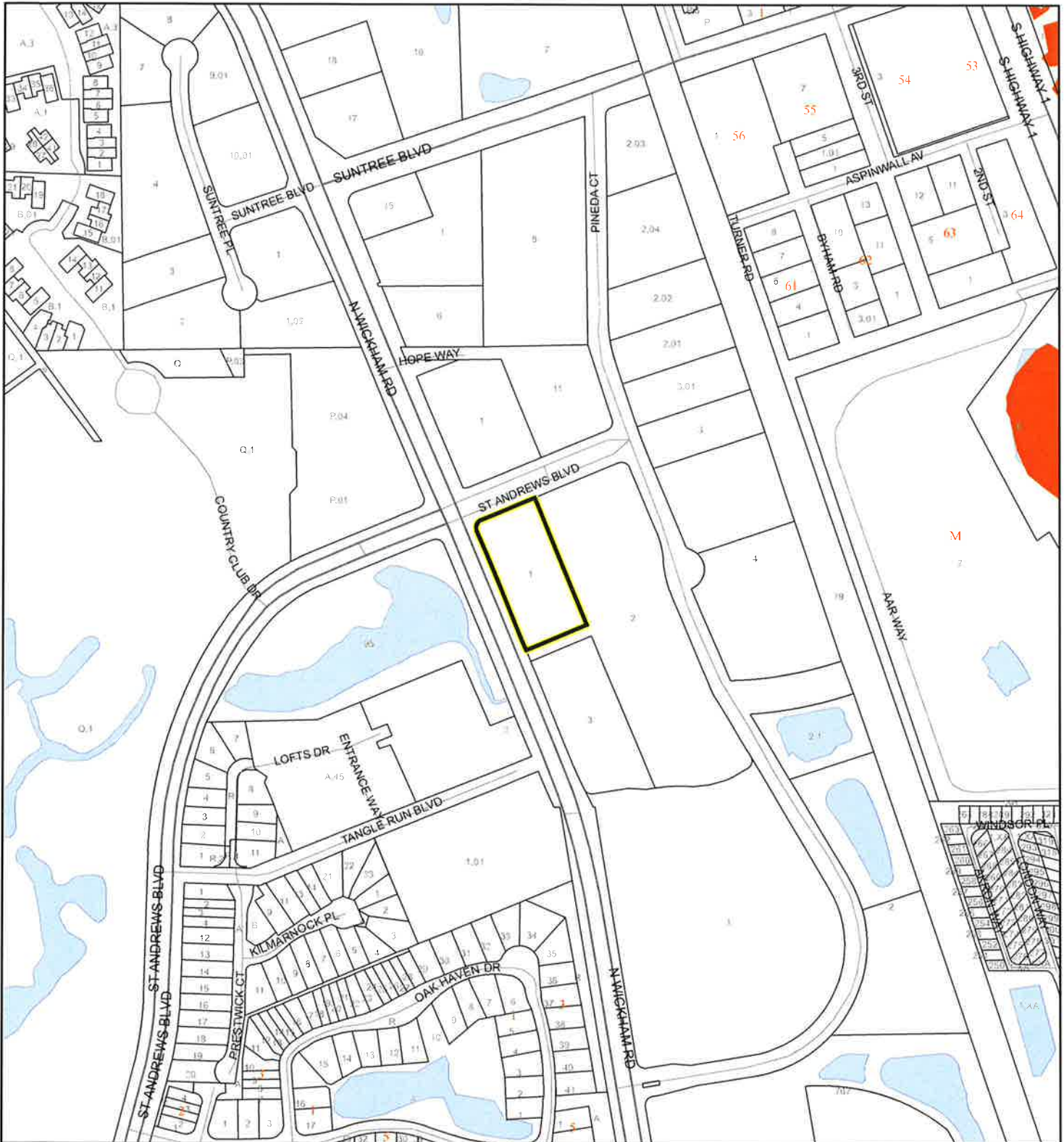
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

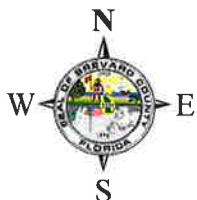
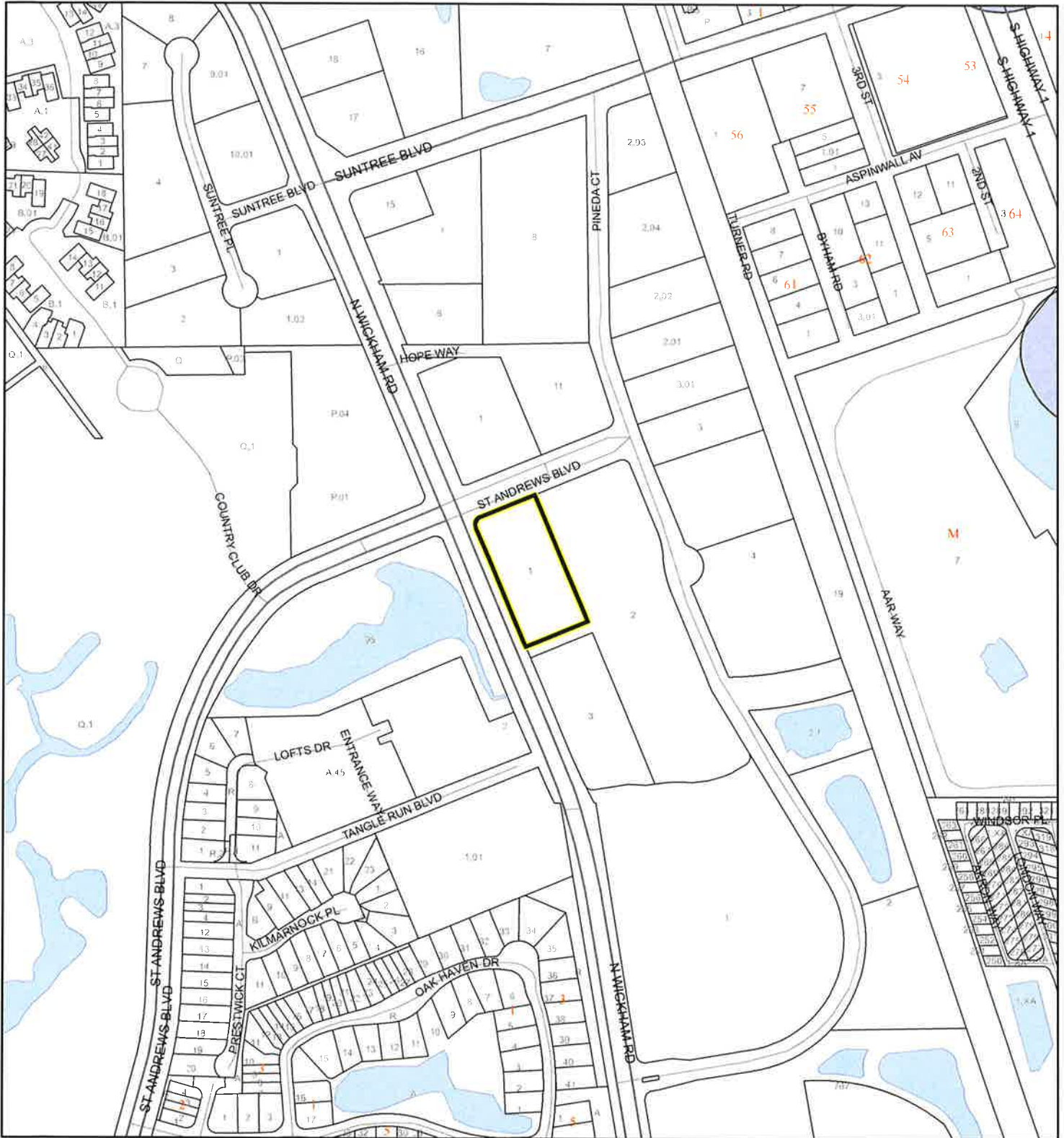
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

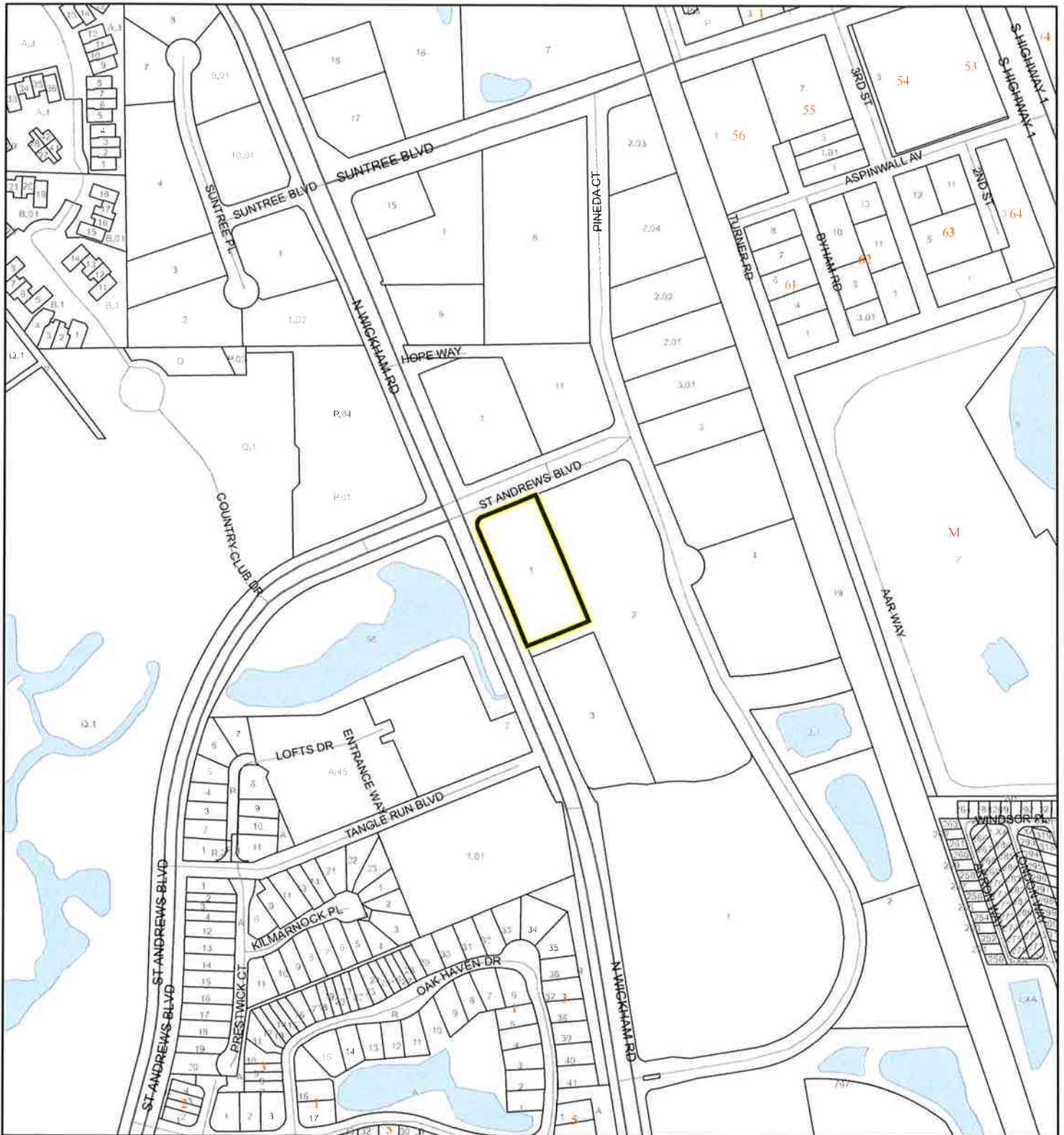
 60 Meters

 All Distances

EAGLE NESTS MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

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 Subject Property

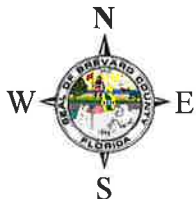
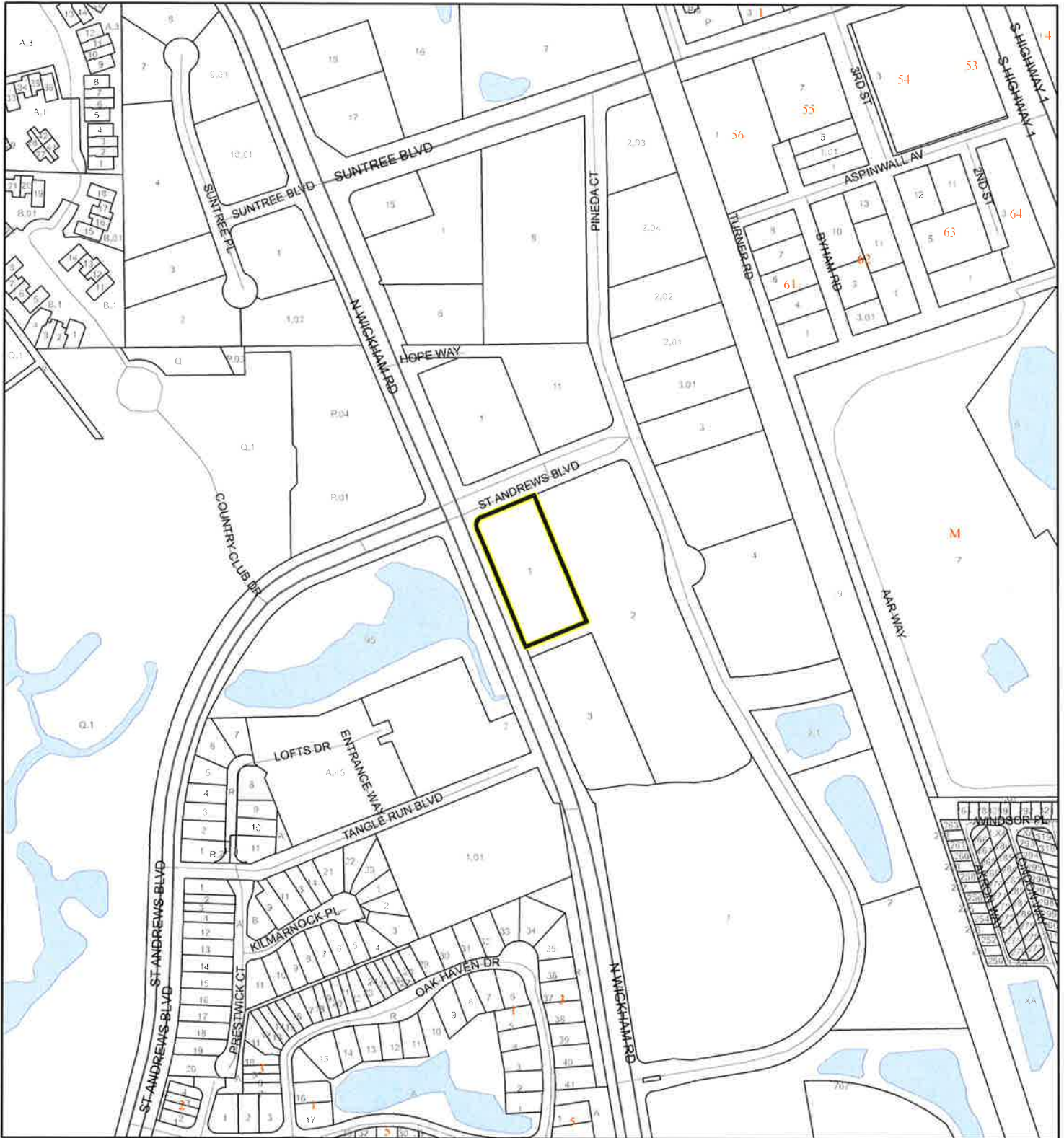
 Parcels

 Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

Colleen Mary Golub Revocable Trust




23SS00012



1:4,800 or 1 inch = 400 feet

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

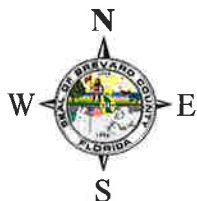
Produced by BoCC - GIS Date: 6/20/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Colleen Mary Golub Revocable Trust

23SS00012



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/20/2023

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



AAL LAND SURVEYING SERVICES, INC.

DAVID M. KATZ, Editor
DAVID M. KATZ, Editor

LOT 1, BLOCK "A", MERCERES PLAZA, ACCORDING TO THE PLAT THEREOF.
RECORDED IN PLAT BOOK 52, PAGE 42, OF THE PUBLIC RECORDS OF
BREVARD COUNTY, FLORIDA

1. NAME OF THE PARTY: THE PEOPLE'S PARTY OF THE UNITED STATES OF AMERICA 2. NAME OF THE CANDIDATE: JOHN EDGAR HOOVER 3. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 4. NAME OF THE DISTRICT: DISTRICT OF COLUMBIA 5. NAME OF THE COUNTY: DISTRICT OF COLUMBIA 6. NAME OF THE CITY: WASHINGTON, D.C. 7. NAME OF THE STATE: DISTRICT OF COLUMBIA 8. NAME OF THE CONGRESS: 86TH CONGRESS 9. NAME OF THE SENATE: SENATE 10. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 11. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 12. NAME OF THE SUBCOMMITTEE: SUBCOMMITTEE ON SELECT COMMITTEES 13. NAME OF THE HEARING: HEARING ON THE NOMINATION OF JOHN EDGAR HOOVER TO BE ATTORNEY GENERAL 14. NAME OF THE DATE: SEPTEMBER 10, 1958 15. NAME OF THE TIME: 10:00 A.M. 16. NAME OF THE PLACE: U.S. SENATE CHAMBER 17. NAME OF THE CITY: WASHINGTON, D.C. 18. NAME OF THE STATE: DISTRICT OF COLUMBIA 19. NAME OF THE COUNTRY: UNITED STATES OF AMERICA 20. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 21. NAME OF THE DISTRICT: DISTRICT OF COLUMBIA 22. NAME OF THE COUNTY: DISTRICT OF COLUMBIA 23. NAME OF THE CITY: WASHINGTON, D.C. 24. NAME OF THE STATE: DISTRICT OF COLUMBIA 25. NAME OF THE CONGRESS: 86TH CONGRESS 26. NAME OF THE SENATE: SENATE 27. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 28. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 29. NAME OF THE SUBCOMMITTEE: SUBCOMMITTEE ON SELECT COMMITTEES 30. NAME OF THE HEARING: HEARING ON THE NOMINATION OF JOHN EDGAR HOOVER TO BE ATTORNEY GENERAL 31. NAME OF THE DATE: SEPTEMBER 10, 1958 32. NAME OF THE TIME: 10:00 A.M. 33. NAME OF THE PLACE: U.S. SENATE CHAMBER 34. NAME OF THE CITY: WASHINGTON, D.C. 35. NAME OF THE STATE: DISTRICT OF COLUMBIA 36. NAME OF THE COUNTRY: UNITED STATES OF AMERICA 37. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 38. NAME OF THE DISTRICT: DISTRICT OF COLUMBIA 39. NAME OF THE COUNTY: DISTRICT OF COLUMBIA 40. NAME OF THE CITY: WASHINGTON, D.C. 41. NAME OF THE STATE: DISTRICT OF COLUMBIA 42. NAME OF THE CONGRESS: 86TH CONGRESS 43. NAME OF THE SENATE: SENATE 44. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 45. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 46. NAME OF THE SUBCOMMITTEE: SUBCOMMITTEE ON SELECT COMMITTEES 47. NAME OF THE HEARING: HEARING ON THE NOMINATION OF JOHN EDGAR HOOVER TO BE ATTORNEY GENERAL 48. NAME OF THE DATE: SEPTEMBER 10, 1958 49. NAME OF THE TIME: 10:00 A.M. 50. NAME OF THE PLACE: U.S. SENATE CHAMBER 51. NAME OF THE CITY: WASHINGTON, D.C. 52. NAME OF THE STATE: DISTRICT OF COLUMBIA 53. NAME OF THE COUNTRY: UNITED STATES OF AMERICA 54. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 55. NAME OF THE DISTRICT: DISTRICT OF COLUMBIA 56. NAME OF THE COUNTY: DISTRICT OF COLUMBIA 57. NAME OF THE CITY: WASHINGTON, D.C. 58. NAME OF THE STATE: DISTRICT OF COLUMBIA 59. NAME OF THE CONGRESS: 86TH CONGRESS 60. NAME OF THE SENATE: SENATE 61. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 62. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 63. 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NAME OF THE STATE: DISTRICT OF COLUMBIA 104. NAME OF THE COUNTRY: UNITED STATES OF AMERICA 105. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 106. NAME OF THE DISTRICT: DISTRICT OF COLUMBIA 107. NAME OF THE COUNTY: DISTRICT OF COLUMBIA 108. NAME OF THE CITY: WASHINGTON, D.C. 109. NAME OF THE STATE: DISTRICT OF COLUMBIA 110. NAME OF THE CONGRESS: 86TH CONGRESS 111. NAME OF THE SENATE: SENATE 112. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 113. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 114. NAME OF THE SUBCOMMITTEE: SUBCOMMITTEE ON SELECT COMMITTEES 115. NAME OF THE HEARING: HEARING ON THE NOMINATION OF JOHN EDGAR HOOVER TO BE ATTORNEY GENERAL 116. NAME OF THE DATE: SEPTEMBER 10, 1958 117. NAME OF THE TIME: 10:00 A.M. 118. NAME OF THE PLACE: U.S. SENATE CHAMBER 119. NAME OF THE CITY: WASHINGTON, D.C. 120. NAME OF THE STATE: DISTRICT OF COLUMBIA 121. NAME OF THE COUNTRY: UNITED STATES OF AMERICA 122. NAME OF THE OFFICE: UNITED STATES DEPARTMENT OF JUSTICE 123. 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NAME OF THE STATE: DISTRICT OF COLUMBIA 144. NAME OF THE CONGRESS: 86TH CONGRESS 145. NAME OF THE SENATE: SENATE 146. NAME OF THE HOUSE: HOUSE OF REPRESENTATIVES 147. NAME OF THE COMMITTEE: COMMITTEE ON SELECT COMMITTEES 148. NAME OF THE SUBCOMMITTEE: SUBCOMMITTEE ON SELECT COMMITTEES 149. NAME OF THE HEARING: HEARING ON THE NOMINATION OF JOHN EDGAR HOOVER TO BE ATTORNEY GENERAL 150. NAME OF THE DATE: SEPTEMBER 1	
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PREPARED BY & RETURN TO:
Hubert C. Normile, Jr., Esq.
780 S. Apollo Boulevard
Melbourne, Florida 32902

**DECLARATION OF COVENANTS
FOR
SUNTREE COMMERCIAL CENTER**

THIS DOCUMENT sets forth certain covenants and restrictions made by SUNTREE DEVELOPMENT COMPANY, a Florida corporation, on the 24th day of May, 1986. Suntree Development Company is called the "Developer" in this document.

JULY

Purpose of This Document

The purpose of this document is to subject the Land described in Exhibit "A" to the covenants and restrictions contained in this document. This document is sometimes referred to as the "Covenants".

The Developer declares that the Land shall be conveyed and occupied subject to all matters set forth in this document. These Covenants shall run with the title to the Land and shall be binding upon the Developer and upon all parties acquiring any interest in the Land after the recording of these Covenants in the Public Records.

**ARTICLE I
Mutual Benefits and Obligations**

The Covenants contained in this document are made for the mutual benefit of each and every owner of the Land. They are intended to be nondiscriminatory. They are also intended to create enforceable rights and obligations in favor of and against each and every owner of the Land and the Developer.

**ARTICLE II
Restrictions**

Section 1. **Uses.** The Land shall not be used for any purpose which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which is hazardous by reason of excessive danger of fire or explosion. All of the Land shall be used for commercial purposes as described in the permitted uses of the BU-1 zoning classification of Brevard County, Florida, said permitted uses being attached hereto as Exhibit "B" and by reference made a part hereof.

Section 2. **Construction Standards.** No building shall be permitted on the Land unless it is of a permanent type construction nor unless the exterior design and the materials and colors used on the exterior of the building, as well as the type and extent of exterior lighting to be used on the improved site, have been approved by the Developer. All improvements shall be constructed in compliance with the plans and specifications approved by the Developer as provided in Section 4.

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NORMILE & DETTMER,
P. A.
ATTORNEYS AT LAW
780 SOUTH APOLLO BLVD.
MELBOURNE, FLORIDA
32901
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REC. FEE \$ 41.00 RECD. PAYMENT AS
DOC. ST. \$ _____
INT. TAX \$ _____
SER. CHG. \$ _____
REFUND \$ _____
Dep. Exec. Seal: [Signature]

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Section 3. Master Plan Approval. The owner agrees to submit to the Developer two (2) sets of the master development and site plan, the master landscaping plan, and the master signage plan for the prior review and approval by the Developer. If the Developer fails to approve or disapprove the master plans within thirty (30) days after written request for such approval, then such approval shall not be required, provided, however, that any improvements erected without the Developer's written approval of the master plans shall not violate any express provision of these covenants.

Section 4. Construction Approval. Construction or alteration of any improvement (which term shall include buildings, auxiliary buildings, signs, graphics, walls, fences, landscaping and parking areas) shall comply with all governmental requirements, meet the standards set forth in these Covenants and be compatible with the overall architectural appearance of the Suntree community as to the exterior appearance and quality of construction. Prior to the construction or alteration of any improvements on the Land, the owner must submit to the Developer by hand delivery or certified mail two (2) sets of complete plans and specifications for such construction or alteration. No such construction or alteration of any improvements shall be commenced unless the plans and specifications and the locational improvements are first approved in writing by the Developer. If the Developer fails to approve or disapprove the plans and specifications and location within thirty (30) days after written request for such approval, then such approval shall not be required, provided, however, that any improvements erected without the Developer's written approval of the plans, specifications and location thereof, shall not violate any express provision of these Covenants.

Section 5. Signs. The Developer considers that the appearance and lettering style of signs are of equal importance as the architectural design of the structure to which a sign is an appurtenance and unless otherwise approved in writing by the Developer, all signs must be attached to a building and installed so as to be parallel to and contiguous with the building wall and not project above the roof line of the building. No exposed tubular type signs shall be installed, but indirect or back lighted tubular lighting will be permitted. Detached signs shall be permitted only by special written permission of the Developer. No sign shall be painted directly on the exterior walls of any building. No construction, "for sale" or "for rent" sign may be erected or maintained on the Land unless the size and design thereof are first approved in writing by Developer.

Section 6. Screening of Roof Objects. Standfans, skylights, air conditioning units, cooling towers, elevator penthouses, vents and any other structure or equipment which rises above the roof line shall be architecturally compatible or effectively shielded from view by architecturally sound methods which shall be shown on the plans and specifications submitted to the Developer and subject to the approval by the Developer.

Section 7. Screening of Open Storage. No storage of any articles, goods or materials shall be permitted on the property outside any building except with the prior written approval of Developer, who shall have the right, as a condition to any such approval, to impose such limitations and screening requirements as it may deem to be in the best interests of the area. Any

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such approval may be revoked by Developer if at any time any of such limitations or screening requirements are not complied with.

Section 8. On-Site Maintenance. The owner of the property shall have the duty of and responsibility for (i) keeping the premises, buildings, improvements, parking areas, appurtenances and landscaping so that they will conform to these Covenants and in a well-maintained, safe, clean and attractive condition at all times, (ii) complying in all respects with all government, health and police requirements, and (iii) removing promptly at his own expense any rubbish of any character whatsoever which may accumulate on the site. Trash or rubbish must be placed in covered containers manufactured for such use. Trash or rubbish may not be placed or stored between any building and the curb of any abutting street. In the case of vacant property, the owner shall keep weeds or grass cut to not over twelve inches (12") in height. If, in the opinion of the Developer, any owner fails in any duty and responsibility of the owner set forth in this paragraph, then the Developer may give such owner notice of such failure and such owner must, within ten (10) days of such notice, undertake the amount of care and maintenance required to restore said owner's site to a safe, clean, attractive and lawful condition complying with these Covenants. Should any such owner fail to fulfill this duty and responsibility after such notice, then Developer shall have the right and power, but not the obligation, to perform such care and maintenance. The owner of the site on which such work is performed by the Developer shall be liable for the cost of any such work and shall promptly reimburse the Developer for the cost thereof.

Section 9. Area Maintenance.

(a) If at any time and from time to time the Developer determines that it is for the best interest of the owner of the property that, in addition to any maintenance or services furnished by the City of Cocoa or Brevard County, Florida, that landscaping, shrubbery and lawn should be installed, watered, mowed and maintained in the median strips in the street and the entry to the property, or that there should be cleaning of street pavements, mowing and maintenance of swales, security patrol and maintenance of street fire hydrants, or any of same ("area maintenance"), then the Developer will perform such area maintenance and each owner shall pay to the Developer his pro rata share of the costs of such area maintenance performed by the Developer, as hereinafter provided in this paragraph. The Developer shall bill such owners periodically for each owner's applicable pro rata share of such costs. The Developer shall not be responsible for the sufficiency of or for errors or omissions in any security patrol provided by the Developer, and in no event shall the Developer, by reason of the provisions of this paragraph or the furnishing or failure to furnish a security patrol, be liable for the safety of any person or property on any building site or on account of any loss, damage or injury to person or property occurring on the property.

(b) Each owner's pro rata share of the costs of all area maintenance services including security patrol shall be the fraction the numerator of which shall be the acreage included in the owner's parcel and the denominator of which shall be 26.41, the total acreage of all land subject to these Covenants.

Section 10. Payments Due Developer. If any owner fails to pay the Developer any sum due under the provisions of paragraphs 8 and 9 of these Covenants within thirty (30) days after being billed therefor by the Developer, then such owner shall be liable to the Developer not only for the amount due but also for reasonable attorney's fees incurred by the Developer incident to the collection of the sum due and for the enforcement of the lien for such costs. The Developer shall have a lien upon each owner's land to secure payment by the owner of any sums due and attorney's fees. Such lien shall be subordinate to the lien of any then existing and recorded first mortgage. Upon request, the Developer shall furnish any owner or mortgagee of the land written information as to whether or not the owner is then indebted to the Developer for any sum which could result in a lien against the owner's property under the provisions of this paragraph.

Section 11. Utilities. All electric, telephone and other utility lines on the property shall be underground. The owner or occupant of any property subject to these Covenants shall make direct arrangement for the suppliers of electricity, water, sewer and any other utilities for services to their property.

Section 12. Minor Violations. Where a building or other improvements have been or are about to be erected on any property in such a manner so as to constitute a violation of or variance from the Covenants, the Developer shall have the right to waive or release the variance or violation.

Section 13. Violations. If any person, firm, corporation or other entity shall violate or attempt to violate any of the Covenants, Developer or any person owning any property subject to these Covenants may (i) prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant or restriction or (ii) maintain any proceeding against those so violating or attempting to violate any such covenant or restriction for the purpose of preventing all or any such violation. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law.

Section 14. Additional Restrictions. The Developer may include in any contract or deed hereafter made and covering all or any part of the Land any additional covenants and restrictions applicable to the Land so covered which are not inconsistent with and which do not lower the standards of the covenants and restrictions set forth herein.

Section 15. Titles. The addition of titles to the various paragraphs of this instrument are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

ARTICLE III **General Provisions**

Section 1. Duration and Amendment. These Covenants shall run with and bind the land submitted or subjected hereto and shall be and remain in effect for a period of twenty (20) years after which time they will be automatically extended for periods

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of ten (10) years, and shall inure to the benefit of and be enforceable by the Developer, and their respective legal representatives, heirs, successors and assigns, unless modified or terminated by a duly recorded written instrument executed in conformance with requirements as described below. The Developer shall be entitled to recover its reasonable attorney's fees in any action to enforce these Covenants.

Section 2. Notices. Any notice required to be sent to any person pursuant to any provision of these Covenants will be effective if such notice has been deposited in the United States Mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence, or to such other address as may be furnished to the Developer. The effective date of the notice shall be the date of mailing.

Section 3. Severability. Whenever possible, each provision of these covenants shall be interpreted in a manner that is effective and valid. If any provision of these Covenants is prohibited or held invalid, the prohibition or invalidity shall not affect any other provision which can be given effect. To this end, the provisions of these Covenants are declared to be severable.

Section 4. Assignment by Developer. The Developer shall have the sole and exclusive right to transfer to such persons, firms or corporations as it shall select any or all of the rights whatsoever given to or reserved by the Developer in these Covenants.

Section 5. Approvals. Any approvals required by the Developer under the terms and conditions of these covenants shall not be unreasonably withheld.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

SUNTREE DEVELOPMENT COMPANY,
a Florida corporation

By: O.H. Fielder, Jr.

Attest: Kay Blahauyietz

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this 24th day of July, 1986, before me personally appeared O.H. FIELDER, JR. and KAY BLAHAUYIETZ, respectively of SUNTREE DEVELOPMENT COMPANY, to me known to be the persons who signed the foregoing instrument as such officers and severally acknowledged the execution thereof to be their free act and deed as such officers for the uses and purposes therein mentioned, and that they affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal on the day and year last aforesaid.

STORMS, KRASNY,
NORMILE & DETTMER,
P. A.
ATTORNEYS AT LAW
780 SOUTH APOLLO BLVD
MELBOURNE, FLORIDA
32901
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My Commission Expires:

Notary Public

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EXHIBIT "A"

Begin at the Southwest corner of SUNTREE PLANNED UNIT DEVELOPMENT STAGE NINETY TRACT 99 as recorded in Plat Book 25 at Page 99 of the Public Records of Brevard County, Florida being a point on the East right of way line of Wickham Road, a 100.00 foot right of way as described in Official Records Book 385 at Page 566 of the Public Records of Brevard County, Florida also being a point on the arc of a curve concave to the South having a radius of 309.11 feet, said point bears N 22 degrees 34' 00" W from the radius point of said curve; thence the following three (3) courses and distances along the South line of said plat:

1. Easterly, along the arc of said curve thru a central angle of 43 degrees 24' 42", for a distance of 294.82 feet to a point of reverse curvature with a curve to the left having a radius of 555.00 feet;
2. thence continue easterly, along the arc of said curve thru a central angle of 18 degrees 27' 27", for a distance of 178.79 feet to a point of compound curvature with a curve to the left having a radius of 1133.00 feet;
3. thence continue Easterly, along the arc of said curve thru a central angle of 21 degrees 13' 09", for a distance of 419.60 feet to a point on the West-erly right of way line of the Florida East Coast Railroad, a 100.00 foot right of way;

thence S 18 degrees 49' 54" E, along said Westerly line for a distance of 1076.01 feet to a point on the South line of the North 1/4 of the SE 1/4 of said Section 13; thence S 89 degrees 00' 37" W, along said South line, for a distance of 954.30 feet to a point on the East right of way line of Wickham Road, a 100.00 foot right of way as described in Official Records Book 240, at Page 281 of the Public Records of Brevard County, Florida; thence N 09 degrees 27' 56" W along said East right of way line, for a distance of 669.88 feet to a point on the South line of the SW 1/4 of the NE 1/4 of said Section 13; thence S 89 degrees 01' 40" W, along said South line for a distance of 4.96 feet to a point on the East right of way line of Wickham Road as described in said Official Records Book 385, at Page 566, also being a point on the arc of a curve concave to the Northeast having a radius of 950.00 feet, said point bears S 59 degrees 43' 18" W from the radius point of said curve; thence Northwesterly along said East right of way line and the arc of said curve thru a central angle of 7 degrees 42' 42", for a distance of 127.86 feet to a point of tangency; thence N 22 degrees 34' 00" W, along said East right of way line, for a distance of 250.87 feet to the Point of Beginning.

TOGETHER WITH:

Lot 6, SUNTREE PLANNED UNIT DEVELOPMENT STAGE NINETY, TRACT 99, according to the plat thereof, as recorded in Plat Book 25, Page 99, Public Records of Brevard County, Florida.

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EXHIBIT "B"

EXHIBIT P - GENERAL RETAIL COMMERCIAL ZONE (BU-1)

This zone classification encompasses land devoted to retail shopping and personal services to serve the needs of nearby low density residential neighborhood.

- A. Permitted Uses: All business uses, and all material and products - shall be confined within substantial buildings completely enclosed with walls and roof, however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the buildings. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees and boats.

The following uses, or other uses of a similar nature compatible with the character of the uses specifically described here, shall be limited to retail only.

All uses permitted in the Restricted Neighborhood Retail Commercial Zone and subject to the same limitations, conditions and restrictions.

Antique shops
Aquariums
Art good and bric-a-brac shops
Artist studios
Auditoriums
Automobile hire
Automobile parts (confined within a structure)
Automobile sales and storage (provided sales are from a permanent structure and storage area is paved and landscaped)
Automobile tires and mufflers (new) (Sales and service)
Automobile washing
Bait and tackle shop
Bakery sales (baking permitted on premises)
Banks
Barber shops
Beauty parlors
Bicycle and motor cycle sales and service
Billard rooms (soundproofed)
Bowling alleys
Cafeterias
Churches
Confectionery and ice cream stores
Conservatories
Contractors offices (no outside storage)
Curio shops
Dancing halls and academies (soundproofed)
Display and sales rooms
Dog and pet hospital and beauty parlors (no outside kennels or runs).
Drug and sundry stores

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EXHIBIT P- GENERAL RETAIL COMMERCIAL ZONE (BU-1) (continued)

Dry cleaning and laundry pickup stations
Dyeing and carpet cleaning
Electrical appliances and lighting fixtures
Employment agencies
Florist shops
Fruit stores (packing on premises)
Funeral homes and mortuaries
Furniture stores
Furriers
Grocery stores
Haberdashery
Hardware stores
Hat cleaning and blocking
Hobby shops
Hospitals and convalescent homes
Interior decorating, costuming, draperies
Jewelry stores
Kindergartens or day nurseries
Laundries
Lawnmower sales
Leather goods stores
Luggage shops
Mail order offices
Meat markets
Medical buildings and clinics, dental clinics
Messenger offices
Millinery stores
Music, radio and television shops and repairs
News stands
Optical stores
Paint and wallpaper stores
Parking lots (commercial)
Pawn shops
Pet stores (property enclosed to prevent any noxious odors)
Photograph galleries
Plant nurseries
Post offices
Pottery sales (no manufacturing)
Printing services
Private clubs, lodges, fraternities, sororities
Professional offices and office buildings
Restaurants
Sale of alcoholic beverage, package only.
Shoe repair shops
Shoe stores
Soft drink stands
Souvenir stores
Stationery and book stores
Tailor shops
Tea rooms
Telephone and telegraph stations and exchanges

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EXHIBIT P - GENERAL RETAIL COMMERCIAL ZONE (BU-1) (continued)

Television and broadcasting stations, including studio, transmitting station and tower, power plants and other incidental uses and usually pertaining to such stations.

Theatres (no drive-ins)

Ticket offices and waiting rooms for common carriers

Tobacco stores

Upholstery shops

Wearing apparel stores

Gasoline service stations under the following conditions:

Paved areas, driveways or curb cuts shall be submitted to and approved by the Planning and Zoning Director and the County Engineer (or if a State Road by the Florida State Road Department). Minimum lot size shall be not less than fifteen thousand (15,000) square feet with a minimum width and depth of one hundred (100) feet. All setbacks shall be no less than twenty-five (25) feet from any portion of the building, including pump islands. Where only gas pumps are accessory to a convenience store or market, the store structure shall meet all setback requirements as set forth herein. However, gasoline pumps shall be set back at least twenty-five (25) feet from all lot lines and separated from the store structure a sufficient distance to provide adequate parking and traffic circulation on site pursuant to the requirement of Section 70 of this Appendix.

Minor automobile repairs may be performed either in conjunction with a gasoline service station or as a separate business providing they are of the following type:

Emergency wiring repairs

Exchanging of fuel pumps and installing fuel lines.

Greasing and lubrication

Minor servicing and replacement of carburetors

Radiator cleaning and flushing

Sale and servicing of spark plugs and batteries.

Tire repair and servicing, but no recapping; replacement of mufflers, tail pipes, water hoses, fan belts, brake fluid, light bulbs, floor mats, seat covers, wiper blades, arms for windshield wipers and replacement of grease retainers and wheel bearings.

Tuning engines, with the exception of grinding valves, cleaning carbon or removing the head of engines and/or crankcases.

Washing and polishing

The following signs and none other shall be permitted to be erected, constructed or maintained at gasoline service sites: Signs which are an integral part of gasoline pumps or other dispensing or servicing devices. Not more than two (2) principal identification signs shall be permitted and said signs shall be not less than twelve (12) feet

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EXHIBIT P - GENERAL RETAIL COMMERCIAL ZONE (BU-1) (continued)

above the ground; and further provided, that signs advertising only the products or services supplied on the premises, and the price of same shall be an integral part of the principal identification sign support.

All accessories, tires, batteries, etc., shall be displayed and stored within the principal building.

Enclosed trash storage facilities shall be provided.

Wrecker service or storage of wrecked automobiles shall be prohibited.

Aboveground storage tanks exceeding one hundred fifty-five (155) gallons shall be prohibited.

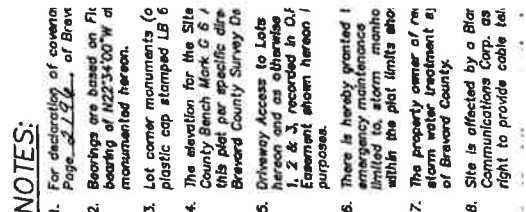
All parking service areas shall be paved.

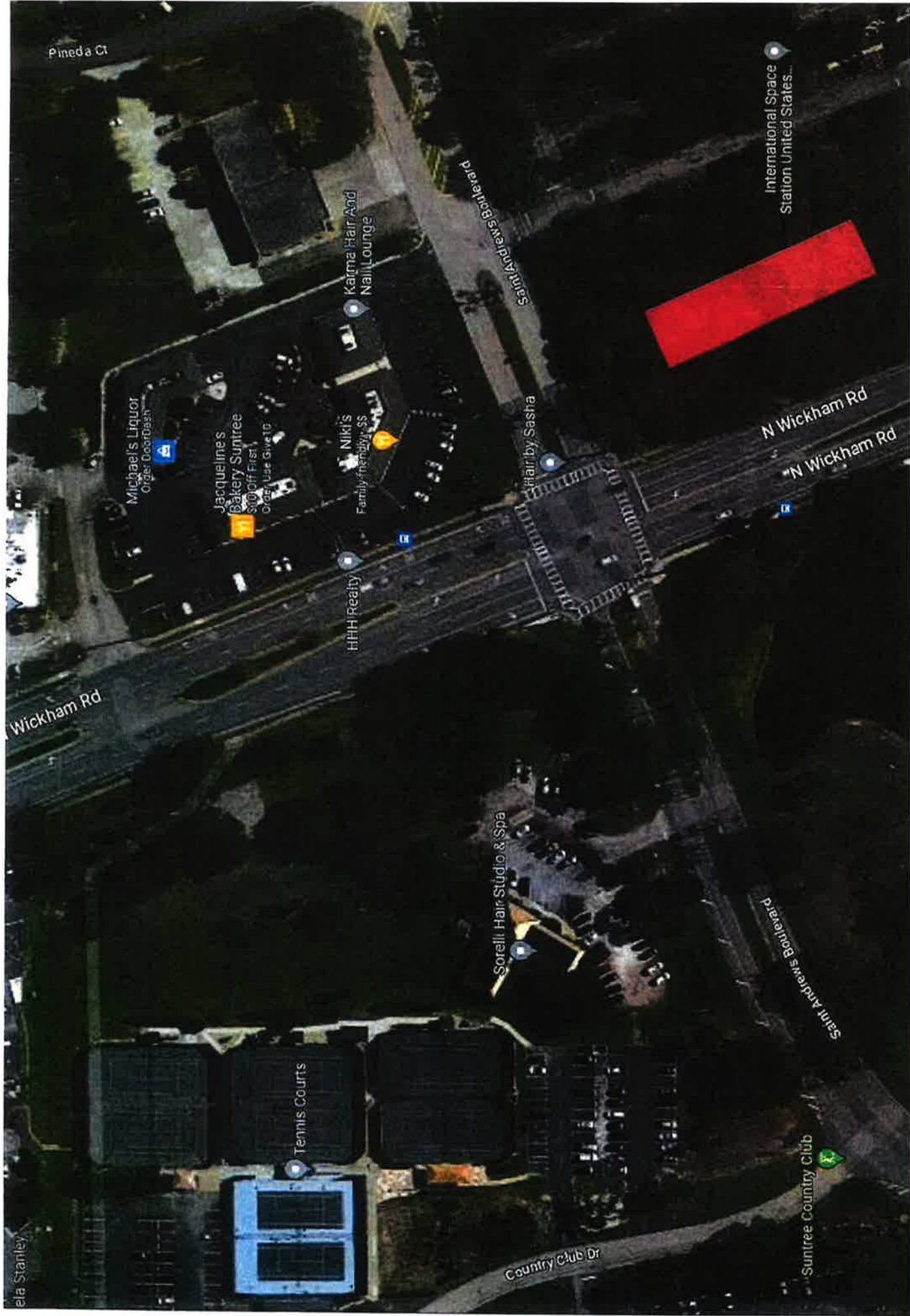
alg

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IMAGE
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A RE-PLAT OF PART OF LOT 6, DRAINAGE RIGHT-OF-WAY AND A PORTION OF ABANDONED PINEDA COURT RIGHT-OF-WAY, SUNTREE PLANNED UNIT DEVELOPMENT STAGE NINETY, TRACT 99, AS RECORDED IN PLAT BOOK 25, PAGE 99, & PART OF PARCEL 2 AND DRAINAGE RIGHT-OF-WAY, CORPLEX, AS RECORDED IN PLAT BOOK 34, PAGE 22, SECTION 13, TOWNSHIP 26 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA







Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

D4.Commissioner@Brevardfl.gov

August 14, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Disclosure – 23SS00012; 23Z00051 – Tax Account 2627864

Concerning **23SS00012** and **23Z00051** on the September 7, 2023, Brevard County Zoning meeting agenda; on August 10, 2023, Commissioner Feltner met with Mr. Dan Renfro in the District 4 Commission Office. The meeting lasted approximately 20 minutes. Subject of the discussion was the project.

Thank you.

Rob Feltner

Brevard County Commissioner

District 4

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 14, 2023**, 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: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Brian Hodgers (D2); Lorriane Koss (D2 Alt); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Morris Richardson, County Attorney; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Colleen Mary Golub Revocable Trust (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment (23S.12), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.72 acres, located on the southeast corner of N. Wickham Rd. and St. Andrews Blvd. (No assigned address. In the Melbourne area.) (23SS00012) (Tax Account 2627864) (District 4)

Colleen Mary Golub Revocable Trust (Kim Rezanka)

A Major Amendment to a PUD (Planned Unit Development). The property is 1.72 acres, located on the southeast corner of N. Wickham Rd. and St. Andrews Blvd. (No assigned address. In the Melbourne area.) (23Z00051) (Tax Account 2627864) (District 4)

Kim Rezanka, Lacy Lyons Rezanka, stated the purpose of the request is to allow a car wash with one tunnel on 1.72 acres. [Ms. Rezanka distributed handouts to the board. The handouts can be found in file 23Z00051, located in the Planning and Development Department] She stated from the 2005 plat, Lot 1 is the lot at issue, and it is the lot with access off of Wickham Way, and also a driveway off of St. Andrews Boulevard, but she is not sure if they have access there or not. She said moving north on Wickham Road, there is a Marine Trust bank with a drive through, a Dunkin Donuts, a Marathon gas station, and a 7-Eleven gas station, so it is a commercial corridor. She noted there is residential to the west, but across from the site is a retention pond, so it should not impact anyone in the residential area. She said the reason for the CC land use request is for the drive through element. The second request is to amend the 1984 PUD ordinance to allow BU-1 uses, essentially creating development standards in the PUD ordinance that were not there before. The PUD started with the PDP for Suntree in 1976, and at that time, it was 1,977 acres; and it was amended in 1984 to 2,509 acres with commercial components, and is part of the Suntree Commercial Center. She stated there is a declaration of covenants that goes over the land, and the declaration of covenants from 1986 has in it that all BU-1 zoning shall be allowed, and it includes automobile washing. As to traffic, it is 78 trips per peak hour in the p.m. Currently, there are 1,427 p.m. peak trips available at this portion of N. Wickham Road.

Public comment.

Rosemary Bratch, 1785 Old Glory Boulevard, stated she is speaking on behalf of my daughter who lives on Tangle Run, which is adjacent to the subject property, facing Wickham Road and St. Andrews Boulevard. Across the street there are a lot of businesses, but not on the side of Wickham Road; there are businesses above St. Andrews, but at St. Andrews it all becomes residential until

further down Wickham Road. The subject property was for sale recently and did not sell, so this is why they are trying to change it, and she doesn't believe a drive through is conducive to the residential neighborhood that it was set up to be.

Ms. Rezanka stated the subject property is the commercial center of Suntree and it was intended to have BU-1 uses, including automobile washing, by the declaration of covenants. The subject property is on the east side of Wickham Road, not the west side; there are condos on the west side. She said she mailed a notice to property owners within 500 feet of the subject property, which equated to 26 letters, and Tangle Run is on the west side of Wickham Road. She said the developer will have to meet performance standards that do not impact residential with things such as noise and traffic.

Motion by Ben Glover, seconded by Debbie Thomas, to recommend approval of a Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from NC to CC. The motion passed unanimously.

Motion by Ben Glover, seconded by Debbie Thomas, to recommend approval of a Major Amendment to a PUD. The motion passed unanimously.



Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way
Suite: C-214
Viera, FL 32940
Phone: (321) 633-2044
D4.Commissioner@Brevardfl.gov

September 6, 2023

To: Jennifer Jones
From: Rob Feltner, Brevard County Commissioner, District 4
Re: Disclosure – 23SS00012; 23Z00051 Tax Account 2627864 District 4

Concerning 23SS00012 and 23Z00051 on the September 7, 2023 Brevard County Zoning meeting agenda; on September 7, 2023, Commissioner Feltner met with Ms. Kim Rezanka. Discussion concerned the project. The meeting lasted approximately fifteen minutes.

Thank you.

A handwritten signature in blue ink, appearing to read "Rob Feltner", is written over a light blue horizontal line.

Rob Feltner
Brevard County Commissioner
District 4

Helen Seaman

old

From: County Ordinances <CountyOrdinances@dos.myflorida.com>
Sent: Wednesday, September 13, 2023 10:19 AM
To: Helen Seaman; County Ordinances
Cc: Clerk to the Board
Subject: RE: BRE20230905_ORDINANCE2023_19
Attachments: Brevard20230913_Ordinance23_19_Ack.pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

Good morning,

Please find the attached acknowledgment letter for Brevard County Ordinance No. 23-19, which was filed in this office on September 13, 2023.

Best,

County Ordinances
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida

From: Helen Seaman <Helen.Seaman@brevardclerk.us>
Sent: Wednesday, September 13, 2023 9:19 AM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Cc: Clerk to the Board <ClerktotheBoard@brevardclerk.us>
Subject: BRE20230905_ORDINANCE2023_19

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good Morning:

Attached please find Ordinance No. 2023-19 to be filed with the State.

Thank you.

Helen Seaman

Administrative Assistant

Clerk to the Board

(321) 637-2001

Helen.Seaman@brevardclerk.us