



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

12/5/2019

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### Subject:

Laura Kimberley Miller requests a change of classification from RR-1 to AU and removal of an existing BDP. (19PZ00099) (Tax Account 2106652) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) and removal of an existing BDP (Binding Development Plan).

### Summary Explanation and Background:

The current BDP (Binding Development Plan) anticipated the property would be developed as a single-family residential subdivision and contained the following limitations: (1) development to 6 lots, (2) access to Eola Avenue and (3) drainage retention noted within the northeast corner of the lot. The property was previously zoned AU, however on May 15, 2006, the site was rezoned to the current RR-1 (Rural Residential) classification with a BDP. The property is 9 acres, located at 4200 Eola Avenue, Titusville.

The applicant is requesting to reinstate agricultural uses as the current zoning does not allow for agricultural uses. Currently, there is one house and several greenhouses on the property. There is a pending Code Enforcement case (19CE-001140) for work without a permit, unsafe building, and people camping in tents overnight short-term rentals.

The surrounding area is a mix of GML, AU, RU-1-11, RR-1, and IN(L) zoning classifications with Residential 4 (Res 4) and Public Conservation Future Land Use designation. There have not been any zoning changes in the area since the aforementioned 2006 action. Even though the properties along the eastern boundary are zoned AU, they are considered to be more single family residential than agriculture.

The Board may wish to consider whether the uses allowed in the AU zoning classification and the potential for agritourism are consistent and compatible with the neighborhood.

On October 7, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

184

On November 7, 2019, the Board tabled the request to the December 5, 2019, meeting at the request of the applicant.

**Clerk to the Board Instructions:**

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

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

- (c) General Standards of Review.

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

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

H-4  
BCC-ZONING  
12/5/19

**Rita Pritchett, District 1 Commissioner**

2000 South Washington Avenue, Ste. 2

Titusville, FL 32780

(321) 607-6901

D1.commissioner@brevardfl.gov

Planning and Development  
Zoning Meeting December 5, 2019  
Kimberly Miller 19PZ00099

Commissioner Pritchett met with Kimberly Miller regarding the above item on December 2, 2019. Also present was Laurilee Thompson and Darryl Higginbotham.

Ms. Miller is requesting to rezone the property from RR1 with a BDP to AU and removal of the BDP for purpose of reinstating agricultural uses. Ms. Miller stated the reason she needs AU is to grow micro greens, tomatoes, and lettuce to supply to restaurants and sell at Farmer's Markets. Commissioner Pritchett stated she was comfortable with the plan to grow vegetables but not with overnight commercial lodging on the property or traffic through the neighborhood if conducting a business on the property. Ms. Miller said she would submit a BDP not to have overnight commercial lodging on the property and would at some time in the future put in another way into the property if business is being conducted on the property.



Alcohol Consumption  
Areas  
19PZ00066  
Think Green Brevard

**From:** [Calkins, Tad](#)  
**To:** [Ball, Jeffrey](#); [Jones, Jennifer](#); [Bentley, Eden](#); [Brewer, Jad](#)  
**Subject:** FW: Think Green Brevard CUP- alcohol consumption areas  
**Date:** Thursday, December 5, 2019 10:14:54 AM

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FYI

-----Original Message-----

From: jason reichman <jasonr2@yahoo.com>  
Sent: Sunday, December 1, 2019 4:32 PM  
To: Pritchett, Rita <Rita.Pritchett@brevardfl.gov>  
Cc: Stuart Buchanan <titusvillenate@gmail.com>; Calkins, Tad <tad.calkins@brevardfl.gov>  
Subject: Think Green Brevard CUP- alcohol consumption areas

Dear Commissioner,

As we previously submitted to staff and is reflected in the current agenda item, the alcohol consumption is limited to the following areas:

Chapel  
Reception hall  
Patio bar  
Tasting bar

Staff calculates that we are 4 parking spaces short based upon the structures listed above, but has agreed to move forward with the public hearings of the CUP, requiring our submittal of the final CUP site plan reflecting an additional 4 spaces prior to staff signing off on our liquor license.

This is reflected in the planning and zoning board minutes and motion for approval.

There is to be no consumption within parking lots or any areas not listed above. We understand that any change or addition of other buildings will require us to apply for an amendment to the CUP and appear before the county commission.

Thank you,

Jason Reichman

Sent from my iPad

99 (3)

### Plans for my Vegetable Farm....

You have asked me for a "plan" on what I plan to do with my 9 acres. I love this place and hope I never have to sell.

First, there is one big goal associated with my plan.....agriculture. I have a long-standing goal to build my own agricultural operation. I have always loved working with plants, and am in the process of setting up an organic, hydroponic farm that produces herbs, microgreens, and green-leaf vegetables. This will be a wholesale, hydroponic, organic growing operation that does not involve the use of machinery, pesticides, fungicides or heavy water use. Everything is planted without soil into poly tubes. Water is circulated from a holding tank through the tubes across the plant roots back to the tank. Additional water is added to the tank only as the plants use it. All nutrients and pest control is organic only.

The herbs, microgreens, and gourmet lettuces produced will be delivered to restaurants, stores and Farmers Markets.

1). My first effort was to find a piece of property suited for what I want to accomplish. Friends knew of this place and the exceptional agricultural successes enjoyed here over a 30 year period.

I want to emphasize I do not represent a group or company.....this is just me, and have invested a good bit of my life savings to obtain this beautiful piece of property. Additionally, I have been investing an average of \$1500 per month (over \$10,000 in 2019) on existing horticultural clean-up, repair and plant experimenting since taking over ownership this past April.

This property was previously owned by a local person for 40 years (zoned AU). He built and operated a successful wholesale, interior palm and orchid nursery here for 30 years. He had palm customers all over the country, and shipped all 1800Flowers orchids, and potted plants from here for 15 years. There are several plant-growing structures still standing that we are sprucing up and repairing to be used in my business. Also has a single family residence that is my home that also serves as my office.

So, that was the first hurdle in my plan, to find and obtain property to build my business.

2). Next was to obtain AU zoning needed to operate a producing farm. This seemed possible since the entire West side of the place (1,677 ft. ) interfaces South Lake and AU ranch lands clear to the St Johns River and beyond. The East boundary is 1332 ft. long. (Two hundred feet of that is an Eola Ave residence, and my good neighbor Faith Baptist Church). The rest of the East side of the 1332 ft borders on 27 acres zoned AU, and divided into an average of 3 acres each with single family residences. I felt confident we could obtain the AU zoning, which did pass the Public Zoning Board Hearing held in October.

3). Planning and education. I have attended lectures at the Brevard County Ag Extension office, a national conference on Heirloom plants in California, visited successful Florida hydroponic vegetable farms & Farmers Markets, and met and talked with local chefs to understand their needs. I have met with Mayor Walt Johnson and City Manager Scott Larese and was briefed on their plans to develop a first class Farmers Market in Titusville. They were enthusiastic over my plan to produce locally grown,

organic farm products using hydroponic technology. I told them that I had brought into my employ the previous owner of the property to guide me in my farming pursuits. He not only built and ran the successful agricultural enterprise here for 30 years, he has a lifetime of agricultural experience. He is managing the conversion of existing structures on my place to accommodate hydroponic growing. Also building hydroponic prototypes and running tests with the many different products I plan to grow. He has farming experience, a graduate engineer, success oriented, and is already producing delicious greens for our salads.

4). Also want to emphasize my goal to maintain the historical and environmental beauty of this place. The entire 1677 feet (1/3 mile) on the West side of the property is on the shoreline of South Lake. It is a 10 foot high ridge covered with a hardwood forest of oaks, hickory, and magnolia trees.....a natural Florida Hammock. Several months ago I learned Brevard County owned South Lake, part of the Environmentally Endangered Lands (EEL) of Brevard County. And to enhance this program, they have cut a nature trail through the hammock along my 1677 ft. interface with the lake, and on around the North end of South Lake. The State discovered two Ancient Indian encampments along a neighboring trail on the West side of the lake. Brevard EEL has gotten approval to connect their trail with the neighboring Salt Lake Wildlife Management Area trails. As owner, I am determined to maintain this little gem of Florida as it has been for centuries. If it remains under RR1 zoning, a developer can subdivide into 1 acre lots and build houses. The lots would be right down the middle of this beautiful hammock. It would be very disappointing, and a loss to all that appreciate the unchanged natural beauty of a site like this. Reverting it back to the proper zoning of Agriculture will help insure that it remains a place of historical and natural beauty in which Brevard County can be proud to have.

Unfortunately, if I cannot develop an income from my vegetable farm I will not be the owner very much longer. The thought of not obtaining the AU zoning would devastate my hopes and plans, and thoughts of conserving the hammock.

RR-1 is definitely not the way I want to go. This place and this plan are my future.

One last thing....I have made it a point to talk with neighbors of my plans to zone back to AU and have found a lot of support. I have 20 letters of support for AU zoning from my neighbors. Some enjoy the wildlife that hangs out in the wooded hammock & lake environment. All of the supporters like keeping the natural status and the idea of a vegetable farm rather than dividing into several lots and building houses. Neighbors all along Eola Ave like the lesser traffic rather than adding several houses to the end of their street.

That completes my plan.



BOARD OF COUNTY COMMISSIONERS

**Rita Pritchett, District 1 Commissioner**  
2000 South Washington Avenue, Ste. 2  
Titusville, FL 32780  
(321) 607-6901  
D1.commissioner@brevardfl.gov

Planning and Development  
Zoning Meeting November 7, 2019  
Kimberly Miller 19PZ00099

Commissioner Pritchett meet with Kimberly Miller regarding the above item on November 7, 2019.

Ms. Miller is requesting to rezone the property from RR1 with a BDP to AU and removal of the BDP for purpose of reinstating agricultural uses. There is a pending code violation case on the property. Ms. Miller stated that she has removed the tent and has applied for a permit. She is waiting for a final inspection by the Code Enforcement. Commissioner Pritchett discussed with Ms. Miller that she was not comfortable allowing camping on the property. Ms. Miller mentioned that she may want to table this item to the December 5, 2019 zoning meeting.

13

**From:** [Kimi Miller](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Re: Regarding New Statement Rezoning Miller 19PZ00099  
**Date:** Wednesday, December 4, 2019 10:45:23 AM  
**Attachments:** [letters of support 4-20191203113155.pdf](#)

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Planning and Development Department  
Board of County Commissioners  
2825 Judge Fran Jamieson Way  
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099  
Laura Kimberley Miller (Kimi Miller)

Dear Commissioner Smith,

I have four more letters of support which I am attaching to this email for my hearing on December 5th.

Thank you kindly,  
Kimi Miller  
Misty Farms  
321 294-9477

On Fri, Nov 29, 2019 at 11:20 AM Kimi Miller <[mistyfarmshydroponics@gmail.com](mailto:mistyfarmshydroponics@gmail.com)> wrote:

Planning and Development Department  
Board of County Commissioners  
2825 Judge Fran Jamieson Way  
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099  
Laura Kimberley Miller (Kimi Miller)

To Whom It Concerns,

It came to my attention that I had made an error in my opening statement upon review. I am submitting a new statement to replace the previous one. In my 4<sup>th</sup> point, I mention Mike Knight of the Brevard County EEL Program and how supportive he is to my rezoning and I would like to retract this statement. Mr. Knight has not endorsed me or my business and any statement he may or may not have said should not have been included. I did not intend to submit any hearsay, thoughts or ideas from third parties in my plan.

Please use my new statement- attached- as your guide.

Thank You Kindly,  
Ms. Kimi Miller  
321 294-9477

**Roan and Karrie Poulter**

The Wayward Traveler's Inn  
2398 N Singleton Ave  
Mims, FL 32754

September 10, 2019

To whom it may concern,

This letter is in support of Kimi Miller and Misty Farms. We had the pleasure to host Kimi at our Bed and Breakfast when she first came to the Titusville area looking at properties to purchase. Her enthusiasm was contagious and we have followed her adventures closely.

Her desire to produce fresh vegetables and micro greens for the Titusville community will fill a much needed niche in our community. Growing fresh ingredients locally is a hallmark of communities where people want to live. Titusville is an absolute desert of such luxuries.

If you were smart people, you would fall on your knees and beg her to keep working this operation. It is exactly businesses like hers that make a community attractive to younger families, which in turn leads to commercial growth.

I cannot for the life of me imagine who would oppose this, but I assure you it wouldn't be any local businesses and I scarcely believe that any neighbor wouldn't want to be next to an organic vegetable farm.

Do the right thing, because in this instance it also happens to be in everyone's best interest.

Roan and Karrie Poulter

Owners of The Wayward Traveler's Inn

Re: Recommendation for L. Kimi Miller

Case Number: 19PZ00099

To Whom It May Concern:

I strongly recommend my friend and potential colleague, L. Kimi Miller, for her application for Agricultural zoning. I have also had the opportunity to observe Kimi's work skills as well as interpersonal style. She is consistently pleasant, and takes on all endeavors with enthusiasm and dedication. Her attitude, diligence, intellect and commitment to her work are unmatched. She is smart, a high achiever, and eager to learn. She is highly committed to finding a solution to any challenges that come her way. I work in Plant Space Biology at KSC, and look forward to comparing notes and challenges for hydroponic plant growth both on the ground and in space as Kimi's business grows.

Please do not hesitate to contact me if I can shed any more light on Kimi, including her stellar character and prospects for a bright future in Brevard County.

Sincerely,

John A. Carver

Plant Space Biology

Payload Integration Engineer

Kennedy Space Center, FL

321-362-8611

Molecule13@aol.com

Brevard County Commissioners,

I understand Ms Miller's plan is to zone back to Agriculture from Residential on the acreage down below me to grow green produce. Her sale of the greenhouse products would be delivery from her place rather than pickup. It sounds like a good-neighbor plan....no housing development, no noise, and especially like the less traffic past my house. I fully support her plan to maintain the stability of the neighborhood and hope she is able to obtain the rezoning.

*John Linton*

*4120 Eola Ave  
Titusville, FL 32780*

Dear Commissioner,

I'm writing this letter in support for Kimi Miller in her effort to rezone her residence, 4200 Eola Ave, Titusville, for her farming needs. I have informed myself of the zoning plan and spoke to Kimi of her plan and objective for her property. With that noted I welcome the idea for the rezoning of her property.

Sincerely,

Cesar Sanchez

4130 Eola Ave

Titusville FL 32796

Email: [csanchez01234@yahoo.com](mailto:csanchez01234@yahoo.com)

Cell: 510-423-8321

A handwritten signature in black ink, appearing to read 'Cesar Sanchez', with a horizontal line underneath.

11-27-2019

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

November 26, 2019

Brevard County Commissioner, District 4  
Commissioner Curt Smith  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, Florida 32940

RECEIVED

DEC - 2 2019

RE: Planning and Zoning - October 7 Agenda, Item ID # 19PZ00099

DISTRICT 4  
COMMISSION OFFICE

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP) for property located at 4200 Eola Ave. Titusville, Fl.

It is our understanding that this item will be on the agenda for your December 5<sup>th</sup> meeting. Unfortunately, we have preexisting plans that would be very costly to change, so our being present at your meeting is not possible.

We own property (our residence) which immediately adjoins a very large sector of Ms. Miller's property.

We were out of state at the time of the October 7<sup>th</sup> public hearing and, therefore, provided our comments and concerns by letter (copy attached).

On November 25, 2019, Miss Miller came to our home to explain her plans for the use of her property and the reason for the rezoning request.

After hearing her plans and giving them considerable thought, we wish to reiterate our concerns regarding this rezoning. We wish to see the zoning remain as it is (RR-1) and have the existing Binding Development Plan (BDP) left in place.

This Binding Plan was in place when Ms. Miller and her former husband purchased the property.

Following the hurricanes of 2004, the owner of that property requested a rezoning for higher density housing. This request resulted in a series of meetings involving several of the neighboring property owners. The meetings were facilitated by former Commissioner Truman Scarborough (who was then and is still a highly respected lawyer) and culminated in an agreement to allow RR-1 zoning plus also culminated in the development of the existing Binding Development Plan. Considerable discussion, negotiation, and research went into the development of that agreement and binding plan.

Our position remains the same as stated in our letter of October 1, 2019 to the Planning and Zoning Board. We would not wish to see the Binding Development Plan and zoning agreement made during these meetings overturned. We believe that "binding" means just that!

It is our understanding that there were others at the planning meeting in October regarding this request who were not given time to share their concerns. Further, after reviewing the minutes of the October planning board meeting, we observed that our previous letter was not noted in the final minutes of that meeting. Hopefully, though, you did receive this letter. These omissions are a concern and seem inconsistent with the purpose for the meeting and the recording of the meeting contents.

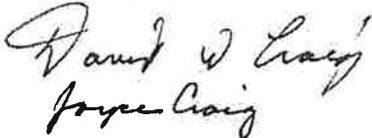
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We still have our own additional concerns which include those related to the environment, the potential impact to the water aquifers, and now, the potential of water and fertilizer run off from a commercial gardening facility. Other concerns pertain, once again, to the possibility of majorly increased traffic and heavy truck and/or machinery traffic as well – this ongoing traffic would also be going through a residential neighborhood that houses many children.

We are wondering, too, as to how Ms. Miller's request impacts/comes into compliance with the existing and updated land use plans.

We ask you to NOT grant this requested change.

Sincerely,

Handwritten signatures of David and Joyce Craig in cursive script.

David and Joyce Craig

Cc: Commissioner Rita Pritchett (Vice Chair)  
Commissioner Bryan Lober (Chair)  
Commissioner John Tobia  
Commissioner Kristine Isnardi

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

October 1, 2019

Planning & Development Department  
Board of County Commissioners  
Brevard County  
2725 Judge Fran Jamieson Way  
Building A  
Viera, FL 32940

RE: October 7 Agenda, Item ID # 19PZ00099

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP).

We own property (our residence) which immediately adjoins Mrs. Miller's property.

We will be traveling out of state at the time of the October 7<sup>th</sup> public hearing and, therefore, wish to provide our comments and concerns at this time.

While Mrs. Miller is requesting a rezoning which would decrease the residential density for this parcel of land, her intended use of the land is, at this time, unknown to us or to the other surrounding property owners.

Following the hurricanes of 2004, Mr. Darroll Higginbotham, who owned the property at that time, requested a rezoning which would have greatly increased the density on the property in question. This increased population density would have significantly increased the automobile traffic in this area and, placed a greater demand on the water aquifers beneath this land. Because of this, several of the neighboring property owners met multiple times with Mr. Higginbotham and Commissioner Truman Scarborough to address our concerns and to arrive at a mutually agreeable resolution. That series of meetings resulted in the existing zoning and in the creation of the existing Binding Development Plan.

Since that overall plan and solution was accepted by ourselves and the other property owners, we contend that the existing conditions (zoning and BDP) should remain in effect and not be altered. We are certain that Mrs. Miller was made aware of the BDP at the time of purchase of her property.

Our position on this matter might only change if and when a superseding BDP could be reviewed by ourselves and the neighboring property owners and found to be suitable. At this time, such a plan has not been made available for us to review.

Sincerely,

David and Joyce Craig

**From:** [David and Joyce](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Response to L. Kimberly Miller Rezoning Request (Dec 5 meeting)  
**Date:** Thursday, November 28, 2019 9:24:48 AM  
**Attachments:** [Rezoning Response Item ID 1PZ00099.docx](#)  
[Rezoning Response District-4 Commissioner.docx](#)

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Dear Commissioner Smith,

Attached are two letters detailing our response to a rezoning request for 4200 Eola Ave. Titusville. The first is a copy of the letter we sent in October to the Planning and Zoning Board. The second is a follow up which we are sending to each of the Brevard County Commissioners for your consideration.

We will not be able to attend the Commissioners' meeting on December 5<sup>th</sup> when, as we understand, this request will be presented. A hard copy of this letter is also being sent to you through the US Postal Service.

Thank you for your consideration of our position on this matter.

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

October 1, 2019

Planning & Development Department  
Board of County Commissioners  
Brevard County  
2725 Judge Fran Jamieson Way  
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1310 N. Carpenter Rd.  
Titusville, FL 32796

November 26, 2019

Brevard County Commissioner, District 4  
Commissioner Curt Smith  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, Florida 32940

RE: Planning and Zoning - October 7 Agenda, Item ID # 19PZ00099

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Sincerely,

David and Joyce Craig

Cc: Commissioner Rita Pritchett (Vice Chair)  
Commissioner Bryan Lober (Chair)  
Commissioner John Tobia  
Commissioner Kristine Isnardi

**From:** [Bruce M](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** RE: Micco item and CHHA  
**Date:** Wednesday, December 4, 2019 6:18:50 PM

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Thank you for the information.

I find it ironic coming from a self-claimed environmentalist that lives on a 0.27 acre lot, on the SJ river, in a subdivision of 3.2 units/acre, with minimum drainage facilities (1983), that was created by filling in the water limits of the river, where the houses yards drain directly into the river and most lots are still in the flood plain.

***Bruce A. Moia, P.E.***

President, MBV Engineering, Inc.  
1250 W. Eau Gallie Blvd., Unit H, Melbourne, FL 32935  
P: 321.253.1510 C: 321.243.0583 F: 321.253.0911  
Conference:218.895.1236 Passcode:723343  
[BruceM@mbveng.com](mailto:BruceM@mbveng.com) [www.mbveng.com](http://www.mbveng.com)

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**From:** Tobia, John  
**Sent:** Wednesday, December 4, 2019 9:54 AM  
**To:** Jones, Jennifer <[jennifer.jones@brevardfl.gov](mailto:jennifer.jones@brevardfl.gov)>  
**Subject:** FW: Micco item and CHHA

Please include the email below in the packet for H.7 on the 12/5 agenda.

---

**From:** Douglas and Mary Sphar <[canoe2@digital.net](mailto:canoe2@digital.net)>  
**Sent:** Wednesday, December 4, 2019 9:50 AM  
**To:** Commissioner, D3 <[d3.commissioner@brevardfl.gov](mailto:d3.commissioner@brevardfl.gov)>; Commissioner, D1 <[D1.Commissioner@brevardfl.gov](mailto:D1.Commissioner@brevardfl.gov)>; Commissioner, D2 <[D2.Commissioner@brevardfl.gov](mailto:D2.Commissioner@brevardfl.gov)>; Commissioner, D4 <[D4.Commissioner@brevardfl.gov](mailto:D4.Commissioner@brevardfl.gov)>; Commissioner, D5 <[D5.Commissioner@brevardfl.gov](mailto:D5.Commissioner@brevardfl.gov)>  
**Cc:** Newell, Marcia <[marcia.newell@brevardfl.gov](mailto:marcia.newell@brevardfl.gov)>; Woodard, Patrick <[patrick.woodard@brevardfl.gov](mailto:patrick.woodard@brevardfl.gov)>; Prasad, Billy <[Billy.Prasad@brevardfl.gov](mailto:Billy.Prasad@brevardfl.gov)>; Ball, Jeffrey <[Jeffrey.Ball@brevardfl.gov](mailto:Jeffrey.Ball@brevardfl.gov)>; Calkins, Tad <[tad.calkins@brevardfl.gov](mailto:tad.calkins@brevardfl.gov)>; Mcgee, Darcie A <[Darcie.Mcgee@brevardfl.gov](mailto:Darcie.Mcgee@brevardfl.gov)>; Barker, Virginia H <[Virginia.Barker@brevardfl.gov](mailto:Virginia.Barker@brevardfl.gov)>  
**Subject:** Micco item and CHHA

Dear Commissioners,

Tomorrow night, you will be deciding what to do about the BDP proposed for the property on Fleming Grant Rd in Micco. This is the property on the St. Sebastian River that you have looked at 3 times in the past.

Some of us have been suggesting that residences be kept out of the Coastal High Hazard Area (CHHA). The applicant actually agreed in a May 30th BDP to only place one house in the CHHA. That was the BDP for a 16-home development.

The most recent BDP does not place any restrictions on how many of the 8 residences will be in the approximately 5-acre CHHA.

I believe that a stipulation in the BDP for no houses in the CHHA is reasonable and prudent, considering hurricane and flood vulnerability, in addition to sea level rise.

In fact, the nearest municipality to the subject property, Palm Bay, would allow neither houses nor septic systems in the CHHA. According to Palm Bay's updated Comprehensive Plan:

**CZM-1.6C The City shall not permit any new septic tanks to locate within high hazard areas of the coastal zone nor permit habitable structures within any high hazard zone.**

I am sending you this information for you to consider as context for your decision tomorrow evening.

Thank you,

Mary Sphar

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

**From:** [Kimi Miller](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Regarding New Statement Rezoning Miller 19PZ00099  
**Date:** Friday, November 29, 2019 11:20:16 AM  
**Attachments:** [Meeting with Rita Pritchett.docx](#)

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Planning and Development Department  
Board of County Commissioners  
2825 Judge Fran Jamieson Way  
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099  
Laura Kimberley Miller (Kimi Miller)

To Whom It Concerns,

It came to my attention that I had made an error in my opening statement upon review. I am submitting a new statement to replace the previous one. In my 4<sup>th</sup> point, I mention Mike Knight of the Brevard County EEL Program and how supportive he is to my rezoning and I would like to retract this statement. Mr. Knight has not endorsed me or my business and any statement he may or may not have said should not have been included. I did not intend to submit any hearsay, thoughts or ideas from third parties in my plan.

Please use my new statement- attached- as your guide.

Thank You Kindly,  
Ms. Kimi Miller  
321 294-9477

**From:** Douglas and Mary Sphar  
**To:** Commissioner, D3; Commissioner, D1; Commissioner, D2; Commissioner, D4; Commissioner, D5  
**Cc:** Newell, Marcia; Woodard, Patrick; Prasad, Billy; Ball, Jeffrey; Calkins, Tad; Mcgee, Darcie A; Barker, Virginia H  
**Subject:** Micco item and CHHA  
**Date:** Wednesday, December 4, 2019 9:50:34 AM

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Some of us have been suggesting that residences be kept out of the Coastal High Hazard Area (CHHA). The applicant actually agreed in a May 30th BDP to only place one house in the CHHA. That was the BDP for a 16-home development.

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Thank you,

Mary Sphar



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS  
 19PZ00099**

**Laura Kimberley Miller**

**RR-1 (Rural Residential) to AU (Agricultural Residential) and Removal of Existing BDP  
 (Binding Development Plan)**

Tax Account Number: 2106652  
 Parcel I.D.: 21-35-30-00-506  
 Location: Westerly end of Eola Avenue (4200 Eola Avenue, Titusville) (District 1)  
 Acreage: 9 acres

Planning and Zoning Board: 10/07/19  
 Board of County Commissioners: 11/07/19

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RR-1 with BDP to limit development to 6 lots	AU
<b>Potential*</b>	6 lots	2 lots
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 4	YES Residential 4

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

**Background and Purpose of Request**

The applicant is seeking to change their zoning from RR-1 (Rural Residential) with a BDP (Binding Development Plan) which limits: (1) development to 6 lots, (2) access to Eola Avenue, and (3) drainage retention noted within the northeast corner of lot to the AU zoning classification and removal of the BDP. The property was previously zoned AU, however on May 15, 2006, the site was rezoned to the current RR-1 classification with a BDP. The zoning action number was **Z-11243**.

The applicant is requesting to reinstate agricultural uses as the current zoning does not allow for agricultural uses. Currently, there is one house and several greenhouses on the property. Code Enforcement action is pending under **19CE-01140** for work without a permit, unsafe building, and people camping in tents overnight short-term rentals. Staff advised the owner to remove the tent structures as they were not permitted on the property.

## Land Use Compatibility

The current RR-1 (Rural Residential) with BDP (Binding Development Plan) zoning action and the proposed AU (Agricultural Residential) zoning classifications are both consistent with the Residential 4 FLU (Future Land Use) designation.

**Future Land Use Element Policy 1.7**, *“The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element”*.

## Environmental Constraints

The subject parcel contains mapped aquifer recharge soils that may be greater than 30 feet above mean sea level, an indication that Type 2 Aquifer Recharge areas may be present. A topographic survey will be required prior to any land clearing or plan designs that are proposed within aquifer recharge soils. Type 2 Aquifer Recharge areas have restrictions for Non-Bona Fide Agricultural activities and uses; Bona Fide Agricultural operations on land classified as agricultural land pursuant to Section 193.461, Florida Statute are exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted for requirements regarding this classification. If the owner/applicant has any questions regarding any potential limitations, they are encouraged to contact Natural Resources Management at 321-633-2016 prior to design of any plans.

## Preliminary Concurrency Analysis

The closest concurrency management segment to the subject property is Carpenter Road, between Garden Street and Dairy Road, which has a MAV (Maximum Acceptable Volume) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 34.59% of capacity daily. The maximum development potential from the proposed rezoning does increase the proposed trip generation by 0.12%. The corridor is anticipated to continue to operate at 34.71% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS Applicable Land Use Policies.

The subject property can be served by potable water and/or sewer but is not connected at this time. Current development is provided by well and septic or a private sewer system.

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

## Applicable Land Use Policies

The applicant is seeking to change their zoning from RR-1 with a BDP which limits: (1) development to 6 lots, (2) access to Eola Avenue, and (3) drainage retention noted within the northeast corner of lot to the AU zoning classification and removal of the BDP. The property was previously zoned AU, however on May 15, 2006, the site was rezoned to the current RR-1 classification with a BDP. The zoning action number was **Z-11243**.

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Enforcement action is pending under **19CE-01140** for work without a permit, unsafe building, and people camping in tents overnight short-term rentals. Staff advised the owner to remove the tent structures as they were not permitted on the property.

The property to the north is zoned RR-1 (Rural Residential). The RR-1 classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning classification.

To the east are AU (Agricultural Residential), RU-1-11 (Single-Family Residential), and IN(L) (Institutional Use – Low Intensity) zoning classifications.

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

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

IN(L) is an Institutional (Low Intensity) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. The institutional use zoning classification is divided into two types, Low Intensity (L) and High Intensity (H). Low intensity uses are low impact and are compatible with residential uses in residential land use designations, or neighborhood commercial uses in neighborhood commercial land used designations.

To the south and west is the GML (Government Managed Lands) zoning classification. The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. This site is owned by Brevard County's Environmentally Endangered Lands Program (EELS) and is 51.58 acres in area of conservation lands.

To the north and east are a mixture of large lots (low density) that are mostly developed. To the southeast are smaller developed residential lots on 0.25 acres or less.

There have been no zoning actions in the last three years within 0.5 miles of this site. The most recent change in this area was for this parcel.

### **For Board Consideration**

The applicant is seeking to change their zoning from RR-1 with a BDP (Binding Development Plan) which limits: (1) development to 6 lots, (2) access to Eola Avenue and (3) drainage retention noted within the northeast corner of lot, to the AU zoning classification and removal of the BDP. The

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Staff advised the owner to remove the tent structures, as they are not permitted on the property, do not meet code requirement, and do not have building permits.

The Board may wish to consider whether the uses allowed in the AU zoning classification and the potential for agritourism are consistent and compatible with the neighborhood.

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

**Item # 19PZ00099**

**Applicant:** Laura Miller

**Zoning Request:** RR-1 w/BDP to AU

**Note:** Applicant wants agricultural uses

**P&Z Hearing Date:** 10/07/19; **BCC Hearing Date:** 11/07/19

**Tax ID No:** 2106652

- 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:**

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Protected Species & Florida Scrub Jay
- Heritage Specimen Trees

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### Land Use Comments:

#### **Wetlands**

The subject parcel contains a small area of mapped NWI and SJRWMD wetlands, and hydric soils (Anclote sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Section 62-3694 states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted for requirements regarding this classification.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. Accessory structures are not permitted in wetlands. A wetland determination was performed by Atlantic Environmental Solutions in 2005, and reported approximately 0.16 acres of wetlands on the west and south boundaries. Prior to any land clearing activities, plan design or permit submittal, a new wetland delineation will be required. The applicant is encouraged to contact NRM at 321-633-2016.

#### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. For Non-Bonafide Agricultural activities and uses, a topographic survey will be required prior to any land clearing or plan designs that are proposed within aquifer recharge soils. Information available to NRM indicates that portions of the aquifer recharge area onsite may be greater than 30 feet above mean sea level. Per Section 62-3631, Type 2 Aquifer Recharge areas have aquifer recharge soils and are above 30 feet mean sea level (NGVD 1929). Per Section 62-3636(5), for Type 2 aquifer recharge areas, land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without a development order.

Per the Conservation Element of the Brevard County Comprehensive Plan, under Aquifer Protection, Objective 10, Policy 10.2, The maximum allowable impervious surfaces in Type 2 areas shall be 35%

unless the developer can demonstrate that post-development recharge volume shall equal pre-development recharge volume and dependent upon additional regulations and local conditions. For water quality purposes, stormwater run-off in Type 2 aquifer recharge areas should be directed through a vegetated stormwater management system which at a minimum has a soil depth of at least two feet above the seasonal high-water table. Bona Fide Agricultural operations on land classified as agricultural land pursuant to Section 193.461, Florida Statute including Citrus, improved pasture, row crop agricultural operations, and normal silvicultural operations using Best Management Practices shall be exempt. **The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted for requirements regarding this classification.**

### **Protected Species & Florida Scrub Jay**

Information available to NRM indicates federally and/or state protected species may be present on properties with aquifer recharge soils. A majority of the subject property is mapped with a Florida Scrub Jay polygon as shown on the Scrub Jay Occupancy Map. Should any protected species be present, 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.

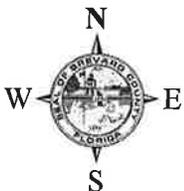
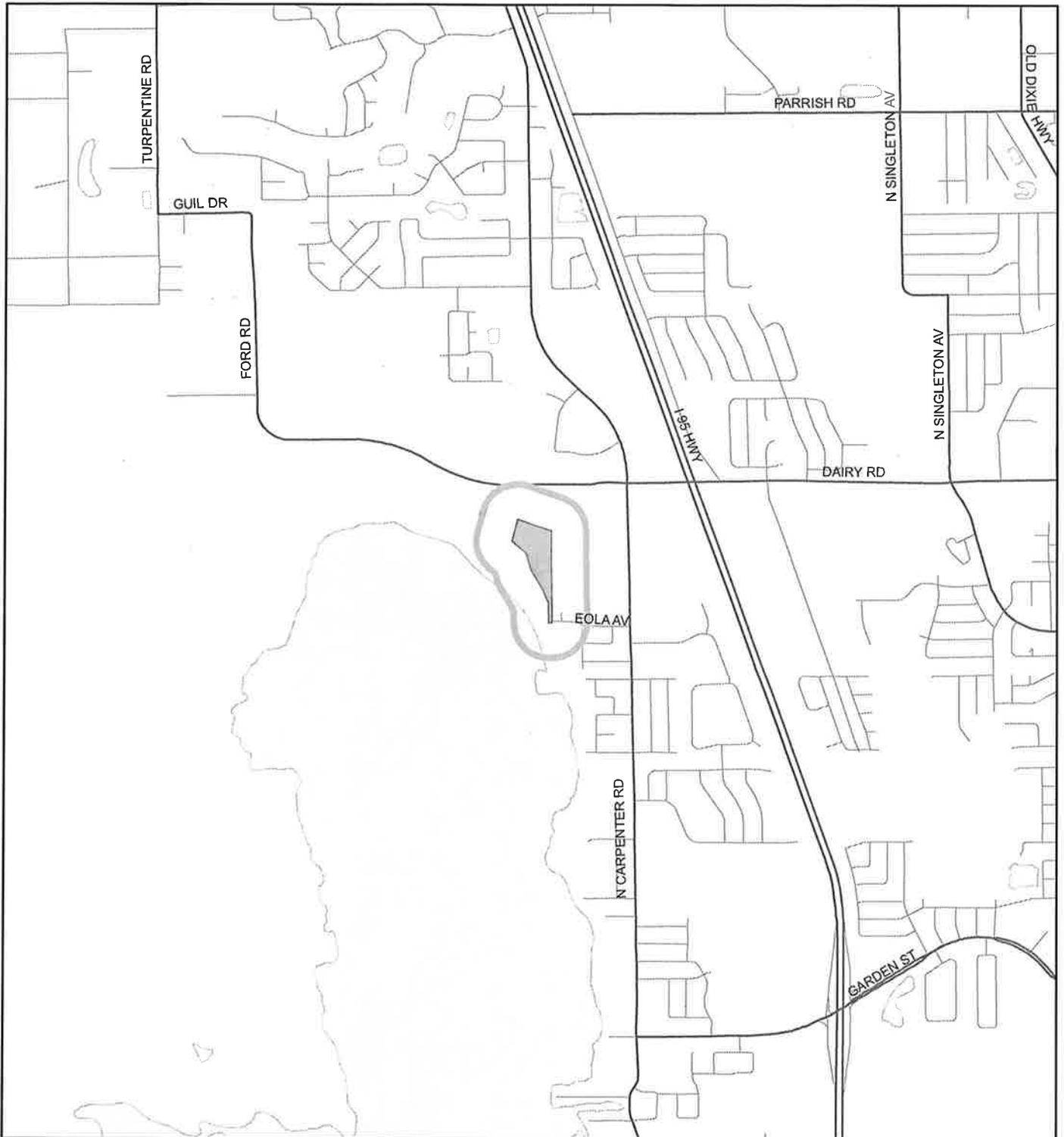
### **Heritage Specimen Trees**

Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

# LOCATION MAP

MILLER, LAURA KIMBERLEY

19PZ00099



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.

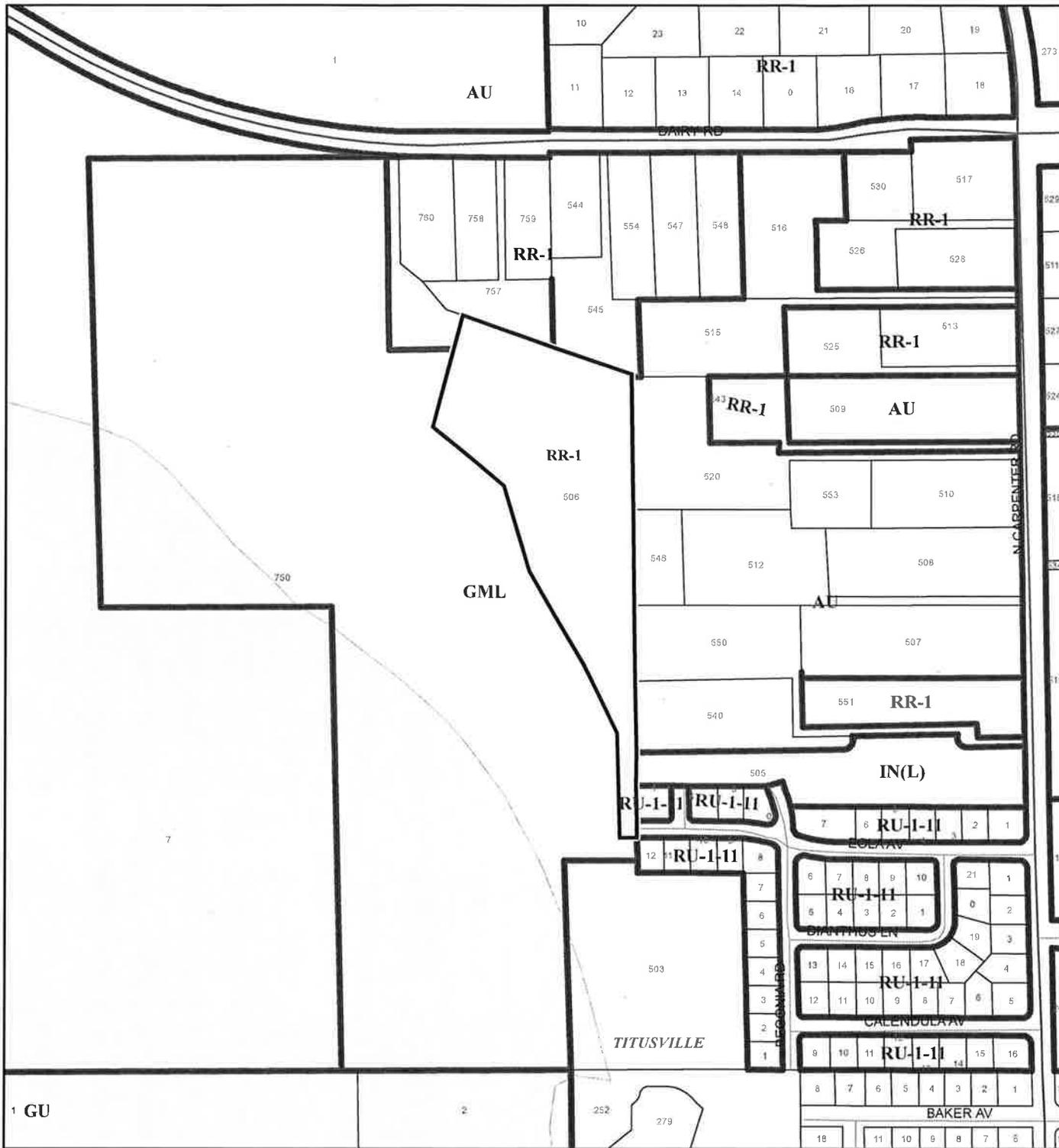
Produced by BoCC - GIS Date: 7/30/2019

-  Buffer
-  Subject Property

# ZONING MAP

MILLER, LAURA KIMBERLEY

19PZ00099



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.

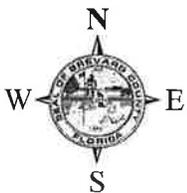
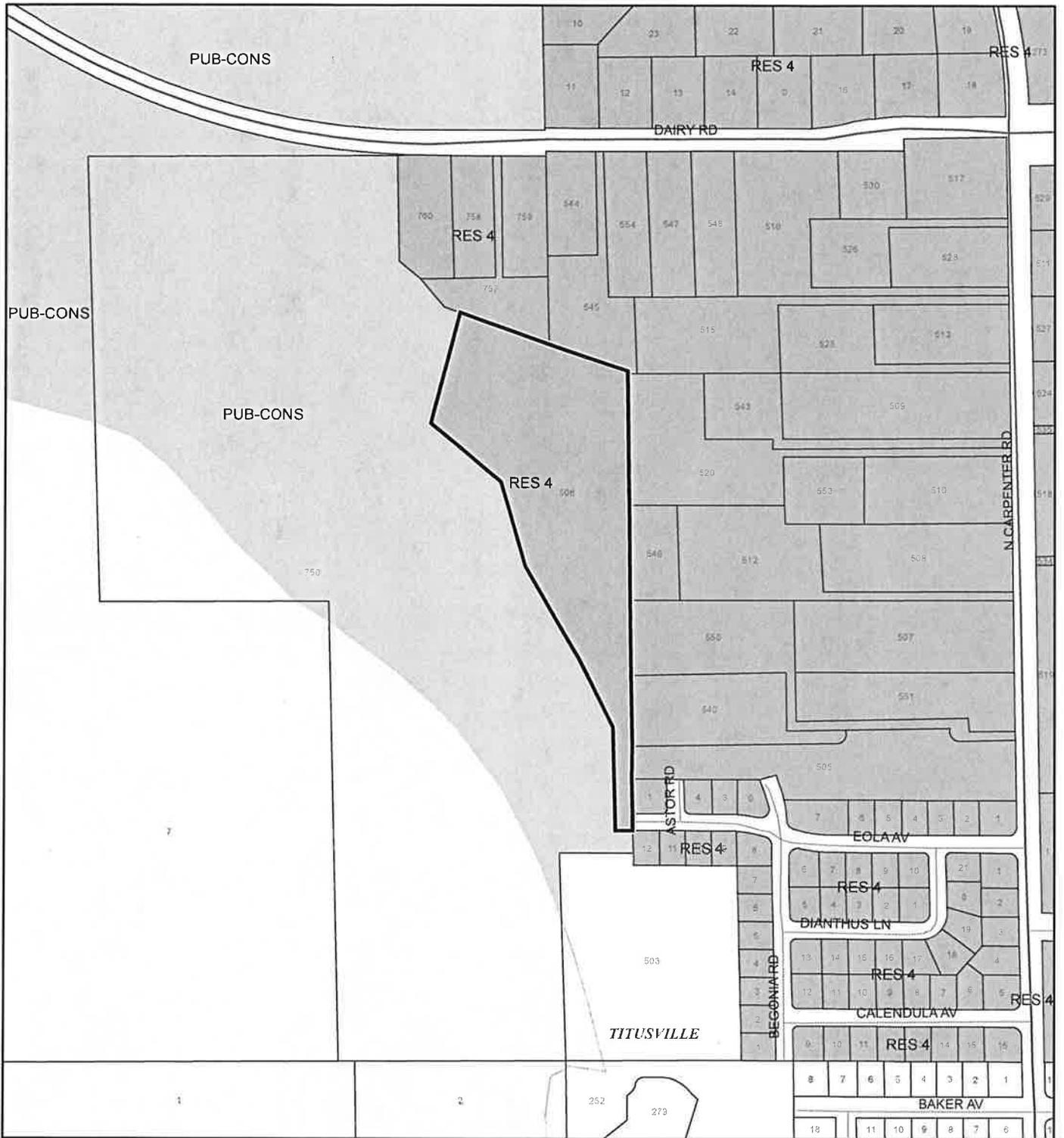
Produced by BoCC - GIS Date: 7/30/2019

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

MILLER, LAURA KIMBERLEY

19PZ00099



1:4,800 or 1 inch = 400 feet

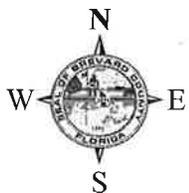
-  Subject Property
-  Parcels

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: 7/30/2019

# AERIAL MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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.

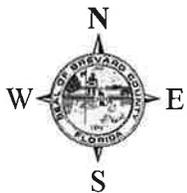
Produced by BoCC - GIS Date: 7/30/2019

 Subject Property

 Parcels

# NWI WETLANDS MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/30/2019

### 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

MILLER, LAURA KIMBERLEY  
19PZ00099



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: 7/30/2019

### SJRWMD FLUCCS WETLANDS

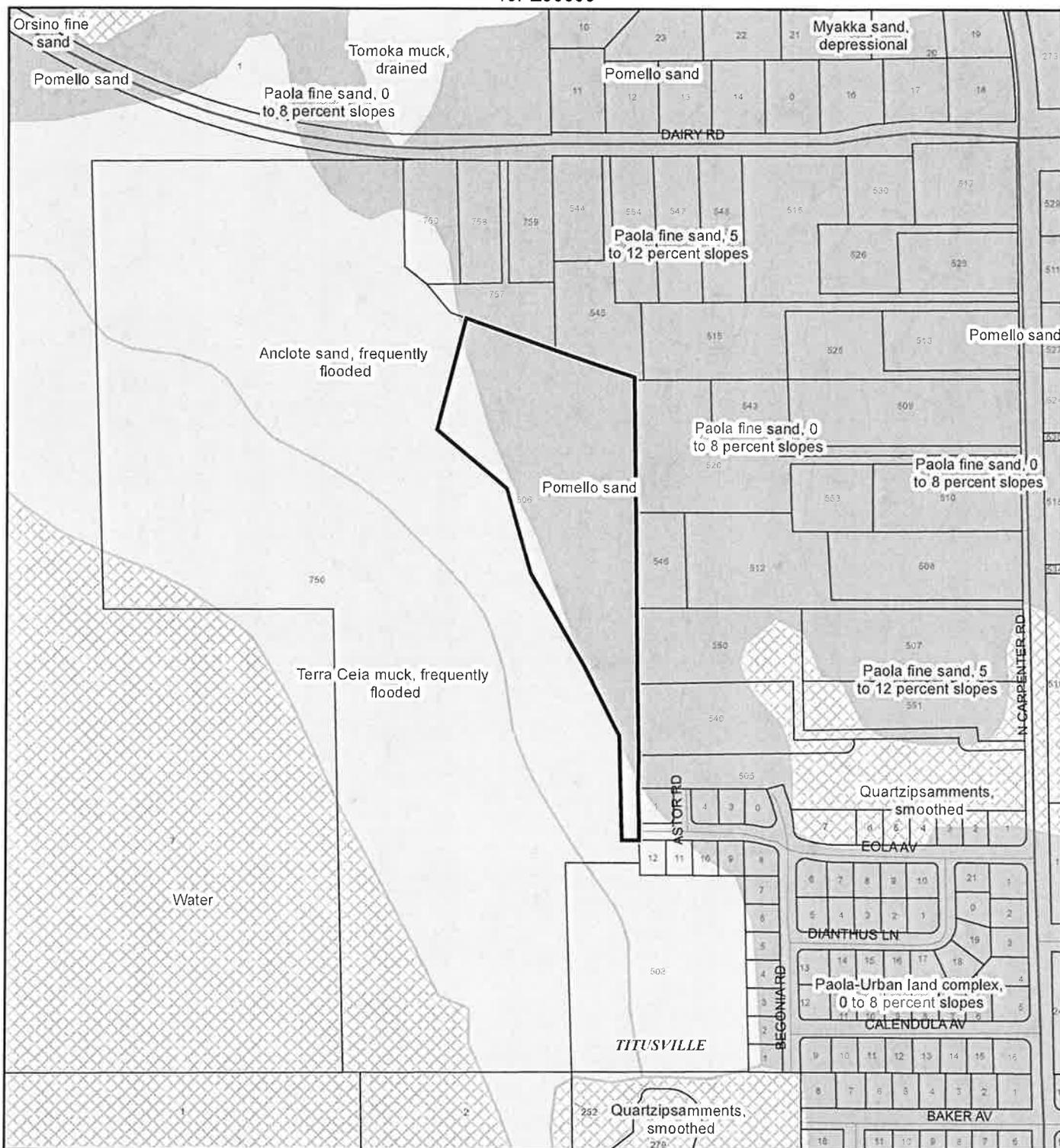
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

# USDA SCSSS SOILS MAP

MILLER, LAURA KIMBERLEY

19PZ00099



1:4,800 or 1 inch = 400 feet

## USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None

-  Subject Property
-  Parcels

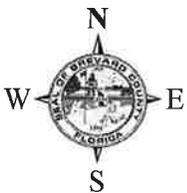
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/30/2019

# FEMA FLOOD ZONES MAP

MILLER, LAURA KIMBERLEY

19PZ00099



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/30/2019

### FEMA Flood Zones

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

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/30/2019

**—** Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/30/2019

 Subject Property

 Parcels

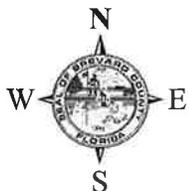


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

MILLER, LAURA KIMBERLEY

19PZ00099



1:4,800 or 1 inch = 400 feet

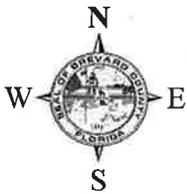
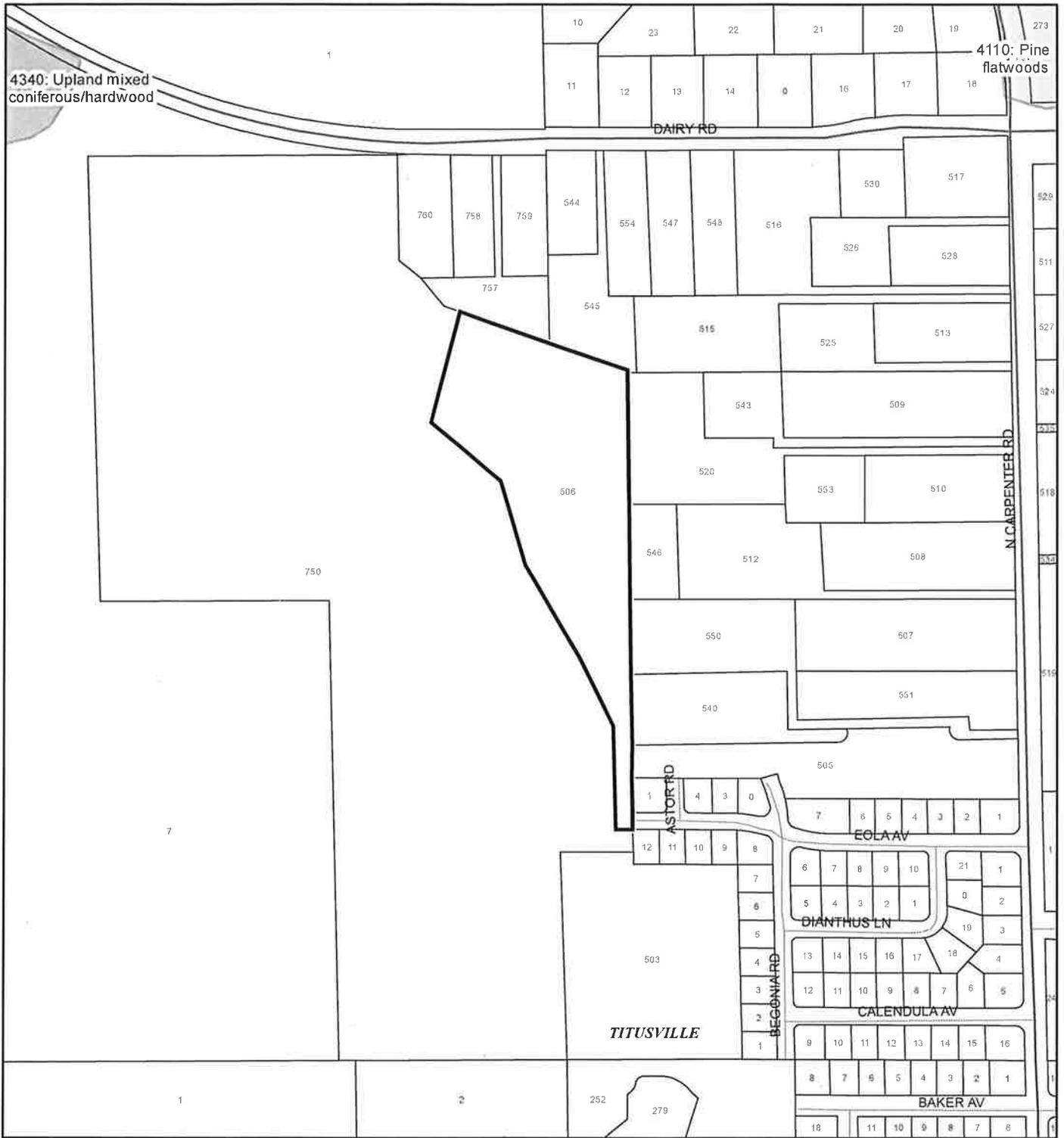
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/30/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



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: 7/30/2019

## 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

On motion by Commissioner Scarborough, seconded by Commissioner Pritchard, the following resolution was adopted by a unanimous vote:

**WHEREAS, DARROLL W. AND PAULA RAE HIGGINBOTHAM**

has/have applied for a change of classification from AU (Agricultural Residential) and RR-1 (Rural Residential) to RU-1-11 (Single-Family Residential) on property described as: SEE ATTACHED LEGAL DESCRIPTION

**Section 30,  
Section 25,**

**Township 21 S,  
Township 21**

**Range 35 E,  
Range 34, and,**

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

**WHEREAS,** the Board, after considering said application and the Planning and Zoning Board's recommendation and hearing all interested parties and after due and proper consideration having been given to the matter, find that the application should be Approved as RR-1 (Rural Residential), as amended by applicant, and with a Binding Development Plan to address road location and retention location, now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from AU (Agricultural Residential) and RR-1 (Rural Residential) to ALL RR-1 (Rural Residential), as amended by applicant, be APPROVED with a Binding Development Plan, recorded in ORB 5645, Pages 8152 through 8158, dated May 15, 2006, to address road location and retention location, and that the zoning classification relating to the above described property be changed to RR-1 (Rural Residential), and the Planning & Zoning Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

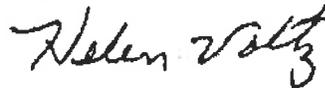
**BE IT FURTHER RESOLVED** that this resolution shall become effective as of May 15, 2006.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida  
As Approved by the Board on February 2, 2006.



ATTEST:

SCOTT ELLIS, CLERK



by HELEN VOLTZ,  
Chair

(SEAL)  
(Hearing - November 7, 2006)

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

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

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 7	#Names: 3	
Trust: 4.00	Rec: 57.00	Serv: 0.00
Land: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00

Prepared by: Darroll Higginbotham  
Address: 1874 N. Carpenter Rd  
Titusville, Fl 32796

CFN 2006146277 05-15-2006 03:17 pm  
OR Book/Page: 5645 / 8152

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 9 day of May, 2006 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County" and Darroll W. Higginbotham and Paula Rae Higginbotham. (hereinafter referred to as "Developer / Owner").

RECITALS

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

WHEREAS, Developer/Owner desires to develop the property as Rural Residential Zoning Classification RR-1, encompassing lands devoted to Single Family Residential Development, and pursuant to the Brevard County Code, section 62-1157, and

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

Whereas the County is authorized to regulate development of the property.

NOW, therefore, the parties agree as follows:

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

RETURN: Clerk to the Board #27

14

→ RETURN: Clerk to the Board #27

2. Developer/Owner shall develop the property as close as possible to the attached Conceptual Drawing, Exhibit "B".
3. The Developer/Owner shall limit division of Property to no more than Six (6) lots, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

→ RETURN: Clerk to the Board #27

4. The Developer/Owner shall limit ingress and egress to GOLA AVE

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

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

7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor-in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on 2/2/06. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

8. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

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

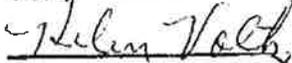
ATTEST:

  
\_\_\_\_\_

Scott Ellis, Clerk  
(SEAL)



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

  
\_\_\_\_\_

Helen Voltz, Chair  
As approved by the Board on May 9, 2006

→ RETURN: Clerk to the Board #27

STATE OF FLORIDA §  
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 9 day of May, 2006, by Helen Voltz, Chair of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

My commission expires TAMARA J. RICARD  
Notary Public - State of Florida  
SEAL My Commission Expires Nov 9, 2009  
Comm. # DD 489244  
Bonded By National Notary Assn.

Tamara J. Ricard  
Notary Public  
Tamara J. Ricard  
(Name typed, printed or stamped)

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

WITNESSES:  
Daniel L. Hydorn  
Daniel L. Hydorn  
(Witness Name typed or printed)

DEVELOPER/OWNER  
1874 N. CARPENTER RD  
TITUSVILLE FLA 32796  
(Address)

Irving P. Povelite  
IRVING P Povelite  
(Witness Name typed or printed)

DARROLL U. HIGGINBOTHAM  
(President) OWNER  
(Name typed, printed or stamped)

STATE OF Florida §  
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 28 day of March, 2006, by Mrs. Higginbotham, OWNER 1874 N. CARPENTER ROAD, Titusville, FL, who is personally known to me or who has produced DIVERSLICK as identification.

My commission expires  
SEAL  
Commission No.:

Daniel L. Hydorn  
Notary Public  
Daniel L. Hydorn  
(Name typed, printed or stamped)

Daniel L. Hydorn  
My Commission DD277188  
Expires April 20, 2008

RETURN: Clerk to the Board #27

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated MARCH 10, 1986, given by and A MORTGAGE MODIFICATION Dated OCTOBER 16, 1997 in OR BOOK 3721 PAGE 0358 DARROLL W. & PAULA RAE HIGGINBOTHAM as mortgagor, in favor of the undersigned, Farm Credit of Central Florida, ACA, as mortgagee, recorded in Official Records Book 2679, page 0537, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Farm Credit of Central Florida, ACA
57 East Third St. Apopka, FL 32703
(Address)

[Handwritten signature of Glenda E. Tomlinson]

[Handwritten signature of Richard W. Joyner]

Glenda E. Tomlinson
(Witness name typed or printed)

Richard W. Joyner, President/CEO
(Name/title typed, printed or stamped)

Wanda G. Fulger
(Witness name typed or printed)

STATE OF Florida §

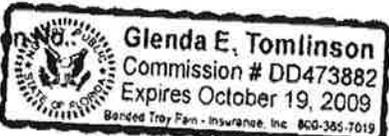
COUNTY OF Polk §

The foregoing instrument was acknowledged before me this 29th day of March 20 06, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires

Notary Public

SEAL Commission No.



(Name typed, printed or stamped)

→ RETURN: Clerk to the Board #27

# EXHIBIT "A"

## LEGAL DESCRIPTION: Parcel One

A part of the West 1/2 of the Southwest 1/4 of Section 30, Township 21 South, Range 35 East, and a part of the East 1/2 of the Southeast 1/4 of Section 25, Township 21 South, Range 34 East, all in Brevard County, Florida, described as follows:

Beginning at the Northwest corner of Lot 12, Block "F", LAKEVIEW HILLS UNIT 2 SECTION "C", as recorded in Plat Book 21 at Page 127 of the Public Records of Brevard County, Florida; run thence N 02 °03'37" W along the westerly boundary of said LAKEVIEW HILLS UNIT 2 SECTION "C" and along the northerly extension of said westerly boundary, 990.00 feet; thence S 89 °33'13" W, 375.00 feet; thence run southerly the following four courses and distances: S 17 °32'11" E, 250.99 feet; S 33 °53'18" E, 229.48 feet; S 28 °17'50" E, 226.11 feet; S 02 °03'37" E, 300.00 feet; run thence N 89 °33'13" E, 50.00 feet to the POINT OF BEGINNING.

Containing 4.00 acres of land more or less.

## LEGAL DESCRIPTION: Parcel Two

A part of the West 1/2 of the Southwest 1/4 of Section 30, Township 21 South, Range 35 East, and a part of the East 1/2 of the Southeast 1/4 of Section 25, Township 21 South, Range 34 East, all in Brevard County, Florida, described as follows:

Commence at the Northwest corner of Lot 12, Block "F" LAKEVIEW HILLS UNIT 2 SECTION "C", as recorded in Plat Book 21 at Page 127 of the Public Records of Brevard County, Florida; run thence N 02 °03'37" W along the westerly boundary of said LAKEVIEW HILLS UNIT 2 SECTION "C" and along the northerly extension of said westerly boundary, 990.00 feet to the POINT OF BEGINNING of the lands herein described; thence S 89 °33'13" W, 375.00 feet; thence N 51 °23'44" W, 263.68 feet; thence N 13 °27'48" E, 346.29 feet; thence S 72 °12'48" E, 512.63 feet to a point on the aforesaid northerly extension of the westerly boundary of LAKEVIEW HILLS UNIT 2 SECTION "C"; thence S 02 °03'37" E along said northerly extension, 342.00 feet to the POINT OF BEGINNING.

Containing: 5.0 acres of land, more or less.

Contain a total of 9.00 acres of land, more or less.







FLORIDA'S SPACE COAST



PLANNING and DEVELOPMENT DEPARTMENT  
Code Enforcement  
2725 Judge Fran Jamieson Way, Bldg A, Suite 103  
Viera, Florida 32940

TELEPHONE: (321)633-2086  
Fax (321)633-2167

### NOTICE OF VIOLATION

June 21, 2019

COMPLAINT: 19CE-01140  
Certified Mail/Hand Delivery  
Posting & 1st Class Mail

MILLER, LAURA KIMBERLY  
4200 EOLA AVE  
TITUSVILLE FL 32796-1848

Subject property legal description and/or street address:  
Township: 21 Range: 35 Section: 30 Subd: 00 Block: 506 Lot:

a/k/a 4200 EOLA AVE TITUSVILLE FL 32796  
Unit Info:

Dear Sir/Madam:

You are hereby notified as the owner/person responsible for the subject property, that an inspection of the premises on 13-JUN-2019 indicates that a violation of the Brevard County Code exists. The violation(s) could be an initial violation, recurring violation or a repeat violation. The property is in violation of:

Section 62-1336, Brevard County Code

Uses- Unpermitted uses within Rural Residential (RR-1) Zoning Classification.

Initial X

**SPECIFICALLY:** Only one single family dwelling is permitted on this property and an airBNB business is not a listed a listed permitted or conditional use in the RR-1 Zone.

Section 22-278(c), Brevard County Code - Permit required.

INITIAL

**SPECIFICALLY:** A building permit is required for all structures constructed on this property and a tent is not allowed as a residence.

Section 94-119, Brevard County Code: All property shall be maintained in a sanitary & litter-free condition.

INITIAL

**SPECIFICALLY:** Remove litter, junk and debris from property.

**Sec. 62-1336. - Rural residential, RR-1.**

The RR-1 rural residential zoning classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development.

**(1) Permitted uses.**

**a. Permitted uses are as follows:**

One single-family dwelling.  
Parks and public recreational facilities.  
Private golf courses.  
Foster homes.  
Sewer lift stations.

**b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):**

Group homes, level I, subject to the requirements set forth in section 62-1835.9.  
Power substations, telephone exchanges and transmission facilities.  
Preexisting use.  
Private parks and playgrounds.  
Resort dwellings.  
Temporary living quarters during construction of a residence.

**(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).**

**(3) Conditional uses. Conditional uses are as follows:**

Bed and breakfast inn.  
Change of nonconforming agricultural use.  
Farm animals and fowl.  
Guesthouses or servants' quarters, without kitchen facilities.  
Land alteration (over five acres and up to ten acres).  
Recreational facilities.  
Residential/recreational marina.  
Resort dwellings.

Single-family residential second kitchen facility.  
Skateboard ramps.  
Substantial expansion of a preexisting use.  
Towers and antennas, noncommercial (see division 5, subdivision III, of this article).

- (4) Minimum lot size. An area of not less than one acre is required, having a width of not less than 125 feet and a depth of not less than 125 feet.
- (5) Setbacks.
- a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.
  - b. Accessory buildings shall be located to the rear of the front building line of the principal building, and shall be set back not less than 15 feet from the side and rear lot lines.
  - c. Setbacks for barns and stalls are as follows:
    - 1. Front: 125 feet from the front lot line.
    - 2. Side: 50 feet from the side lot line.
    - 3. Rear: 50 feet from the rear lot line.
    - 4. Stalls or barns for housing horses shall not be permitted within 100 feet of any existing residence under different ownership.
- (6) Minimum floor area. Minimum floor area is 1,200 square feet of living area.
- (7) Maximum height of structures. Maximum height of structures is 35 feet.

(Code 1979, § 14-20.08(F); Ord. No. 95-47, §§ 12, 13, 10-19-95; Ord. No. 95-49, § 18, 10-19-95; Ord. No. 96-16, §§ 12, 13, 3-28-96; Ord. No. 98-08, § 2, 2-10-98; Ord. No. 2002-49, § 8, 9-17-02; Ord. No. 02-64, § 1, 12-17-02; Ord. No. 2003-03, § 9, 1-14-03; Ord. No. 04-29, § 9, 8-5-04; Ord. No. 2004-52, § 7, 12-14-04; Ord. No. 05-27, § 2, 5-19-05; Ord. No. 06-06, § 1, 1-24-06; Ord. No. 2007-59, § 12, 12-6-07; Ord. No. 2010-22, § 11, 11-23-10)

**Sec. 62-2100.5. - Accessory building and accessory use standards.**

- (1) *Generalized standards for accessory buildings are as follows:*
- (a) The number of accessory buildings permitted on a single family zoned residential lot is regulated by Table I, listed below.

**Table I:**

**Number of Accessory Buildings per Lot Area**

Lot Area (sq. ft.)	Accessory Buildings
≤7500	1
7501—25000	2
25001—35000	3
35001—45000*	4

\* Plus one additional accessory building for each 15,000 square feet of land area beyond 45,000 square feet. Swimming pools, screened enclosures, docks, equipment/pump houses, and dog houses (not requiring a building permit) are exempt from the accessory building number limitation imposed by this section. Sports courts such as basketball or tennis are not considered to be accessory structures for the purposes of this subsection.

- (b) Except as noted in subsections: (1)(g), (1)(h), (1)(i), (1)(j), and (1)(k), in no instance shall the total floor area of all detached accessory buildings exceed the floor area of the principal structure.
- (c) Setback provisions for accessory buildings can be found within the general or specific setback provisions stated within each zoning classification.
- (d) The size limitation of accessory buildings or structures, when secondary to single family residential uses, is further limited as follows: Each detached accessory building or structure shall not exceed 600 square feet or 50 percent of the living area of the principal building, whichever is greater.
- (e) Accessory buildings or structures may be administratively expanded beyond the provision stated above in section (1)(d) provided that the residential lot is one acre or larger in area and the floor area of the proposed accessory building does not exceed 1,000 square feet. In no case shall the accessory structure's actual floor area exceed that of the principal residential building.
- (f) In those instances where the principle use of a multi-family zoned lot is one single-family residence, one single-family garage apartment may be

developed accessory to said residence and shall be exempt from the residential density limitations imposed by the comprehensive plan and zoning classification. In those instances where multiple residential structures have been developed, a garage apartment may be developed if consistent with the density limitations imposed by the comprehensive plan and zoning classification.

- (g) Accessory buildings in the agricultural zoning classification, and barns, where permitted, are exempt from standards listed above in subsections: 1(a, b, and d).
  - (h) Within the residential attached, multi-family, RP, PUD, & RPUD zoning classifications, accessory buildings or structures accessory to residential uses located within common areas are exempt from standards listed above in subsections: 1(a, b, and d).
  - (i) Within the PUD & RPUD zoning classifications, accessory buildings which are ancillary to on-site commercial uses are exempt from standards listed above in subsections: 1(a) and 1(b).
  - (j) Within commercial, industrial and government managed lands zoning classifications, accessory buildings are exempt from standards listed above in subsections: 1(a) and 1(b). Accessory buildings must meet all setback requirements for a principal structure and maintain a minimum spacing distance of 15 feet between structures.
  - (k) Within residential zoning classifications, accessory buildings which are ancillary to on-site agricultural uses are exempt from standards listed above in subsections: 1(a, b, and d).
  - (l) Within the RP zoning classification, detached accessory structures for professional uses shall be prohibited.
- (2) Accessory agricultural uses: The keeping of horses and agricultural pursuits are accessory to a principle residence within the following rural residential zoning classifications: (REU, RR-1, RRMH-1, RRMH-2.5 & RRMH-5) pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property except as provided in this chapter, and no produce shall be sold from the premises.

**(Ord. No. 2002-49, § 36, 9-17-02)**

**Sec. 22-278 Maintenance standards and requirements**

**(c) Permit required.** Any owner, authorized agent, or contractor shall not construct, enlarge, erect, alter, repair, move, improve, remove, convert, demolish, or change the occupancy of any building or structure, or cause the same to be done, without first obtaining a building permit as required by the building code division or permits as may be required by other county agencies for such construction activities.

**Conditional use.** See division 5 of this article.

**Contractors.** NAICS 235.

**County** means the unincorporated areas of Brevard County, Florida.

**County zoning regulations** means those regulations relating to land use and control adopted by ordinance by the board of county commissioners under the authority of various state and local laws.

**Court.** A street court is a concave lateral extension of the primary street pavement with a turning radius of not less than 35 feet and a depth which may range upward to a maximum of 70 feet.

**Development rights** means the number of residential dwelling units that a specific parcel of real property can generate or yield given a zoning classification's gross density provision.

**Duplex** means a residential building designated for or occupied by two families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, multiple-family** means a residential building designed for or occupied by more than two families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, single-family** means a private residence building used or designed for use as a home or residence, in which the use and management of all sleeping quarters and all appliances for sanitation, cooking, ventilation, heating and lighting are designed primarily for the use of one family unit. All rooms within the building must have internal access, and the building shall have only one kitchen and one electrical meter, unless otherwise provided in this section. No other structure located on the lot may contain a kitchen except where otherwise provided in this section. Shelters that are not designed and constructed in compliance with Brevard County, State and other applicable development codes for a single-family dwelling, such as tents, lean-tos, and sheds, are prohibited from use as a residence on a temporary or permanent basis. A second electrical meter on a single-family zoned lot for detached accessory structures or docks shall be permitted where the accessory structure is located more than 100 feet from the residence or where the boat dock is located more than 100 feet from the residence or where the boat dock is separated from the residence by a public right-of-way.

**Farmer's stand** means a roadside stand operated by the landowner of agriculturally zoned property to sell produce grown on that site to the general public.

**Fireworks** means any combustible or explosive composition or substance or combinations of substances or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, or any article containing any explosives or flammable compound or any tablets or other device containing any explosives or flammable compound or any tablets or other device containing any explosive substance, as defined by Chapter 791.01(4)(a), Florida Statutes (2003). "Fireworks" does not include sparklers approved by the division of the state fire marshal of the Department of Financial Services pursuant to Chapter 791.013, Florida Statutes (2003), novelties, trick noisemakers, toy pistols, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound or mixture are used, as defined by Chapter 791.01(4)(b) and (c), Florida Statutes (2003). Wholesale fireworks sales shall require IU-1 zoning, whereas retail

**Sec. 94-119. - Maintenance of property.**

- (a) *Purpose and intent.* It is hereby found that flies, mosquitoes, other harmful insects, vermin, blighted conditions, noxious odors, unsanitary conditions, conditions that adversely affect and impair the economic welfare of adjacent property, or create fire hazards, environmental hazards, potential hurricane hazards, and other such conditions caused by litter, trash, junk, and/or debris that pose a safety, health, and welfare concern for the citizens of the county as determined by a code officer given reasonable normal perception to be a public nuisance. Abatement of such conditions is necessary and hereby found and declared to be a public purpose.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Improper outdoor storage* means the excessive accumulation of material(s) or item(s) defined as litter, trash, junk, or debris that are stored or placed outside unless such outdoor storage is on properties specifically zoned or permitted to store, accumulate or dispose of such items such as junk yards, automobile wrecking yards, metal salvage yards, or solid waste management facilities.

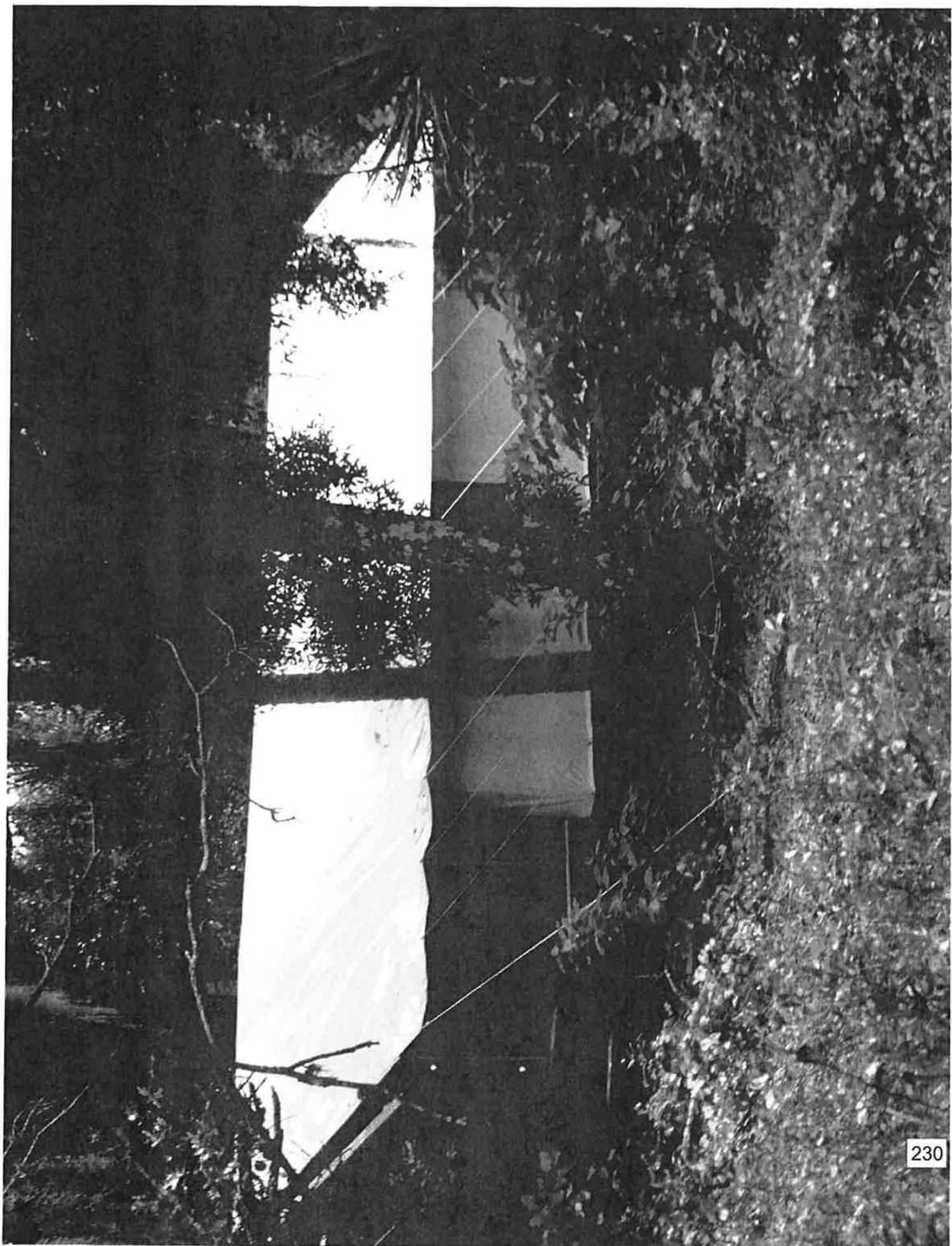
*Litter, trash, junk, or debris* for the purposes of this section expand upon the definition of "litter" as stated in section 94-1 to assist code enforcement in the determination of public nuisances and maintenance of property issues. Additional examples may include: dilapidated furniture; yard waste, land clearing debris, dilapidated, derelict or inoperable trailer(s), motor vehicle part(s), inoperable aircraft(s), inoperable farm machinery or equipment, any broken or inoperable abandoned or discarded items, solid waste, or hazardous material.

*Outside or outdoor* means all areas not within a completely enclosed building. Enclosed buildings do not include tents or screened areas and do not include carports, pole barns, awnings, lean-tos, or other such structures where one or more sides is open to the outside or outdoors.

- (c) *Requirement to maintain property.*
- (1) "Improper outdoor storage" of litter, trash, junk, or debris on any lot, tract, or parcel of land, either improved or unimproved, is hereby declared to be a public nuisance and is prohibited, unless such storage is exempt as determined by this article. Improper outdoor storage is prohibited in vacant areas, sidewalks, grass strips and contiguous alleys and curbs.
  - (2) It shall be the duty of the property owner of record, lessees, tenants and occupants to maintain their property in a litter free condition and to eliminate all litter, trash, junk or debris that is improperly stored outside or outdoors.
  - (3) Accumulation or storage of litter, trash, junk, or debris on property zoned and permitted for junk yards, automobile wrecking yards, or other permitted zoning classifications are exempt from the provisions of this section.
  - (4) Containment of litter. All commercial establishments shall store their solid waste in a controlled manner so as to eliminate wind-driven litter in and about their property. The owner or occupant of any commercial establishment shall provide approved litter receptacles adequate to contain all litter and other loose solid waste, where the potential of litter generation exists, such as loading or unloading areas, parking lots or other areas used by the public.

(Ord. No. 2010-16, § 4, 9-7-10; Ord. No. 14-03, § 16, 1-28-14)







**Atlantic Environmental Solutions, Inc.**

ENVIRONMENTAL PERMITTING & MITIGATION

**PRELIMINARY ENVIRONMENTAL ASSESSMENT**

**For**

**4200 EOLA AVENUE, TITUSVILLE, +9.0 ACRES  
SECTION 30, TOWNSHIP 21 SOUTH, RANGE 35 EAST  
BREVARD COUNTY, FLORIDA**

**Conducted by**

**Atlantic Environmental Solutions, Inc.  
21 West Fee Avenue, Suite G  
Melbourne, Florida 32901**

**June 27, 2005**

D1 05251Prel.Rpt



June 27, 2005

Mr. Darrell Higginbotham  
1874 Carpenter Road  
Titusville, Florida 32796

Re: Preliminary Environmental Assessment of 4200 Eola Avenue, Titusville  
AES File No. 05251

Dear Mr. Higginbotham:

Atlantic Environmental Solutions, Inc. (AES) has completed a preliminary environmental assessment and feasibility study of the above-referenced property, a 9.0 acre parcel located on the west end of Eola Avenue in Section 30, Township 21 South, Range 35 East, Brevard County, Florida (Figures 1 and 2). The field assessment of this parcel, hereinafter referred to as "the Property", occurred on June 16, 2005. This study is intended to assess any reasonably ascertainable environmental issues that might have an effect on the developability of the subject property. Following are the results of our study.

### **Topography and Soils**

In general, the site descends topographically from southwest to northeast, with the highest elevations ranging from the northwest through the southeast portion of the property sloping downward to the northeast portion of the property (see Figure 3). The topographical range is estimated at ten feet. Just off-site to the west there is a drop in elevation sloping towards South Lake.

Soil types on the site were mapped in 1974 by the U.S. Department of Agriculture (USDA) Soil Conservation Service (SCS). Figure 4 depicts the soils map for this site. The soils map identifies the following soil types on the property:

#### Anclote Sand (An)

This is a nearly level, very poorly drained sandy soil in marshy depressions in the flatwoods, in broad areas on flood plains, and in poorly defined drainageways. In most years the water table is within a depth of 10 inches for more than six (6) months. In dry seasons it is deeper, but is seldom below a depth of 40 inches. This soil is occasionally flooded two (2) to seven (7) days following heavy rains.

According to the Hydric Soils of Florida Handbook Anclote sand is hydric 100 percent of the time.

Pomello Sand (Ps)

A moderately drained upland soil type, mapped within most of the interior of the site.

On-site examination of soils confirmed most of the mapped soil types. Anclote Sand is the only hydric soil listed on-site. However, it appears the SCS soil maps show Anclote Sand extending onto the site further to the east than our field data would support.

**Vegetation and Community Types**

Different combinations of natural and human-influenced factors, such as surface elevation, hydrology, vegetative species and structure, soil characteristics, and degree and type of historical disturbance, will give rise to a variety of distinct ecological systems and functions, known as communities and land uses. The Florida Land Use, Cover, and Forms Classification System (FLUCFCS) organizes most of the major categories of communities and land uses into particular descriptions, each corresponding to a different code number. Using our field observations and the FLUCFCS system as a guideline, AES has identified the different communities and land uses as they currently exist on the site. Figure 5 depicts the location and code numbers of the various on-site FLUCFCS land uses and communities. Following are descriptions of these communities and land uses, as they exist on the Property, along with an assessment of their jurisdictional wetland status, based on the rules and regulations of the St. Johns River Water Management District (SJRWMD) and the U.S. Army Corps of Engineers (ACOE).

<u>Community/Land Use Name</u>	<u>FLUCFCS Code Number</u>
<b>Uplands</b>	
Nurseries	240
Hardwood – Coniferous Mixed	434
<b>Wetlands</b>	
Wetland Hardwood Forests	610
Mixed Wetland Hardwoods	617

Nurseries (240)

This land use refers to the area currently being used and areas used prior to the 2004 hurricane season as commercial nursery business. This land use occupies approximately 4.85 acres in the north and northeast portion of the site.

This land use is composed of uplands and will therefore require no wetland permitting or mitigation for proposed impacts.

Hardwood – Coniferous Forest Mixed (434)

This ±3.99 acre upland community is found running through the central and western portion of the site from north to south. It consists of scattered live oak (*Quercus virginiana*), sand pine (*Pinus clausa*), magnolia (*Magnolia grandiflora*), and cabbage palm (*Sabal palmetto*) over herbaceous vegetation such as saw palmetto (*Serenoa repens*), Boston fern (*Nephrolepis exaltata*), brackenfern (*Pteridium aquilinum*), caesarweed (*Urena lobata*), beautyberry (*Callicarpa americana*), and catbriar (*Smilax* sp.).

This is an upland community, and will therefore require no wetland permitting or mitigation for proposed impacts.

Wetland Hardwood Forests (610)

This ±0.04 acre wetland community is found within the central eastern portion of the property between the existing access road and the eastern property boundary. It contains a canopy of red maple (*Acer rubrum*) and sweet bay (*Magnolia virginiana*) over Virginia chain fern (*Woodwardia virginica*), redroot (*Lachnanthes caroliana*), and southern fox grape (*Vitis rotundifolia*), and mucky soils. This wetland continues off-site to the east.

It appears as though only SJRWMD will require permits for impacts to these wetland systems. It also appears that the entire wetland (both on and off-site) is less than 0.50 acres. If this wetland is less than 0.50 acres, then SJRWMD will not require wetland mitigation. Lastly, ACOE will not claim these areas due to their isolation from Waters of the State.

Mixed Wetland Hardwoods (617)

This wetland community is found in the southwestern tip of the property as well as several other spots just north along the western property line, comprising approximately 0.12 acres. This wetland is part of the forested wetland bordering South Lake which is adjacent to the subject property to the west. This wetland contains red maple, sweet bay, American elm (*Ulmus Americana*), and cabbage palm over cinnamon fern (*Osmunda cinnamomea*), netted chain fern (*Woodwardia areolata*), and swamp fern (*Blechnum serrulatum*), and soils with large mucky organic bodies and muck.

It appears as though both SJRWMD and ACOE will require permits for impacts to these wetland systems since these wetlands are connected to Waters of the State.

Thus, a majority of the site consists of uplands, with the exception of several small wetlands near the eastern and western edges of the property.

#### Habitat Potential for Protected Wildlife Species

• • A preliminary survey for listed species and suitable listed species habitats was completed on the Property. No direct evidence of gopher tortoises (*Gopherus polyphemus*) or scrub jays (*Aphelocoma coerulescens*) were seen during the preliminary survey. Also, the on-site habitats do not appear suitable for either of these species. However, this survey resulted in the determination that the Property provides suitable habitat for the bald eagle (*Haliaeetus leucocephalus*) and osprey (*Pandion haliaetus*), which are protected by federal and state regulations.

#### Bald Eagle

Several elements appear important to bald eagles in their selection of breeding territories. Suitable nest trees, abundant food supply, and freedom from disturbance during the nesting season are prime factors. Most nest sites are located near or within two miles of large water bodies. Inland breeding sites within coastal plains usually occur in bays, swamps, or flatwoods. Although many of the above-mentioned elements are present within the Property, no eagle nests were noted on-site and information provided from the Florida Fish and Wildlife Conservation Commission (FWC) suggests that no eagles are nesting within ← Section 30, Township 21 South, Range 35 East.

#### Osprey

Ospreys nest near fresh or saltwater and eat fish almost exclusively. This species typically utilizes dead trees, primarily pines, as well as manmade structures to construct their bulky nests. Several snags are peppered throughout the Property making attractive nest sites for Osprey. However, no nests were noted on the Property. ←

#### Summary

##### **Wetlands**

• • The results of our survey indicate that the ±9.0 acre Property contains ±8.84 acres of uplands and approximately 0.16 acres of wetlands. These wetlands are protected by state (SJRWMD), federal (ACOE), and Brevard County rules against unauthorized impacts from development. However, it appears ACOE will only have jurisdiction over the wetlands along the westernmost portion of the property and not the isolated wetlands along the central eastern portion of the site. Should development be proposed which would affect on-site

wetlands, permits authorizing these impacts would be needed.

Prior to impacting a wetland on a particular piece of property, the regulatory agencies typically require that all efforts have been made to eliminate wetland impacts. If elimination of wetland impacts is not practicable, it is then required that site development alternatives are considered that reduce wetland impacts. If the wetlands along the western portion of the property are proposed to be impacted, SJRWMD, Brevard County, and ACOE would require mitigation for any impacts to this wetland. SJRWMD allows applicants to forego this elimination and reduction exercise when the affected wetlands are less than 0.50 acre in size, such as the small wetland on the central eastern portion of the property. In addition, SJRWMD does not require that mitigation be provided to offset impacts to wetlands of such small size. Thus, although a SJRWMD permit is needed to impact this wetland, no wetland impact minimization efforts or mitigation are expected to be required, as long as SJRWMD confirms that this wetland is less than 0.50 acre in size.

Brevard County, on the other hand, does not provide a minimum threshold below which mitigation for wetland impacts is not required. The county is thus expected to require that some form of mitigation be provided if impacts any of the on-site wetlands are proposed, including the small central eastern wetland. Although mitigation can take on many forms, it usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters, or uplands. The amount of compensatory mitigation required is determined by the amount of biological lift needed to offset the proposed impacts. The necessary lift is calculated by assessing the acreage, location, landscape support, habitat value, water quality, and functionality of the wetlands proposed for impact, as well as the same qualities as they pertain to the proposed mitigation area(s). The methodology utilized by the county (and SJRWMD, as applicable) to assess the amount of mitigation required is known as the Uniform Mitigation Assessment Method (UMAM).

To determine the amount of biological lift provided by a mitigation site, an applicant must take into account all of the above criteria, as the mitigation site exists prior to mitigation action, and determine how the proposed mitigation action will biologically improve the mitigation site. If the biological lift provided by completing the mitigation action outweighs the biological loss incurred by the proposed impact, then those impacts are expected to be permitted (assuming the regulatory agencies are satisfied that all reasonable efforts to minimize wetland impacts have been made).

Prior to viewing site plans, confirming the wetland acreages by flagging their limits and verifying those limits with SJRWMD and ACOE, coordinating with the Brevard County Natural Resources Management Office (NRMO), and conducting an UMAM assessment, it is not possible to accurately predict how much mitigation will be required, or what the potential costs will be. In general, the time, cost, and difficulty of permitting and mitigating

for wetland impacts is proportional to the proposed area of impact and the quality of the impacted wetlands. However, based on the small size and location of the on-site wetlands, it appears that wetland impacts could be avoided altogether on the property.

## **Wildlife**

### Bald Eagle

All available information suggests that no Bald Eagles are nesting within or near the Property. For this reason, it does not appear that permitting for this species will be necessary.

### Osprey

The osprey is state listed as a Species of Special Concern (SSC) by FWC, and is protected under Chapter 39-27.002(4) FAC. Regulations allow the relocation of osprey nests via the construction of a nesting platform as near as possible to the location of the original nest. The nesting platform can be constructed at any time, but the removal of the existing nest can only be done after all the young have fledged, and only after permit acquisition from FWC. Although potential nesting sites exist for this species on the Property, no nests were noted during our surveys.

### Scrub Jay

It is our professional opinion that the habitat on-site is unsuitable for the Florida Scrub Jay. However, information from Brevard County indicates a majority of the Property lies within a larger ±385 acre polygon which included 7 families and 16 individuals in 2002. Because of this, prior to any clearing of potential scrub jay habitat on-site, Brevard County may request a letter from U.S. Fish and Wildlife confirming our findings that there is no habitat or scrub jays utilizing the site. This can be obtained either through informal communication and exchange of information with U.S. Fish and Wildlife or through a formal scrub jay survey. AES can assist you in resolving any potential issues regarding this matter.

## Conclusions

It appears that the on-site wetlands are the only environmental obstacles that may need to be addressed in order to develop the Property, although avoidance of any impacts to these wetlands may be possible due to their small size and location. To determine if wetland impacts will be an issue for this site, it will first be necessary to delineate these wetlands, followed by the verification of the wetland lines by SJRWMD.

AES can provide further assistance (as necessary) in the form of wetland delineation, SJRWMD verification of wetland limits, provision of the environmental portion of the SJRWMD and ACOE permit application, and coordination with Brevard County to

determine appropriate mitigation for wetland impacts. If you have any questions or need any additional information, please do not hesitate to contact our office.

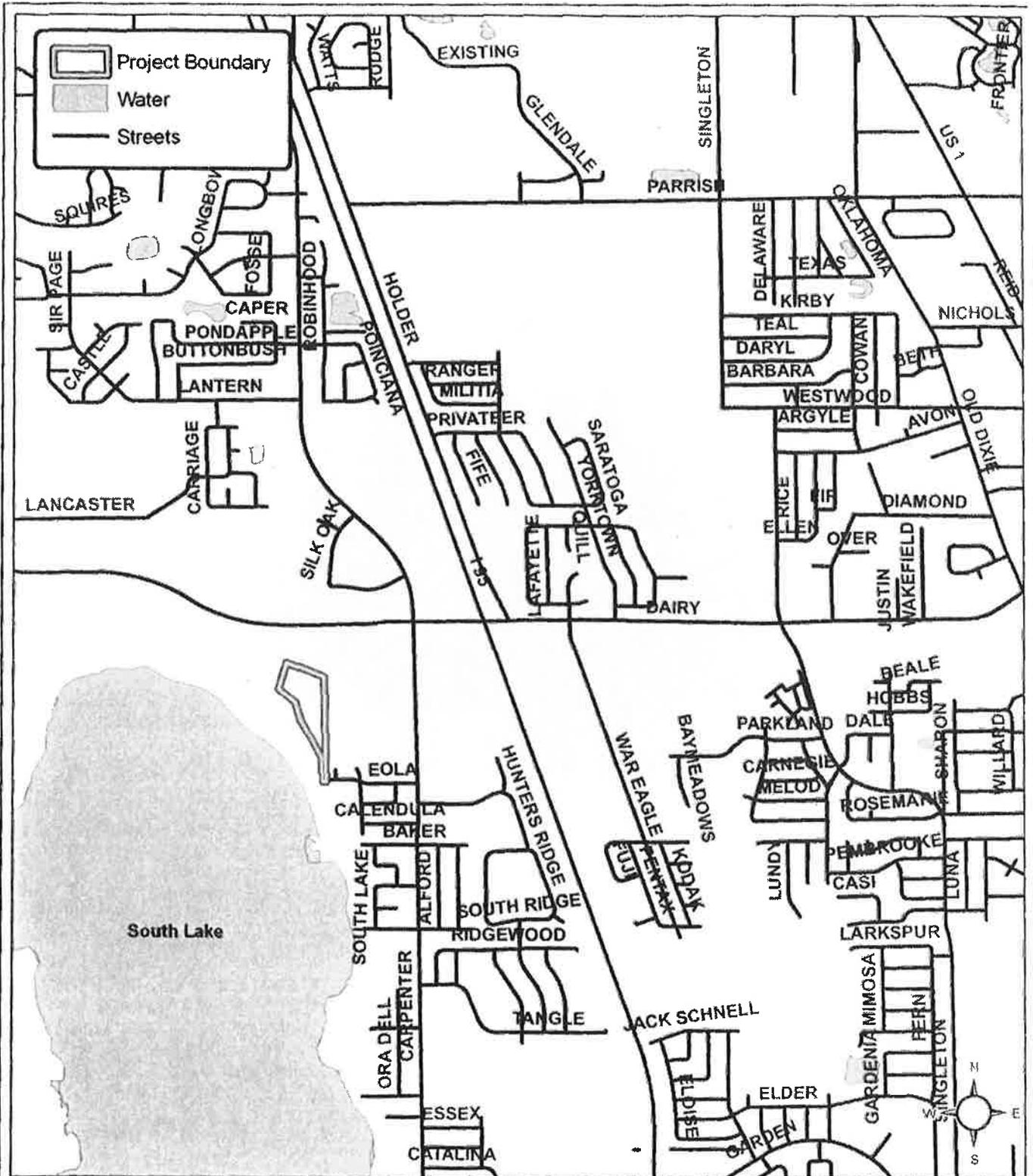
Sincerely,



David Purkerson, MS  
Project Manager



Andrew R. Conklin  
Vice President/Senior Scientist



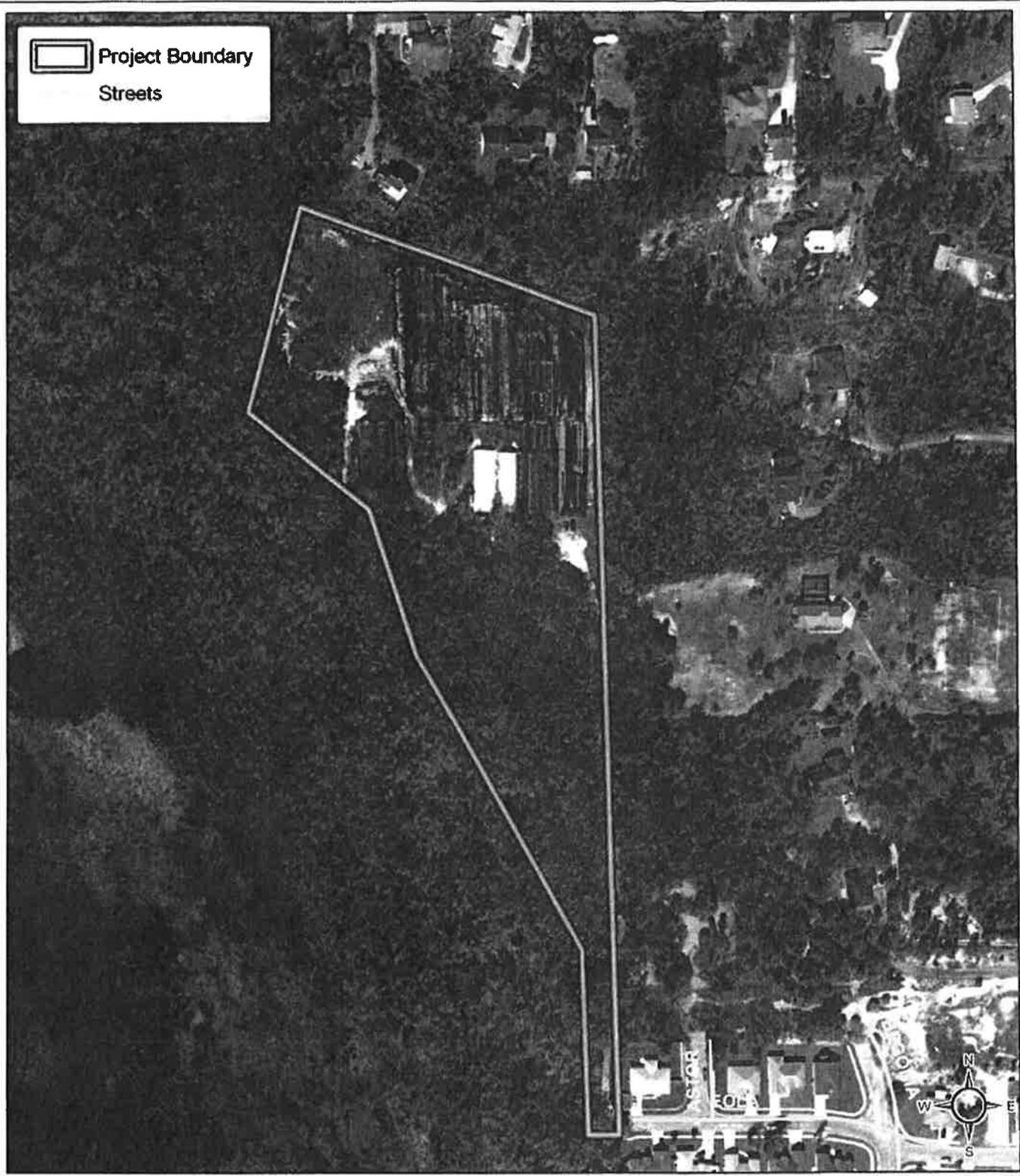
**Project: 4200 Eola Avenue**

Figure 1: Location Map  
Brevard County, Florida



**Atlantic Environmental Solutions, Inc.**  
ENVIRONMENTAL PERMITTING & MITIGATION

Project Boundary  
Streets



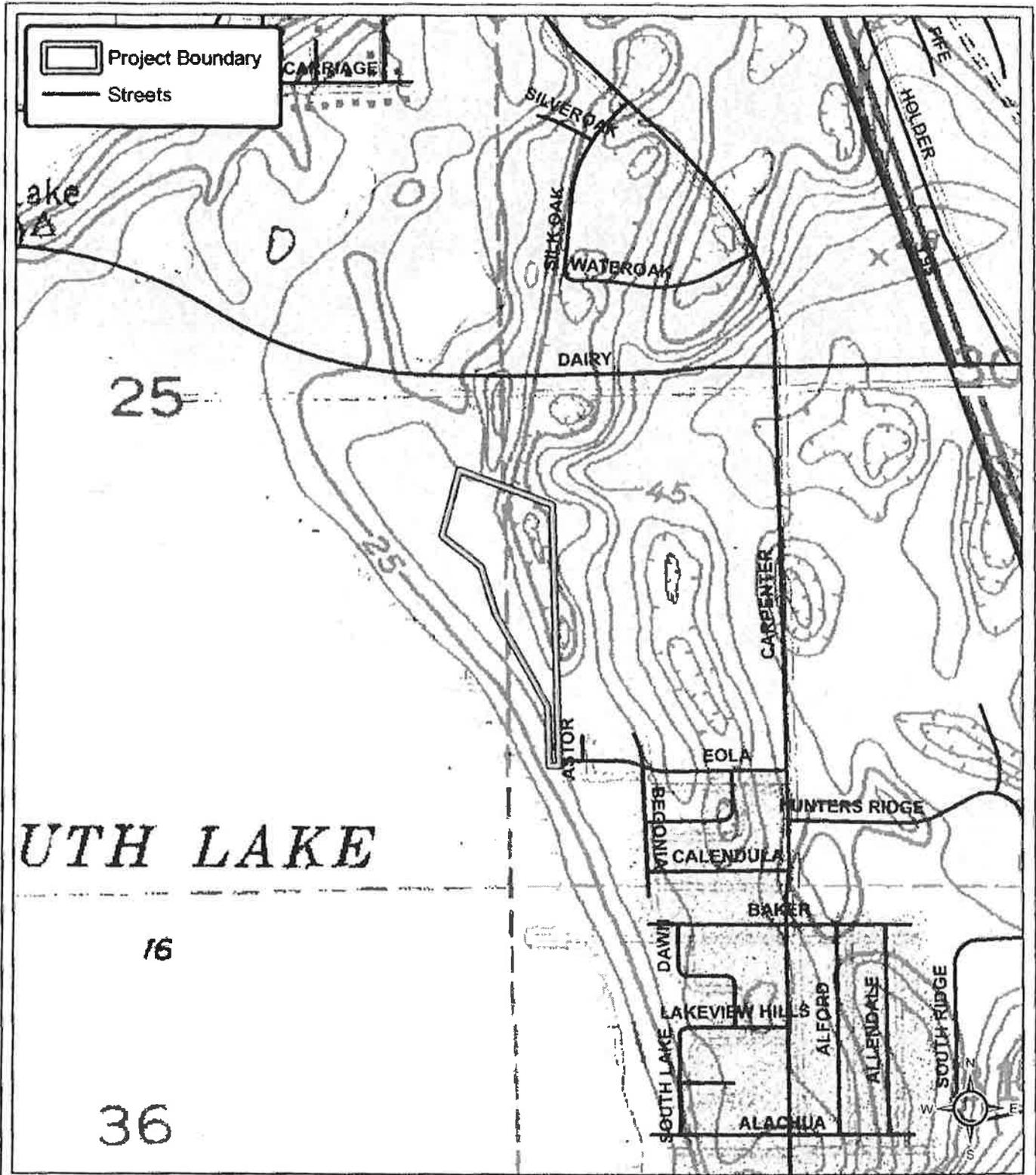
**Project: 4200 Eola Avenue**  
Figure 2: Aerial View Map (2005)  
Brevard County, Florida



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0 125 250 500 750 1,000 Feet

AES Proj #: 05251



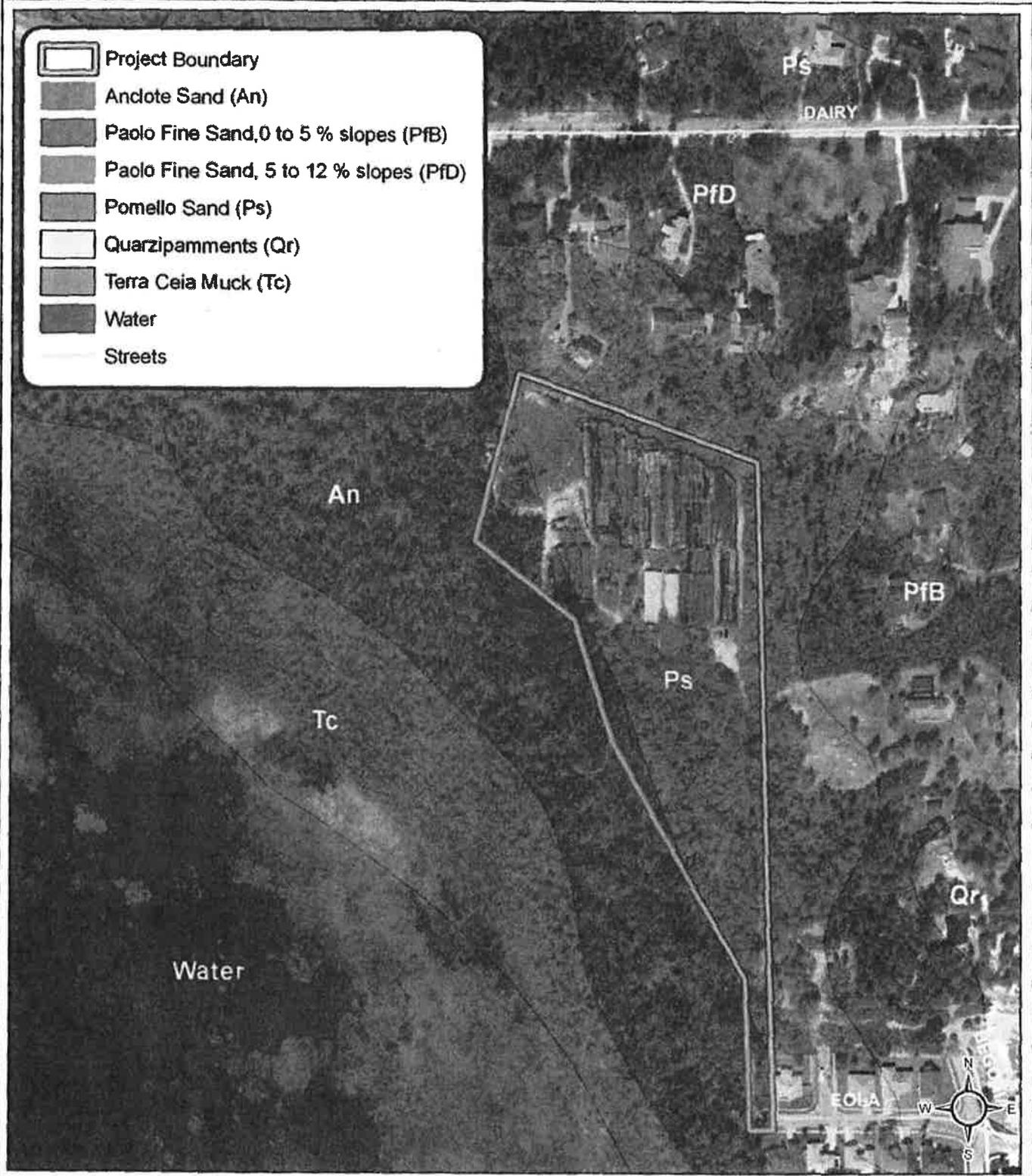
**Project: 4200 Eola Avenue**

Figure 3: USGS Topo Map (Mims Quadrangle)  
Brevard County, Florida



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ENVIRONMENTAL PERMITTING & MITIGATION

AES Proj #: 05251



**Project: 4200 Eola Avenue**

Figure 4: Soils Map  
Brevard County, Florida

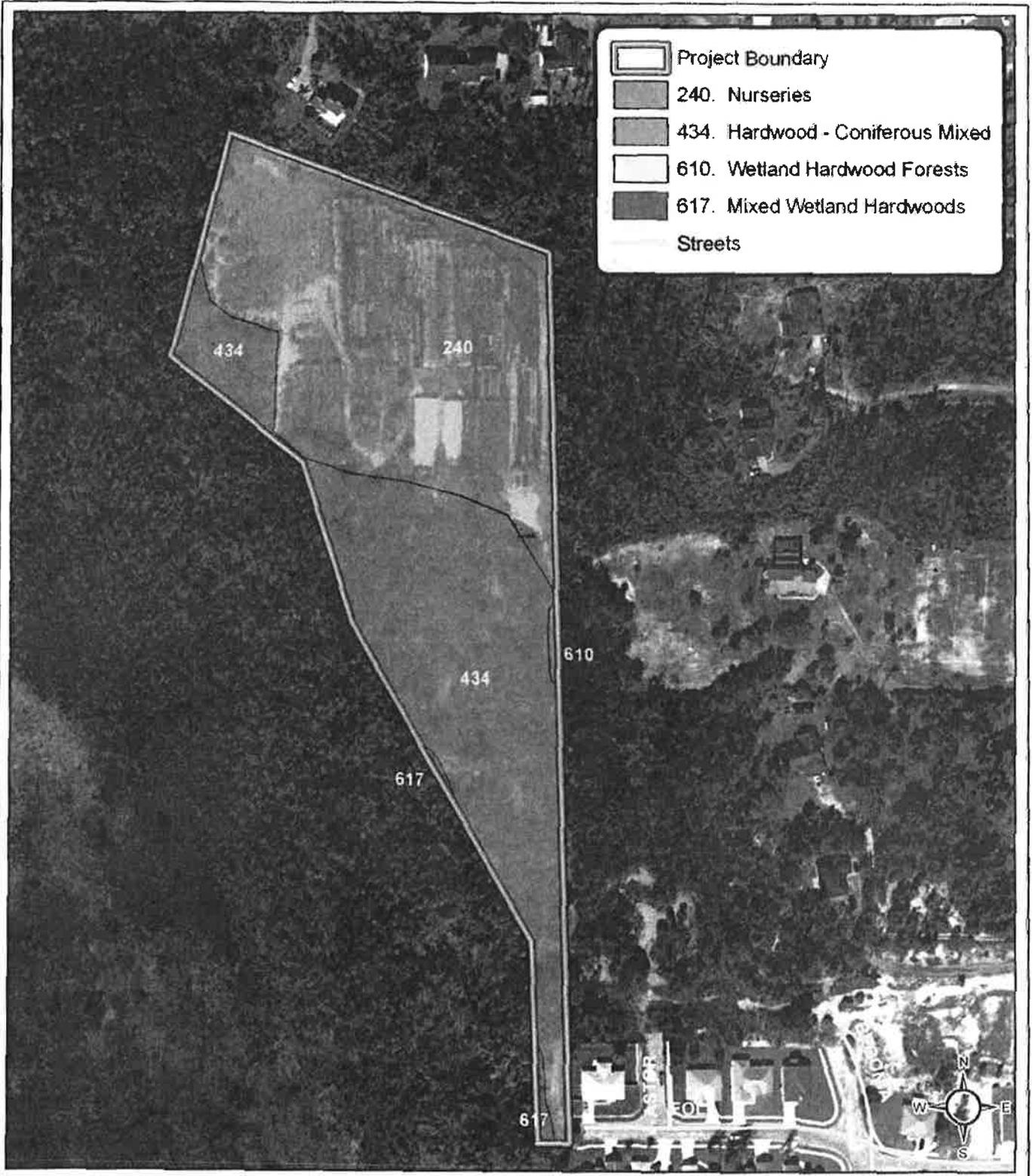


**Atlantic Environmental Solutions, Inc.**  
ENVIRONMENTAL PERMITTING & MITIGATION

0 125 250 500 750 1,000 Feet

AES Proj #: 05251

22



**Project: 4200 Eola Avenue**

Figure 5: FLUCFCS Land Use Map  
Brevard County, Florida



**Atlantic Environmental Solutions, Inc.**  
ENVIRONMENTAL PERMITTING & MITIGATION



AES Proj #: 05251

#### Plans for my Vegetable Farm....

You have asked me for a "plan" on what I plan to do with my 9 acres. I love this place and hope I never have to sell.

First, there is one big goal associated with my plan.....agriculture. I have a long-standing goal to build my own agricultural operation. I have always loved working with plants, and am in the process of setting up an organic, hydroponic farm that produces herbs, microgreens, and green-leaf vegetables. This will be a wholesale, hydroponic, organic growing operation that does not involve the use of machinery, pesticides, fungicides or heavy water use. Everything is planted without soil into poly tubes. Water is circulated from a holding tank through the tubes across the plant roots back to the tank. Additional water is added to the tank only as the plants use it. All nutrients and pest control is organic only.

The herbs, microgreens, and gourmet lettuces produced will be delivered to restaurants, stores and Farmers Markets.

1). My first effort was to find a piece of property suited for what I want to accomplish. Friends knew of this place and the exceptional agricultural successes enjoyed here over a 30 year period.

I want to emphasize I do not represent a group or company.....this is just me, and have invested a good bit of my life savings to obtain this beautiful piece of property. Additionally, I have been investing an average of \$1500 per month (over \$10,000 in 2019) on existing horticultural clean-up, repair and plant experimenting since taking over ownership this past April.

This property was previously owned, built and operated for 40 years by the nurseryman who I now have in my employment. (zoned AU). He built and operated a successful wholesale, interior palm and orchid nursery here for 30 years. He had palm customers all over the country, and shipped all 1800Flowers orchids, and potted plants from here for 15 years. There are several plant-growing structures still standing that we are sprucing up and repairing to be used in my business. Also has a single family residence that is my home that also serves as my office.

So, that was the first hurdle in my plan, to find and obtain property to build my business.

2). Next was to obtain AU zoning needed to operate a producing farm. This seemed possible since the entire West side of the place (1,677 ft. ) interfaces South Lake and AU ranch lands clear to the St Johns River and beyond. The East boundary is 1332 ft. long. (Two hundred feet of that is an Eola Ave residence, and my good neighbor Faith Baptist Church). The rest of the East side of the 1332 ft borders on 27 acres zoned AU, and divided into an average of 3 acres each with single family residences. I felt confident we could obtain the AU zoning, which did pass the Public Zoning Board Hearing held in October.

3). Planning and education. I have attended lectures at the Brevard County Ag Extension office, a national conference on Heirloom plants in California, visited successful Florida hydroponic vegetable farms & Farmers Markets, and met and talked with local chefs to understand their needs. I have met with Mayor Walt Johnson and City Manager Scott Larese and was briefed on their plans to develop a first class Farmers Market in Titusville. They were enthusiastic over my plan to produce locally grown, organic farm products using hydroponic technology, and felt it was a perfect fit with their Farmers Market plans. They also appreciated the fact that I had brought into my employ the previous owner of

the property to guide me in my farming pursuits. He not only built and ran the successful agricultural enterprise here for 30 years, he has a lifetime of agricultural experience. He is managing the conversion of existing structures on my place to accommodate hydroponic growing. Also building hydroponic prototypes and running tests with the many different products I plan to grow. He has farming experience, a graduate engineer, success oriented, and is already producing delicious greens for our salads.

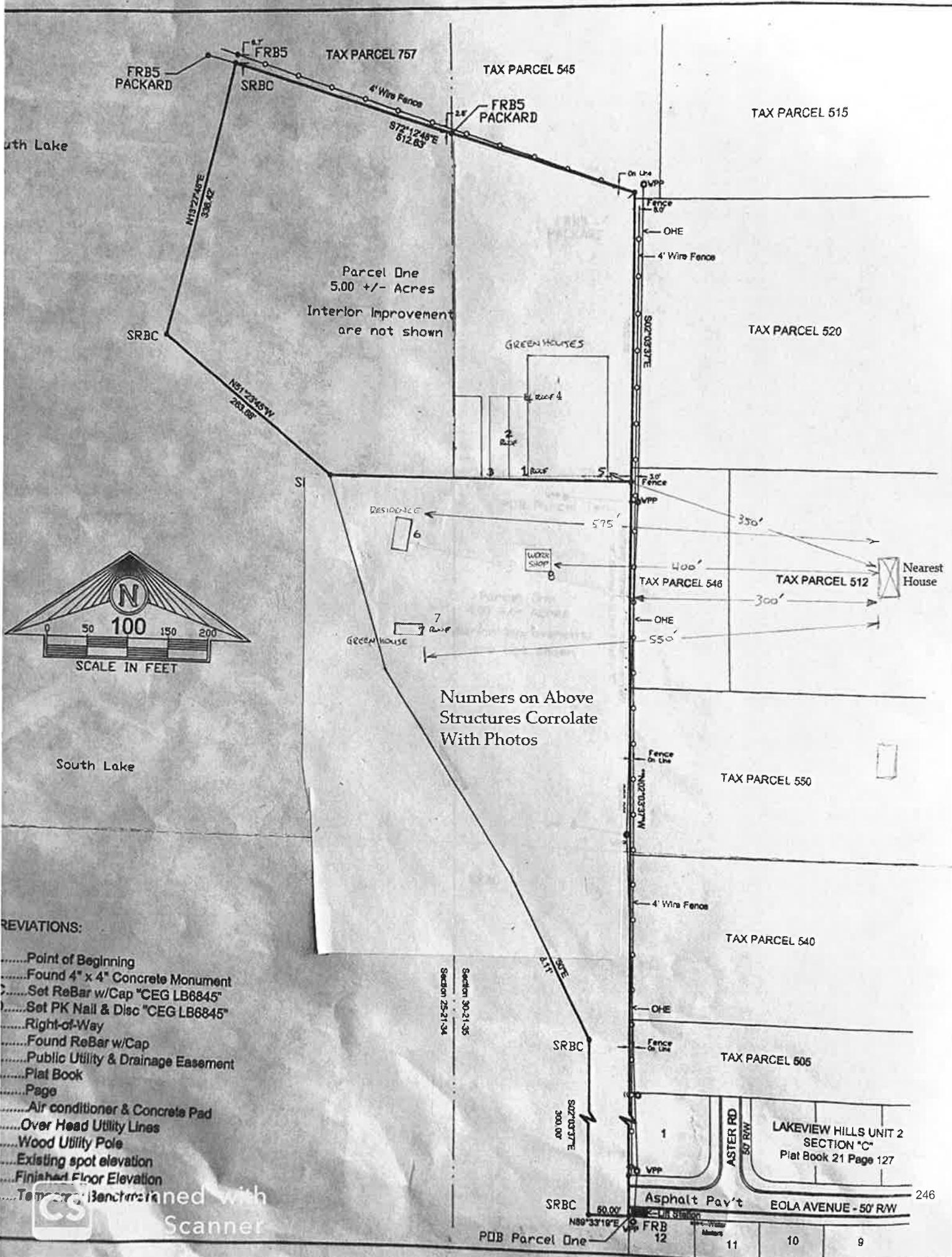
4). Also want to emphasize my goal to maintain the environmental beauty of this place. The entire 1677 feet (1/3 mile) on the West side of the property is on the shoreline of South Lake. It is a 10 foot high ridge covered with a hardwood forest of oaks, hickory, and magnolia trees.....a natural Florida Hammock. Several months ago I learned Brevard County owned South Lake, and contacted Mike Knight, head of the Environmentally Endangered Lands (EEL) of Brevard County. Mr. Knight told me he considers Titusville the Nature Mecca of Brevard County, and was very happy with my desire to maintain the natural setting along the Lake shoreline. He and crew have cut a nature trail through the hammock along my 1677 ft. interface with the lake, and on around the North end of South Lake. They discovered two Ancient Indian encampments along the trail, and have gotten approval to connect this trail with a neighboring Salt Lake Trail. He is very happy with the fact that, as the owner, I am consciences in maintaining this little gem of Florida like it has been for centuries. He is a strong supporter of my move to rezone to AU rather than sell to a developer under the RR-1 zoning and subdivide into 1 acre lots and build houses. The lots would be right down the middle of this beautiful hammock. It would be very disappointing, and a loss to all that appreciate the unchanged natural beauty of a site like this.

Unfortunately I have told him if I cannot develop an income from my vegetable farm I will not be the owner very much longer. The thought of not obtaining the AU zoning would devastate my hopes and plans, and thoughts of conserving the hammock.

RR-1 is definitely not the way I want to go. This place and this plan are my future.

One last thing....I have made it a point to talk with neighbors of my plans to zone back to AU and have found a lot of support. I have over 20 letters of support for AU zoning from my neighbors. Some enjoy the wildlife that hangs out in the wooded hammock & lake environment. All like keeping the natural status rather than dividing into several lots and building houses. All along Eola Ave like the lesser traffic rather than adding several houses to the end of their street.

That completes my plan.



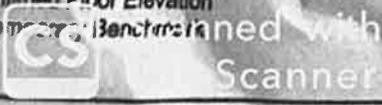
Parcel One  
5.00 +/- Acres  
Interior Improvement  
are not shown

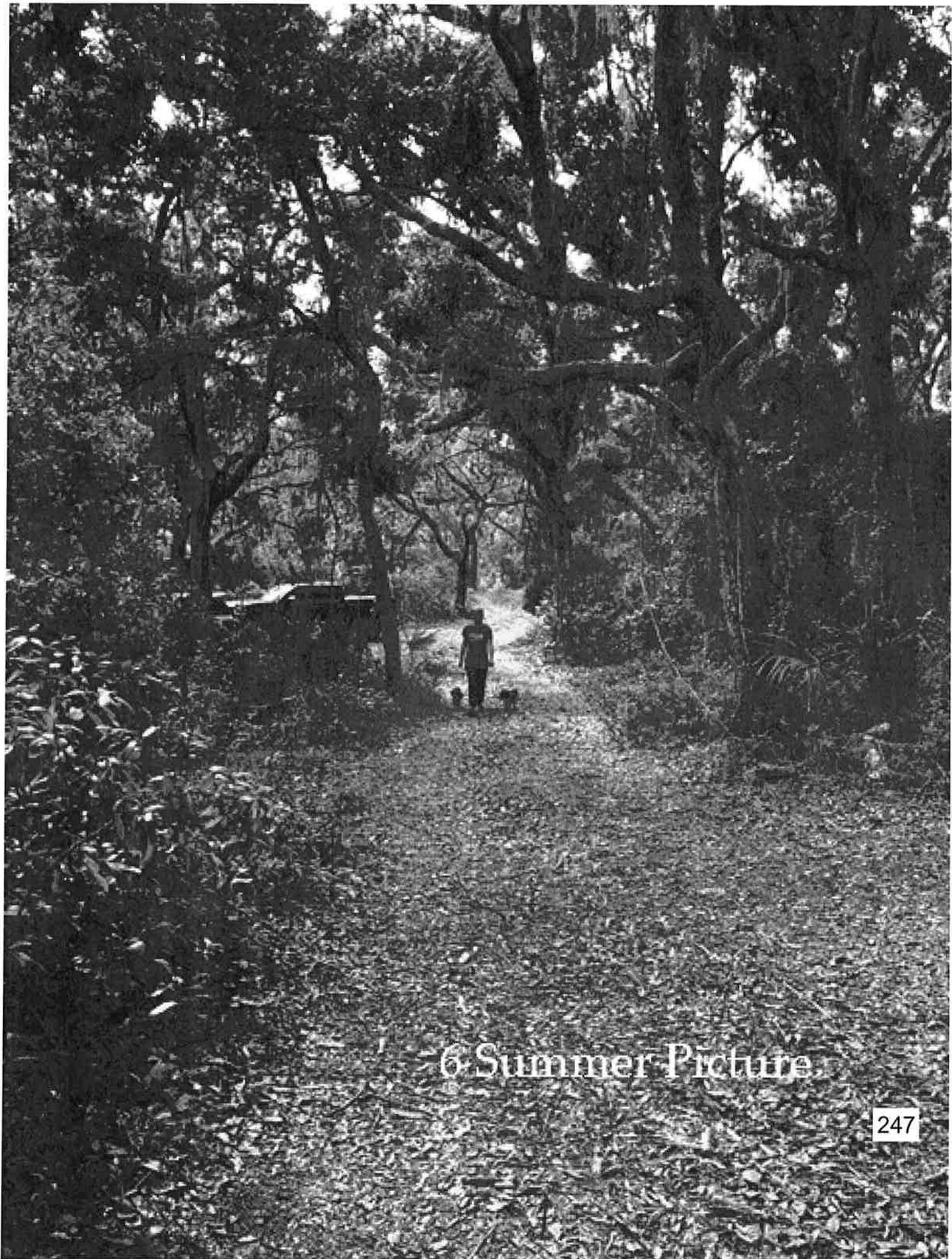
Numbers on Above  
Structures Correlate  
With Photos



REVIATIONS:

- ..... Point of Beginning
- ..... Found 4" x 4" Concrete Monument
- ..... Set ReBar w/Cap "CEG LB6845"
- ..... Set PK Nail & Disc "CEG LB6845"
- ..... Right-of-Way
- ..... Found ReBar w/Cap
- ..... Public Utility & Drainage Easement
- ..... Plat Book
- ..... Page
- ..... Air conditioner & Concrete Pad
- ..... Over Head Utility Lines
- ..... Wood Utility Pole
- ..... Existing spot elevation
- ..... Finished Floor Elevation
- ..... Temporary Benchmarks





6 Summer Picture







5



6 Winter Picture



Neighbors are unable to view any  
of the structures on my Farm

7



1



2



3



4



MICROGREENHOUSE



MICROGREENHOUSE



WORKSHOP



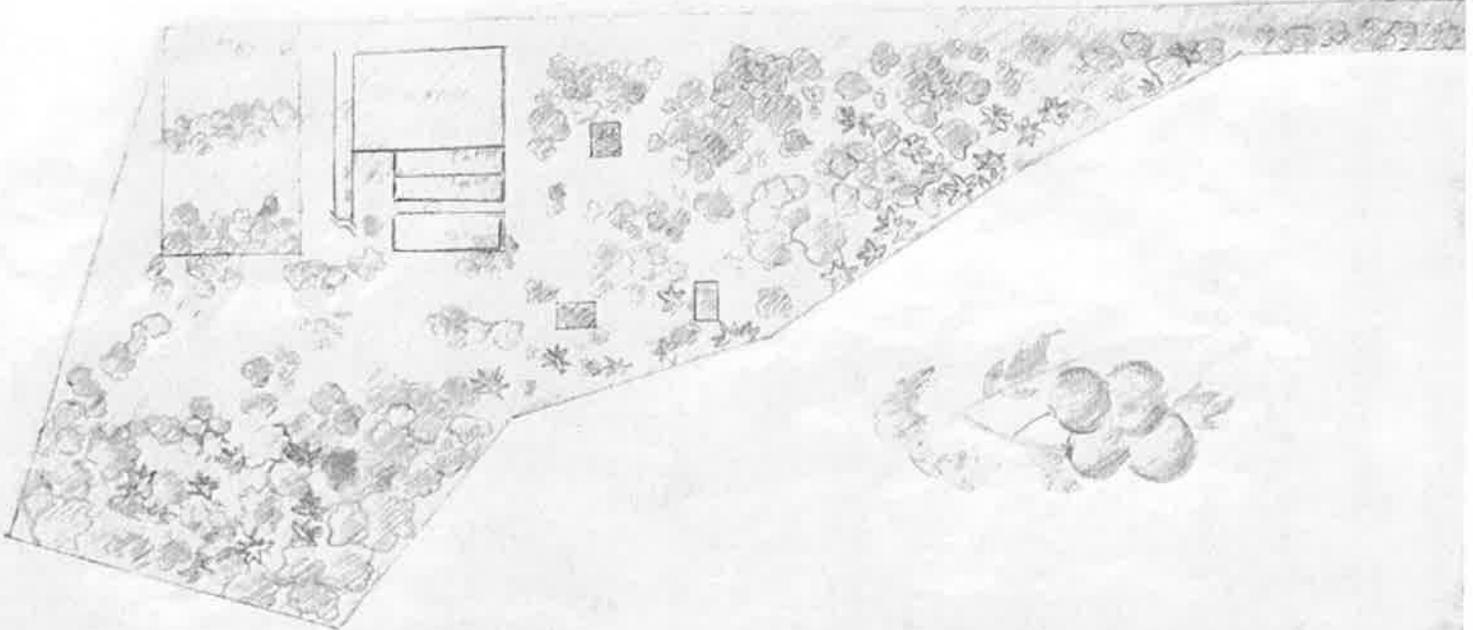
GREENHOUSE



DRIVEWAY



WORKSHOP





2014 Harvest



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



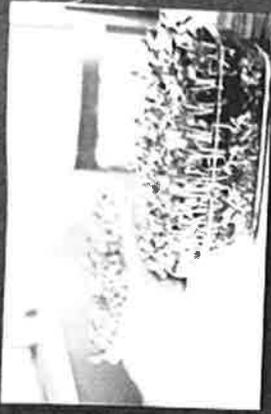
2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



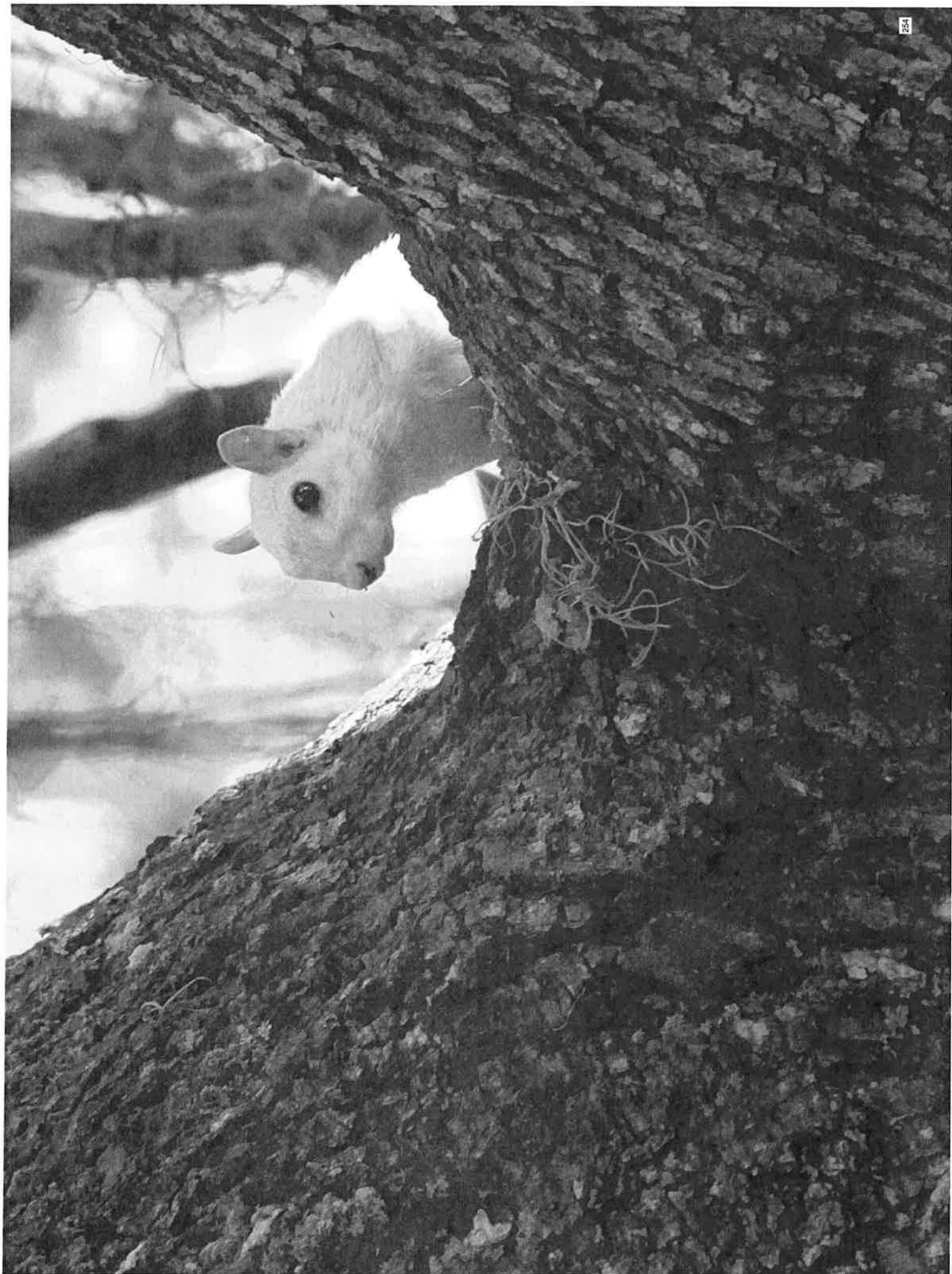
2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



2014 Harvest  
Fresh Produce



David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

October 1, 2019

Planning & Development Department  
Board of County Commissioners  
Brevard County  
2725 Judge Fran Jamieson Way  
Building A  
Viera, FL 32940

RE: October 7 Agenda, Item ID # 19PZ00099

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP).

We own property (our residence) which immediately adjoins Mrs. Miller's property.

We will be traveling out of state at the time of the October 7<sup>th</sup> public hearing and, therefore, wish to provide our comments and concerns at this time.

While Mrs. Miller is requesting a rezoning which would decrease the residential density for this parcel of land, her intended use of the land is, at this time, unknown to us or to the other surrounding property owners.

Following the hurricanes of 2004, Mr. Darroll Higginbotham, who owned the property at that time, requested a rezoning which would have greatly increased the density on the property in question. This increased population density would have significantly increased the automobile traffic in this area and, placed a greater demand on the water aquifers beneath this land. Because of this, several of the neighboring property owners met multiple times with Mr. Higginbotham and Commissioner Truman Scarborough to address our concerns and to arrive at a mutually agreeable resolution. That series of meetings resulted in the existing zoning and in the creation of the existing Binding Development Plan.

Since that overall plan and solution was accepted by ourselves and the other property owners, we contend that **the existing conditions (zoning and BDP) should remain in effect and not be altered.** We are certain that Mrs. Miller was made aware of the BDP at the time of purchase of her property.

Our position on this matter might only change if and when a superseding BDP could be reviewed by ourselves and the neighboring property owners and found to be suitable. At this time, such a plan has not been made available for us to review.

Sincerely,

David and Joyce Craig

In Favor  
19PZ00099  
Miller

November 25<sup>th</sup>, 2019

Koleena Schmidt  
3629 Ventnor Drive  
Titusville, FL 32796

Re: Kimi Miller

To Whom It May Concern:

I am a resident of Titusville and have been for several years. I love this city. I want to help it grow and thrive. So does my dear friend, Kimi Miller. She has a dream of helping our agricultural interests sprout new and interesting relationships within the city and county to support the local economy. She has been on a learning expedition, cultivating knowledge tools and skills to support locally grown produce finding its way to farmers markets and into local restaurants.

I have seen her beautiful tomatoes and listened to her explain the art of microgreens. She is passionate and excited with the possibilities for this area. She has set several goals since we met and I watch her meet those goals voraciously.

She allowed my son to work with her to clear, help to rebuild, and learn about this wonderful concept. This could be endless in its impacts on our community. I am impressed by her work ethic, her drive, and her love and care for the property she is on.

I know that she will make her dream come true and I hope that we, in Titusville, will get to claim her successes among our own.

Thank you,



Koleena Schmidt

505-319-2478

In Favor  
19PZ00099  
Miller



**Wade Gray**

321-362-5000. 1280 N. Carpenter Rd, Titusville, Fl. 32796

November 25, 2019

Planning and Zoning Board  
Brevard County Board of County Commissioners  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida

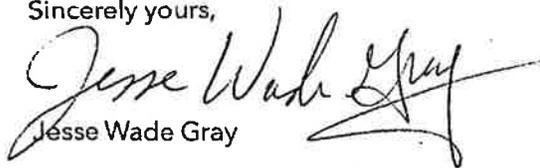
Re: Laura Kimberley Miller, change of classification from RR-1 (Rural Residential) to AU (Agricultural Residential). 9 acres, (4200 Eola Avenue, Titusville) (19PZ00099) (District 1)

Dear Sir/Madam

I missed the public hearing on Laura Kimberley Miller's request to change her property classification from RR-1 (Rural Residential) to AU (Agricultural Residential) and removal of an existing BDP (Binding Development Plan). Therefore I submit my comments now in support of Ms. Miller's request.

As a neighbor that resides within 500 feet of the Miller property I see no reason to object to a property classification that is the same as the majority of her neighbors with 3 or more acres of property, i.e. AU (Agricultural Residential). I, like most, would be more concerned of over developing the property for residential expansion. Maintaining the property in a more natural state benefits her neighbors as well as Ms Miller.

Sincerely yours,

  
Jesse Wade Gray

November 23, 2019

In Favor  
19PZ00099  
Miller

From:

Nicole Mitchell

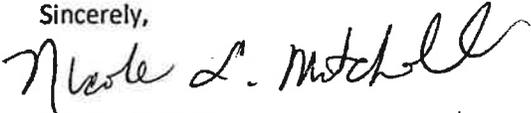
4175 Eola Ave.

Titusville, FL, 32796

To whom it may concern:

I Nicole Mitchell don't object to Kimi Miller rezoning property back to agriculture. I fully support her organic nursery 100%. Please review and forward my request to Brevard County Commissioners office.

Sincerely,

A handwritten signature in black ink that reads "Nicole L. Mitchell". The signature is written in a cursive style with a large, stylized initial "N".

Nicole Mitchell

In Favor  
19PZ00099  
Miller

November 22, 2019

Dear Commissioner Pritchett,

My name is Sue Centurelli and I live on Eola Ave. My husband and I like the fact that Ms. Kimi Miller wants to rezone away from the current RR1, which would allow many houses to be built. We like the idea of her hydroponic nursery and she is a good quiet neighbor. We are in full support of rezoning.

*Sue Centurelli*

In Favor  
19PZ00099  
Miller

23 Nov, '19

Dear Commissioner Pritchett,

My name is Tom Sparks. Me and family live at 4125 Eola Ave, and would like to express our feelings about Ms Miller rezoning her 9 acres from Residential to AU Agricultural. We are in full support. Her plans are to operate a hydroponic farm at a low level.....no big trucks and extra traffic coming down our quiet street. There has never been any noise or neighbor issues that I know of. Organic farming is certainly safe, so am in full support of her change back to AU.



Dear Commissioner Pritchett,

Ms. Miller is looking to rezone her wooded property at the end of my street, Eola Ave. I would like to see the property stay natural and be zoned the way it used to be, an Agricultural nursery. I feel that it would be bad for the environment and the neighborhood to have homes built back there. I also do not think that developing would be good for the run-off into the lake and the St. Johns River. I would like to see the Owls, the wildlife, and the agricultural setting remain in its natural state.

A handwritten signature in cursive script, appearing to read "Hans Wilton".

Dear Commissioner Pritchett,

I reside at 1230 N. Carpenter Rd. in Titusville. I am aware that Ms. Miller purchased the property in question at the end of Eola Ave. sometime last year. The rear of my 2.86 acre home abuts up to her driveway. I appreciate that she is quiet and respectful. When I met Ms. Miller, I was relieved to hear that she is not planning on developing or building a housing community. From what she told me, Ms. Miller intends to preserve and enhance her farm into a new smaller nursery that will grow and sell organically grown hydroponic produce.

Ms. Miller informed me that she is in the process of rezoning her farm back to Agriculture. I am in support of her farm and prefer this over the current RR1 zoning. Furthermore, I am in support of her plans not to build homes or destroy the quiet nature like setting our neighborhood enjoys. Should my letter be of any assistance in the decision of the county to re-instate her agricultural status, I would like to voice my support and encourage the county to re-instate her.

Brevard County wetlands, and keeping it agricultural will help preserve the wildlife and the eco-system that keeps Brevard beautiful. On my property I have indigo snakes, wild turkey, white tail deer and depending on which is dominant, red tail or fan tailed hawks.

*Deborah Gigante Gaylord*

*Deborah Gigante Gaylord*

*11/25/2019*

Dear Commissioner Pritchett,

We reside at 4105 Eola Ave. and have recently met with Ms. Miller to hear all about her nursery at the end of our street. She is so quiet we didn't even know anything was back there! We have been organic all our life. We think organic is the way to go for health and support her nursery fully. We prefer to have our street quiet and natural rather than to see her have to sell to a developer and have more houses on our street.

Acadia Delaunay. 11/25/2019.

Melvin Delaunay. 11/25/2019.

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

My name is Kristian Wolfeich and I have lived here on Eola Ave. for many years. I feel that Ms. Miller should be able to do what she wants with her property and would much rather have the nursery than houses.

*Kristian Wolfeich*

4020 EOLA AVE

11/25/19

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

My name is Donna Lloyd and I live at 4060 Eola Ave and I also own 4085 Eola Ave. I have lived here on Eola Ave for most of my life. I know the property Ms. Miller is interested in rezoning because I knew the Higginbothams as they came and went from their nursery. I used to go back there and play when I was a teenager. When the Higginbothams told me they were rezoning for houses I was upset. My parents and I did not want that because it would change our street. We like our street and would like it to remain the way it is. We are in full support of what Ms. Miller is proposing to do with her nursery. Please forward this on to the appropriate Commissioners.

 4/24/19

Nov. 24<sup>th</sup> 2019

Dear Commissioner Pritchett,

My name is Jamie Mendiola and I live at 4080 Eola Ave. I very much appreciated Ms. Kimi Miller stopping by to show me her thoughts and ideas for her small nursery at the end of the street as it could change the way things are now. I am very concerned that if a development was to happen there, it would increase activity on Eola Ave. substantially. Therefore, I am in favor of seeing the property revert back to the way it always was for 30 years.

A handwritten signature in black ink, appearing to read 'J. Mendiola', written in a cursive style.

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

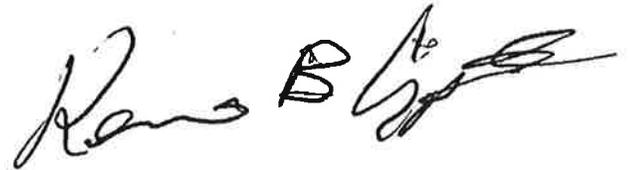
My name is David Bemis and I reside at 4090 Eola Ave. Regarding the recent rezoning request by my neighbor Kimi Miller whose address is 4200 Eola Ave., I agree with her plans to keep her nursery the way it has always been. Please forward this on to the remaining board for my full support.

David J. Bemis  
25 Nov 2019

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

My wife and I have been residents at 4115 Eola Ave for many years, and have found the past & present owners of the property at the end of our road to be good neighbors....never any issues with them. We were concerned when the past owner rezoned to RR-1 Residential because we did not want the added traffic from several homes moving back and forth on our street. Ms Miller has assured us there won't be added traffic, no semi's, etc coming past our house. Her plans are to grow vegetables that uses very little water, and organic sprays & fertilizers. The rezoning down to AU is great for us, and fully support her efforts. If it stays RR-1 and is sold that very well could be the end of our quiet street.

A handwritten signature in black ink, appearing to read "Hans B. Miller". The signature is written in a cursive style with a large initial "H" and a stylized "B".

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

We are Jim and Aimee Robinson and we reside at 4165 Eola Ave and have lived here for many years. We feel that Ms. Miller should be able to do what she wants with her property. We love the idea of organic, hydroponic food and it would be good for the community.



The image shows two handwritten signatures in black ink. The top signature is a cursive signature that appears to be 'J. Pritchett'. The bottom signature is a larger, more elaborate cursive signature that appears to be 'Aimee Robinson'. Both signatures are written over a horizontal line.

In Favor  
19PZ00099  
Miller

Dear Commissioner Pritchett,

We are Gail and Ed Huffman of 1370 N. Carpenter Rd. We have met with Ms. Miller and we are supportive of her project and in keeping the area as natural as possible since our property adjoins with hers.

Gail H. Huffman  
11/25/2019

UF/IFAS Extension Brevard

3695 Lake Drive  
Cocoa, FL 32926-4219  
321-633-1702  
321-633-1890 Fax  
<http://brevardifas.ufl.edu>

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Lisa McClain  
Brevard County Farmers Market  
University of Florida IFAS  
Extension Brevard County  
(321) 633-1702 x52329  
[mcclain.lisa@ufl.edu](mailto:mcclain.lisa@ufl.edu)

COCOA, FL. –

DATE: November 26, 2019

Planning & Development Department  
Board of County Commissioners Brevard County  
Item # 19PZ00099 Letter of Support

Please forward on to appropriate Commissioner for hearing set for December 5, 2019 regarding rezoning.

My name is Lisa McClain, I manage the Brevard County Farmers Market. I am writing this as a letter of support in the hearing of Kimi Miller's rezoning. Kimi Miller reached out to me here at the UF/IFAS Brevard County Extension office for information regarding small farm startup information, checklists, resources and proper certificates required to participate as a vendor in the Farmers market. I met with Kimi and toured her property located at 4200 Eola Ave Titusville, FL. It was like entering a different eco system all together. The property was originally zoned as Agriculture from the previous owner who only changed it to RR1 in hopes to sell the property to a different demographic. Kimi's only intent as she is the steward of the land to put it back to its original condition, her plans to be an organic microgreen grower, selling fresh locally grown produce, herbs and microgreens to local restaurants & farmers markets in surrounding communities. Knowing where your food comes from and how its ethically grown is a demand from the community citizens and we would be doing a disservice by not allowing this rezoning. I recently attended the Rotary Club of Brevard for Farm to City week, the keynote speaker the head of the Florida Farm Bureau said Florida's numbers of losing agriculture land to residential are dramatically increasing. The Average Florida farmer is entering retirement age with no replacement coming into take their place. Florida's Agriculture supports our quality of life and has an economic impact of \$127.3 Billion. Kimi Miller's Misty Farms would add to this industry with her goals and plans as she is driven to do so, is an upstanding, value adding member of our community that has my full support to be a small farm. I'd be honored to have her at our market and am looking forward to the value she will bring to the citizens of Brevard!

*Equal Opportunity/Affirmative Action Institution*

*For individuals with disabilities, requiring special accommodations, please contact UF/IFAS Extension within a minimum of 72 hours of the event/program so that proper consideration may be given to the request.*

## PLANNING AND ZONING BOARD MINUTES

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

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

Board members present were: Ron Bartcher; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; Peter Filiberto, Vice Chair; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Agenda

#### 3. Laura Kimberley Miller:

A change of classification from RR-1 (Rural Residential) to AU (Agricultural Residential) and removal of an existing BDP (Binding Development Plan). The property is 9 acres, located at the westerly end of Eola Avenue. (4200 Eola Avenue, Titusville) (19PZ00099) (District 1)

Laura Miller, 4200 Eola Avenue, Titusville, stated it is her intention to have an agricultural nursery. She noted there was a successful nursery on the property for 30 years, and she would just like to rezone to AU, which was the previous zoning, in order to rebuild a hydroponic greenhouse with organically grown produce.

Ron Bartcher asked if eco-tourism is something the Ms. Miller would like to do. Ms. Miller replied no, it is not her intention.

Ben Glover asked if Ms. Miller was the owner of the property when it was rezoned to RR-1 with a BDP. Ms. Miller replied no, the previous owner was going to sell the property to a developer, but that did not work out.

Rochelle Lawandales asked staff to talk about the existing BDP.

Jeffrey Ball stated in the existing BDP there are three conditions: 1.) development is limited to six lots; 2.) access would be to Eola Avenue; and 3.) the drainage retention is to be located on the northeast corner of the property. He said if approved, this request will remove the limitations of the existing BDP. Ms. Lawandales asked if the design requirements will be removed as well. George Ritchie replied yes, there cannot be six lots under the AU zoning, and at a minimum requirement of 2.5 acres each, the minimum number of lots that can be created is three, but the end of Eola Avenue doesn't provide enough access for multiple lots unless a road is created to subdivision standards.

Dane Theodore stated there is pending code enforcement action regarding people camping in tents overnight and short-term vacation rentals, and asked Ms. Miller what actions she has taken to mitigate those complaints. Ms. Miller explained that her ex-husband was in charge of that, and as the new owner she has complied by removing the tent structure, and she has also applied for a permit for the deck structure that she plans to use for agricultural purposes.

Motion by Bruce Moia, seconded by Ben Glover, to approve the requested change of classification from RR-1 to AU and removal of an existing BDP. The motion passed unanimously.

H.4

Dan Reitemeier  
1240 N. Carpenter Rd.  
Titusville, FL 32796

321-576-2496

November 29, 2019

Commissioner Rita Pritchett  
2nd Floor  
2000 South Washington Avenue  
Titusville, Florida 32780

We are writing regarding Kim Miller's request for a zoning change for 4200 Eola Ave. Titusville, FL.

My name is Dan Reitemeier, I live at 1240 N. Carpenter Rd. 205 feet of my property joins Ms. Miller's property. I am one of the few owners whose property immediately borders her property.

It is my understanding that when I purchased my property, a Binding Development Plan was in place for Miss Miller's property. It is my desire that this binding plan remain in place.

I am writing to inform you that I vehemently oppose this rezoning request. My reasons for opposing this change include the following.

- A commercial farming operation would increase vehicular traffic. I purchased my property with the intent of living in a quiet, peaceful environment. A commercial operation would disrupt that peaceful environment. My purchase was based, in part, upon the existing land use at that time and the existing Binding Development Plan, which I expect to be maintained.
- Although the farming operation may start as a small business, removing the BDP and changing the zoning would open the way for the operation to grow, thus creating a far more disruptive environment than presently exists (which is seven days a week) for myself and for other neighbors.
- Although some of the neighboring property is zoned as agricultural, all of this area is still a residential area, with no other form of commercial activity. I do not believe it appropriate to allow a commercial operation to be introduced into this residential area. A commercial farming operation with the potential of growing into a large operation would be totally inconsistent with the current use of the surrounding properties.
- During the Planning and Zoning Board's public hearing on this request in October, a number of affected neighbors were present, but were not permitted to speak. The board moved quickly to a vote before everyone who wished to speak was given opportunity. Therefore, this request may not have been approved by that board and passed on for the County Commissioner's action had all of the concerned parties been allowed to speak during the Planning and Zoning Board's October meeting. I have chosen to put my objection in writing since my wife and I were among the four or more individuals who were not allowed to speak during the public hearing in October, though they raised their hands when the board asked who was present to speak.

I wish to join those other affected neighboring property owners who oppose this change request.

Sincerely,

Dan Reitemeier

Cc:

District 2 Commissioner Bryan Lober

District 3 Commissioner John Tobia

District 4 Commissioner Curt Smith

District 5 Commissioner Kristine Isnardi

A4

Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Bldg C, Suite 303.  
Viera, FL 32940

Item #19PZ00099

Re: Rezoning of Laura Kimberley Miller from Residential to Agricultural

To whom it may concern,

Thank you for your time. My name is Joshua La Forge, and I live at 3975 Dairy Road in Titusville 32796. My home borders Ms. Miller's property at 4200 Eola. I have lived here for over a decade and have always valued the space shared with the nursery behind my house. I fully support Ms. Miller's request to return her property's zoning to agricultural from Residential. When I purchased my property, it was one of the features of the neighborhood that I found most attractive, and I would like it to still be used for that purpose if at all possible. Please feel free to contact me with any questions or concerns. I am happy to give as much information as you require.

Sincerely,

Joshua La Forge  
321-442-0099  
joshualaforge@gmail.com

A.4.

In Favor  
19PZ00099  
Miller

**Roan and Karrie Poulter**  
The Wayward Traveler's Inn  
2398 N Singleton Ave  
Mims, FL 32754

September 10, 2019

To whom it may concern,

This letter is in support of Kimi Miller and Misty Farms. We had the pleasure to host Kimi at our Bed and Breakfast when she first came to the Titusville area looking at properties to purchase. Her enthusiasm was contagious and we have followed her adventures closely.

Her desire to produce fresh vegetables and micro greens for the Titusville community will fill a much needed niche in our community. Growing fresh ingredients locally is a hallmark of communities where people want to live. Titusville is an absolute desert of such luxuries.

If you were smart people, you would fall on your knees and beg her to keep working this operation. It is exactly businesses like hers that make a community attractive to younger families, which in turn leads to commercial growth.

I cannot for the life of me imagine who would oppose this, but I assure you it wouldn't be any local businesses and I scarcely believe that any neighbor wouldn't want to be next to an organic vegetable farm.

Do the right thing, because in this instance it also happens to be in everyone's best interest.

Roan and Karrie Poulter  
Owners of The Wayward Traveler's Inn

Re: Recommendation for L. Kimi Miller

Case Number: 19PZ00099

In Favor  
19PZ00099  
Miller

To Whom It May Concern:

I strongly recommend my friend and potential colleague, L. Kimi Miller, for her application for Agricultural zoning. I have also had the opportunity to observe Kimi's work skills as well as interpersonal style. She is consistently pleasant, and takes on all endeavors with enthusiasm and dedication. Her attitude, diligence, intellect and commitment to her work are unmatched. She is smart, a high achiever, and eager to learn. She is highly committed to finding a solution to any challenges that come her way. I work in Plant Space Biology at KSC, and look forward to comparing notes and challenges for hydroponic plant growth both on the ground and in space as Kimi's business grows.

Please do not hesitate to contact me if I can shed any more light on Kimi, including her stellar character and prospects for a bright future in Brevard County.

Sincerely,

John A. Carver

Plant Space Biology

Payload Integration Engineer

Kennedy Space Center, FL

321-362-8611

Molecule13@aol.com

In Favor  
19PZ00099  
Miller

Brevard County Commissioners,

I understand Ms Miller's plan is to zone back to Agriculture from Residential on the acreage down below me to grow green produce. Her sale of the greenhouse products would be delivery from her place rather than pickup. It sounds like a good-neighbor plan....no housing development, no noise, and especially like the less traffic past my house. I fully support her plan to maintain the stability of the neighborhood and hope she is able to obtain the rezoning.

*John L. Landon*

*4120 EOLA AVE  
TITUSVILLE, FL 32780*

Dear Commissioner,

I'm writing this letter in support for Kimi Miller in her effort to rezone her residence, 4200 Eola Ave, Titusville, for her farming needs. I have informed myself of the zoning plan and spoke to Kimi of her plan and objective for her property. With that noted I welcome the idea for the rezoning of her property.

Sincerely,

Cesar Sanchez

4130 Eola Ave

Titusville FL 32796

Email: [csanchez01234@yahoo.com](mailto:csanchez01234@yahoo.com)

Cell: 510-423-8321



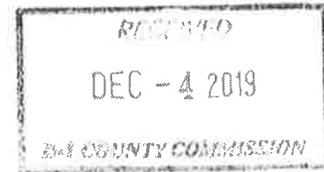
11-27-2019

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

H.4

November 26, 2019

Brevard County Commissioner, District 1  
Commissioner Rita Pritchett (Vice Chair)  
2000 South Washington Avenue  
2nd Floor  
Titusville, Florida 32780



RE: Planning and Zoning - October 7 Agenda, Item ID # 19PZ00099

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP) for property located at 4200 Eola Ave. Titusville, Fl.

It is our understanding that this item will be on the agenda for your December 5<sup>th</sup> meeting. Unfortunately, we have preexisting plans that would be very costly to change, so our being present at your meeting is not possible.

We own property (our residence) which immediately adjoins a very large sector of Ms. Miller's property.

We were out of state at the time of the October 7<sup>th</sup> public hearing and, therefore, provided our comments and concerns by letter (copy attached).

On November 25, 2019, Miss Miller came to our home to explain her plans for the use of her property and the reason for the rezoning request.

After hearing her plans and giving them considerable thought, we wish to reiterate our concerns regarding this rezoning. We wish to see the zoning remain as it is (RR-1) and have the existing Binding Development Plan (BDP) left in place.

This Binding Plan was in place when Ms. Miller and her former husband purchased the property.

Following the hurricanes of 2004, the owner of that property requested a rezoning for higher density housing. This request resulted in a series of meetings involving several of the neighboring property owners. The meetings were facilitated by former Commissioner Truman Scarborough (who was then and is still a highly respected lawyer) and culminated in an agreement to allow RR-1 zoning plus also culminated in the development of the existing Binding Development Plan. Considerable discussion, negotiation, and research went into the development of that agreement and binding plan.

Our position remains the same as stated in our letter of October 1, 2019 to the Planning and Zoning Board. We would not wish to see the Binding Development Plan and zoning agreement made during these meetings overturned. We believe that "binding" means just that!

It is our understanding that there were others at the planning meeting in October regarding this request who were not given time to share their concerns. Further, after reviewing the minutes of the October planning board meeting, we observed that our previous letter was not noted in the final minutes of that meeting. Hopefully, though, you did receive this letter. These omissions are a concern and seem inconsistent with the purpose for the meeting and the recording of the meeting contents.

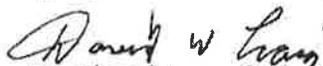
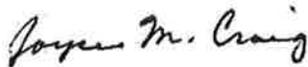
Voting when someone has his hand up to speak but is not recognized also seems out of character to what we feel should be "open" communication at a public hearing, truly open.

We still have our own additional concerns which include those related to the environment, the potential impact to the water aquifers, and now, the potential of water and fertilizer run off from a commercial gardening facility. Other concerns pertain, once again, to the possibility of majorly increased traffic and heavy truck and/or machinery traffic as well – this ongoing traffic would also be going through a residential neighborhood that houses many children.

We are wondering, too, as to how Ms. Miller's request impacts/comes into compliance with the existing and updated land use plans.

We ask you to NOT grant this requested change.

Sincerely,



David and Joyce Craig

Cc: Commissioner Bryan Lober (Chair)  
Commissioner John Tobia  
Commissioner Curt Smith  
Commissioner Kristine Isnardi

David and Joyce Craig  
1310 N. Carpenter Rd.  
Titusville, FL 32796

October 1, 2019

Planning & Development Department  
Board of County Commissioners  
Brevard County  
2725 Judge Fran Jamieson Way  
Building A  
Viera, FL 32940

RE: October 7 Agenda, Item ID # 19PZ00099

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP).

We own property (our residence) which immediately adjoins Mrs. Miller's property.

We will be traveling out of state at the time of the October 7<sup>th</sup> public hearing and, therefore, wish to provide our comments and concerns at this time.

While Mrs. Miller is requesting a rezoning which would decrease the residential density for this parcel of land, her intended use of the land is, at this time, unknown to us or to the other surrounding property owners.

Following the hurricanes of 2004, Mr. Darroll Higginbotham, who owned the property at that time, requested a rezoning which would have greatly increased the density on the property in question. This increased population density would have significantly increased the automobile traffic in this area and, placed a greater demand on the water aquifers beneath this land. Because of this, several of the neighboring property owners met multiple times with Mr. Higginbotham and Commissioner Truman Scarborough to address our concerns and to arrive at a mutually agreeable resolution. That series of meetings resulted in the existing zoning and in the creation of the existing Binding Development Plan.

Since that overall plan and solution was accepted by ourselves and the other property owners, we contend that the existing conditions (zoning and BDP) should remain in effect and not be altered. We are certain that Mrs. Miller was made aware of the BDP at the time of purchase of her property.

Our position on this matter might only change if and when a superseding BDP could be reviewed by ourselves and the neighboring property owners and found to be suitable. At this time, such a plan has not been made available for us to review.

Sincerely,

David and Joyce Craig