



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

2/5/2026

Subject:

Laughing Clown LLC requests a zoning classification change from RP to BU-1-A. (25Z00028) (Tax Account 2806925) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RP (Residential-professional) to BU-1-A (Restricted neighborhood retail commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RP (Residential-Professional) to BU-1-A (Restricted neighborhood retail commercial) on 0.63 acres to allow an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification. The applicant has a companion Small Scale Comprehensive Plan Amendment application, 25SS00009, requesting a FLUM change from Residential 2 (Res 2) to Community Commercial (CC). The subject property has been previously utilized as a doctor’s office under the RP zoning designation.

The BU-1-A zoning classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Example of permitted uses in this classification include, but not limited to, banks and financial institutions, barbershops and beauty parlors, contractor’s offices, gift shops, medical buildings and clinics, professional offices, and single-family residence.

Abutting the subject property to the north is a 0.81-acre lot developed with a single-family home with an RP zoning designation and a RES 2 FLU designation. Abutting the subject property to the south is a 0.62-acre parcel developed with a single-family home and located within jurisdiction of the City of West Melbourne. The subject property is bordered to the east by Minton Road, a county-maintained arterial roadway. A multi-family apartment complex is located on the 32.18-acre parcel located directly across from the subject property on the east side of Minton Road and within the jurisdiction of West Melbourne. There are two (2) properties abutting the subject property to the west. The first property is a 0.42-acre lot improved with a single-family residence. The second parcel is a 1.19-acre lot improved with a single-family residence. Both lots are zoned RU -1-13 with a RES 2 FLU designation.

The Board may consider if the request is consistent and compatible with the surrounding area.

On January 12, 2026, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 25Z00028

On motion by Commissioner Adkinson, seconded by Commissioner Delaney, the following resolution was adopted by a unanimous vote:

WHEREAS, Laughing Clown LLC requests a zoning classification change from RP (Residential-professional) to BU-1-A (Restricted neighborhood retail commercial), on property described as Tax Parcel 8, as recorded in OR Book 9954, Page(s) 1635, of the Public Records of Brevard County, Florida. **Section 24, Township 28, Range 36.** (0.63 acres) Located on the west side of Minton Rd, 141' south of Sharon Dr (4030 Minton Rd, Melbourne); 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 Brevard County Planning and Zoning Board recommended that the application be approved; 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 recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RP to BU-1-A, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of February 05, 2026.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Thad Altman, Chair
Brevard County Commission
As approved by the Board on February 05, 2026.

ATTEST:


RACHEL M. SADOFF, CLERK

(SEAL)

P&Z Board Hearing – January 12, 2026

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development 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.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
 25Z00028**

Laughing Clown LLC

RP (Residential-professional) to BU-1-A (Restricted neighborhood retail commercial)

Tax Account Number: 2806925
 Parcel I.D.s: 28-36-24-01-*8
 Location: 4030 Minton Rd., Melbourne, FL 32904 (District 5)
 Acreage: 0.63 acres

Planning & Zoning Board: 01/12/2026
 Board of County Commissioners: 02/05/2026

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)*

	CURRENT	PROPOSED
Zoning	RP	BU-1-A
Potential*	FAR of 1.00 or 1 Single-family Unit	FAR 1.00 or 18 Multi-family Units***
Can be Considered under the Future Land Use Map	NO RES 2	YES** CC

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

Approval pending approval of companion request **25SS00009 which proposes to amend the Future Land Use Map (FLUM) designation from Res 2 to CC (Community Commercial)

***Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act)

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RP (Residential-Professional) to BU-1-A (Restricted neighborhood retail commercial) on 0.63 acres to allow an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification.

The applicant has a companion Small Scale Comprehensive Plan Amendment application, **25SS00009**, requesting a FLUM change from Residential 2 (Res 2) to Community Commercial (CC).

The subject property has been previously utilized as a doctor's office under the RP zoning designation.

The BU-1-A zoning classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Conditional uses such as convenience stores with gas pumps, private clubs, and on premise sale of or serving of alcoholic beverages accessory to a snack bar or restaurant are also permitted in this classification. An example of one of the most intense uses allowable within the BU-1-A zoning is a donut/coffee shop and an example of a low intense use would be a medical clinic.

Approval of the BU-1-A zoning classification and CC FLU designation would allow the applicant or their successors to develop affordable housing residential units up to 30 units per acre, under BCC Policy-100 (Live Local Act), which was enacted 2023 and revised in 2024. Pursuant to Florida Statute 125.01055, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are rental units that, for a period of at least 30 years, are affordable as defined in F.S. [420.0004](#).

The subject property is within the Lund Gardens Subdivision and records indicate that on December 14, 1998, the property was put into its current configuration as recorded in ORB 3938, Pages 1758-1759, of the Public Records of Brevard County, Florida.

ZONING HISTORY

In December 1963, the subject property was rezoned from AU (Agricultural Residential) to RU-1 (Single-family Residential) with zoning action **Z-1258**.

In June 1972, the subject property was again rezoned from RU-1 to RU-1-13 with zoning action **Z-2980**.

On September 21, 2000, the subject property was rezoned from RU-1-13 to RP under zoning action **Z-10461**. Staff analysis at the time referred to the 1990 Minton Road Corridor Study which recommended residential-professional office as a suitable use for the subject property.

On November 19, 2025, zoning action **25V00064** was approved, allowing a variance to the required side setback for a principal structure and required side setback for an accessory structure, which was needed for the rezoning of the subject property to BU-1-A.

The subject is located adjacent to Minton Road, a county-maintained roadway. City of Melbourne public water and sewer may currently service the surrounding area.

There are currently no open Code Enforcement cases or violations noted on the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	RP	RES 2
South	Single-family residence	C-1A West Melbourne	COM West Melbourne
East	Roadway, Multi-family residential	R-2 West Melbourne	MD RES West Melbourne
West	Single-family residential	RU-1-13	RES 2

Abutting the subject property to the north is a 0.81-acre lot developed with a single-family home with an RP zoning designation and a RES 2 FLU designation.

Abutting the subject property to the south is a 0.62-acre parcel developed with a single-family home and located within jurisdiction of the City of West Melbourne.

The subject property is bordered to the east by Minton Road, a county-maintained arterial roadway. A multi-family apartment complex is located on the 32.18-acre parcel located on the east side of Minton Road and within the jurisdiction of West Melbourne.

There are two (2) properties abutting the subject property to the west. The first property is a 0.42-acre lot improved with a single-family residence. The second parcel is a 1.19-acre lot improved with a single-family residence. Both lots are zoned RU-1-13 with a RES 2 FLU designation.

The RP residential-professional zoning classification encompasses land devoted to a mixture of professional and residential uses. Principal uses and restrictions of this zoning classification are intended to promote development of low- to medium-density residential development, in conjunction with low-intensity commercial development. This zoning classification is intended to provide restricted commercial uses which are compatible with and meet a need for limited commercial services convenient to

residential development. The intent of this zoning classification is to provide for a combination of residential and professional uses on the site, although this classification does not prohibit use of the site as exclusively residential or professional.

RU-1-13 zoning 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 on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet.

The BU-1-A restricted neighborhood retail commercial zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. The BU-1-A restricted neighborhood retail commercial zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. The minimum lot size for development in the BU-1-A zoning designation is area of not less than 7,500 square feet with a width and depth of not less than 75 feet.

Land Use

The subject property's RP zoning classification is not consistent with the Res 2 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed BU-1-A zoning classification is not consistent under the current FLUM designation. A companion application **25SS00009** to amend the FLU designation from Residential 2 to Community Commercial is pending approval.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

Applicable Land Use Policies

FLUM Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;

All allowable business uses within the proposed BU-1-A zoning designation and all materials and products associated with those uses must be confined within substantial buildings completely enclosed with walls and a roof. Commercially intensive uses such as wholesale and warehousing are prohibited within this zoning classification.

- B. Existing commercial zoning trends in the area;

BU-2 is the predominant commercial zoning classification within 0.5 miles of the subject property. The first rezoning from commercial to residential was approved in January, 1987. Commercial zoning trends have increased in 2024 with a rezoning of four properties from residential to commercial to the south of the subject property.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

Adjacent property uses residential. However, this structure previously used as a doctor's office since approximately 2003 according to the Brevard County Property Appraiser. There are existing nearby properties with BU-2 and BU-1 zoning. An established commercial corridor lies south of the subject property within the City of West Melbourne and the City of Palm Bay.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal; and

The subject property is within the utilities service area of the City of Melbourne.

The existing roadway level of service (LOS) for the proposed rezoning will potentially increase the percentage of maximum acceptable volume (MAV) utilization by 0.39%. Specific concurrency issues will need to be addressed at the time of site plan review.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

Natural Resources has identified that the subject property contains mapped hydric soils, an indicator that wetlands may be present on the property. Protected tree specimens may be present on the property. Please see NRM comments at the end of this report.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This subject property will need to comply with Brevard County Performance Standards noted within Sections 62-1481 and 62-2251 through 62-2272 of Brevard County Code.

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

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

Criteria:

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

The rezoning would effectively permit an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification. Current and future development would need to meet Brevard County's Performance Standards defined within Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.

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

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

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

1. historical land use patterns;

There are four (4) FLUM designations within a half-mile radius of the subject property. They include Residential 1:2.5 (RES 1:2.5), Residential 2 (RES 2), Community Commercial (CC), and Neighborhood Commercial (NC). The subject property is surrounded by RES 2, which is the predominant FLU designation in the area.

Within the past three years there has been one (1) FLUM change within a half-mile radius. 24SS00001 was approved to change the property's FLU from Res 2 on 3.58 acres and NC on 1 acre to all CC.

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

Within a half-mile radius, there has been no actual development within County limits. Staff analysis indicates recent multi-family and residential neighborhood development to the east within the City of West Melbourne.

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

There has been one (1) approved rezoning within one-half mile of the subject property, but not yet constructed. In August 2024, zoning action

24Z00004 changed a 4.58-acre site from RP and AU to all BU-2 with a binding development plan limiting the rezoned property to mini-warehouse storage and other BU-1 allowable uses.

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

No material violation of relevant policies of the Comprehensive Plan has been identified.

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

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

Criteria:

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

The request is located within an established residential area, The proposed request will introduce commercial activity not already present within the immediate area. However, a preliminary concurrency evaluation indicated that the proposal does not have the potential to cause a deficiency in the transportation adopted level of service. Current and future development would need to meet Brevard County's Performance Standards defined within Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The subject property is located within an existing residential area.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The subject property is located within an existing residential area. The structure was constructed in 1978 and may have been residential until 2003 when it was used as a doctor's office until approximately 2023.

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.

This area is presumed to be predominantly residential with sporadic commercial uses located on the county-maintained arterial roadway of Minton Road. The proposed zoning would be the second commercial zoning to be approved in the area within at least the past five years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Rd from Palm Bay Rd. to Hield Rd., which has a Maximum Acceptable Volume (MAV) of 36,600 trips per day, a Level of Service (LOS) of E, and currently operates at 61.20% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.39%. The corridor is anticipated to operate at 61.59% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

Please refer to the complete report provided by the Natural Resource Management Department on the following page.

For Board Consideration

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

The Board may consider whether a BDP would be appropriate to mitigate potential impacts to the area due to permitted uses allowed in the BU-1-A zoning classification.

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

Item No. 25Z00028

Applicant: Clayton Bennett (Owner: Laughing Clown LLC)

Zoning Request: RP to BU-1-A

Note: to allow for the permitted use for the subject business

Zoning Hearing: 01/12/2026; **BCC Hearing:** 02/05/2026

Tax ID No.: 2806925

- 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 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:

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

Land Use Comments:

Hydric Soils

The entire subject parcel contains mapped hydric soils (Malabar sand, high; Eau Gallie sand); an indicator that wetlands may be present on the property. **A wetland delineation may be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR in this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require no net loss mitigation in Brevard County in accordance with Section 62-3696.

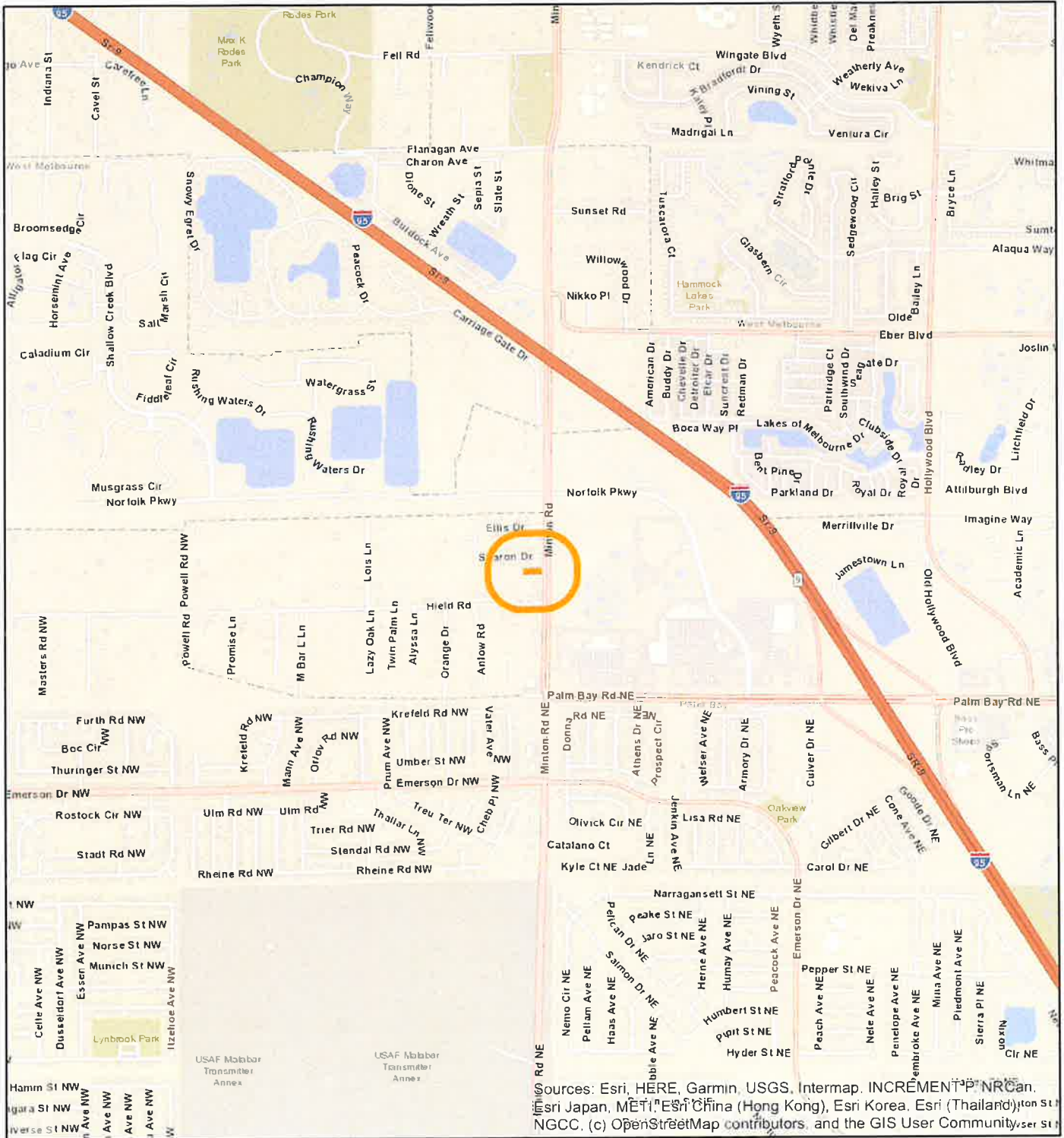
Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

LOCATION MAP

LAUGHING CLOWN LLC

25Z00028



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

Buffer Distance: 500 feet

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

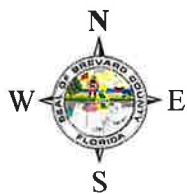
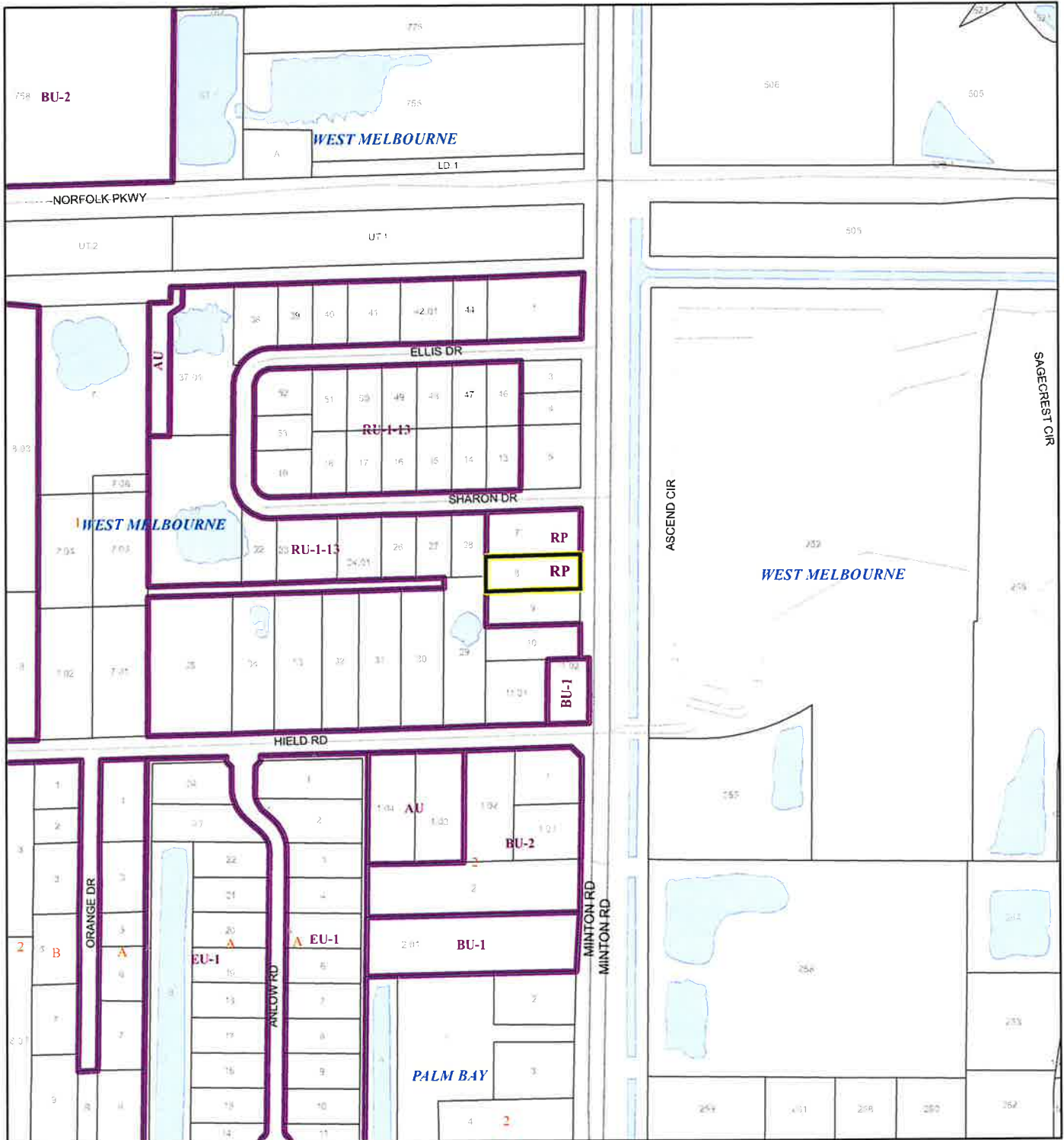
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— Buffer
 — Subject Property

ZONING MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet

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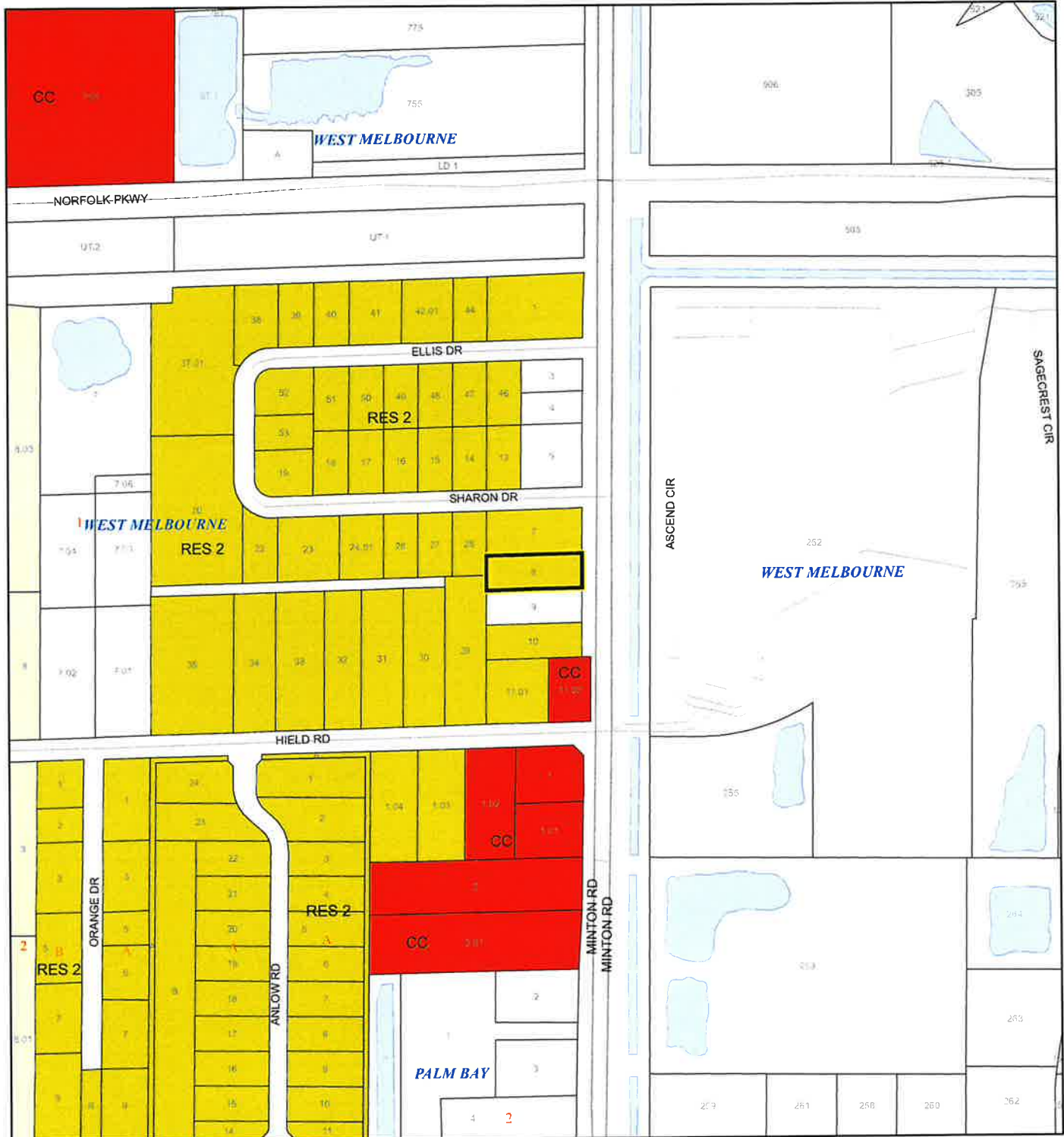
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-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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AERIAL MAP
LAUGHING CLOWN LLC
25Z00028



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2025

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 Subject Property

 Parcels

NWI WETLANDS MAP

LAUGHING CLOWN LLC
25Z00028



1:4,800 or 1 inch = 400 feet

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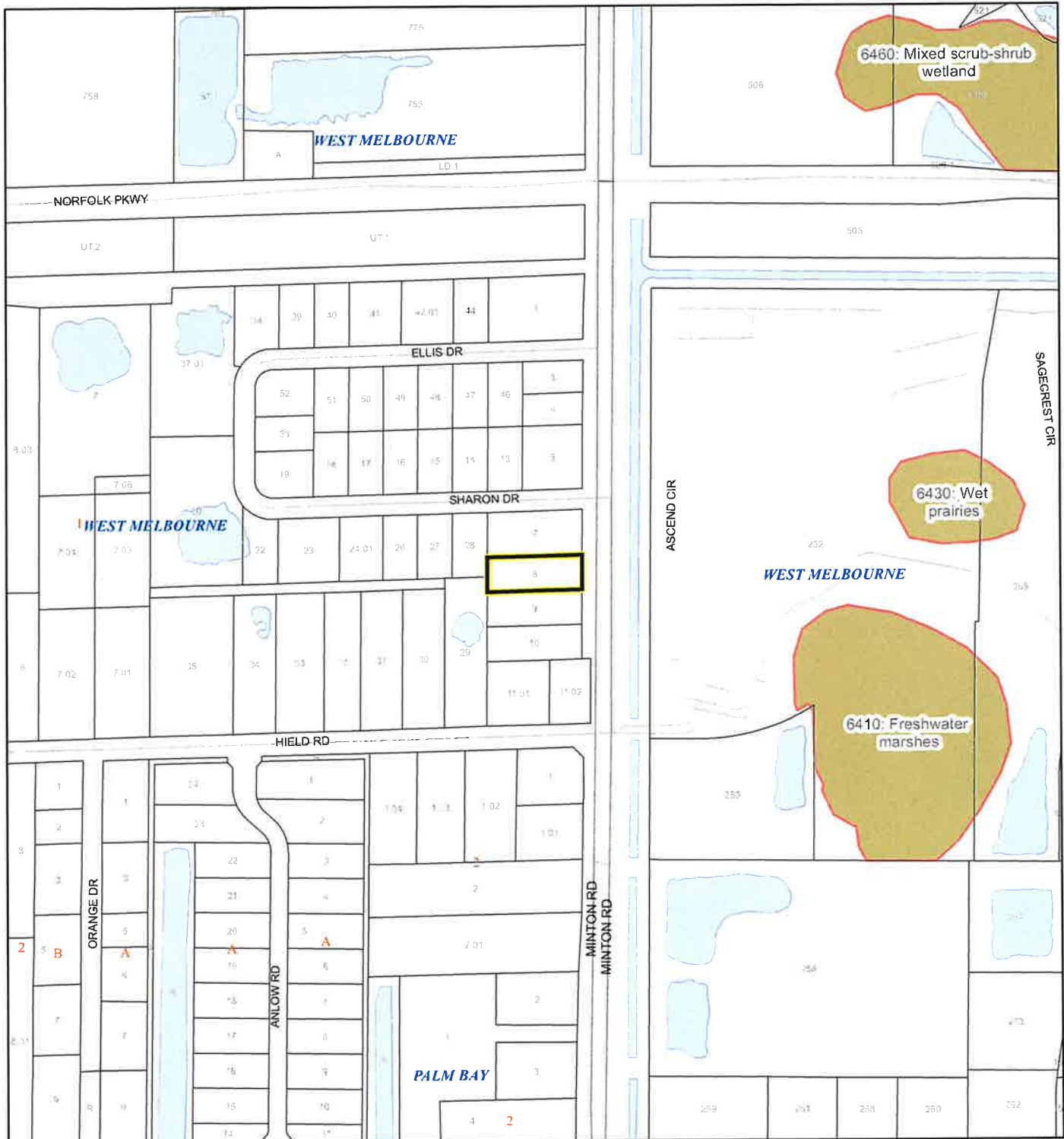
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|------------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |
| | Subject Property |
| | Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

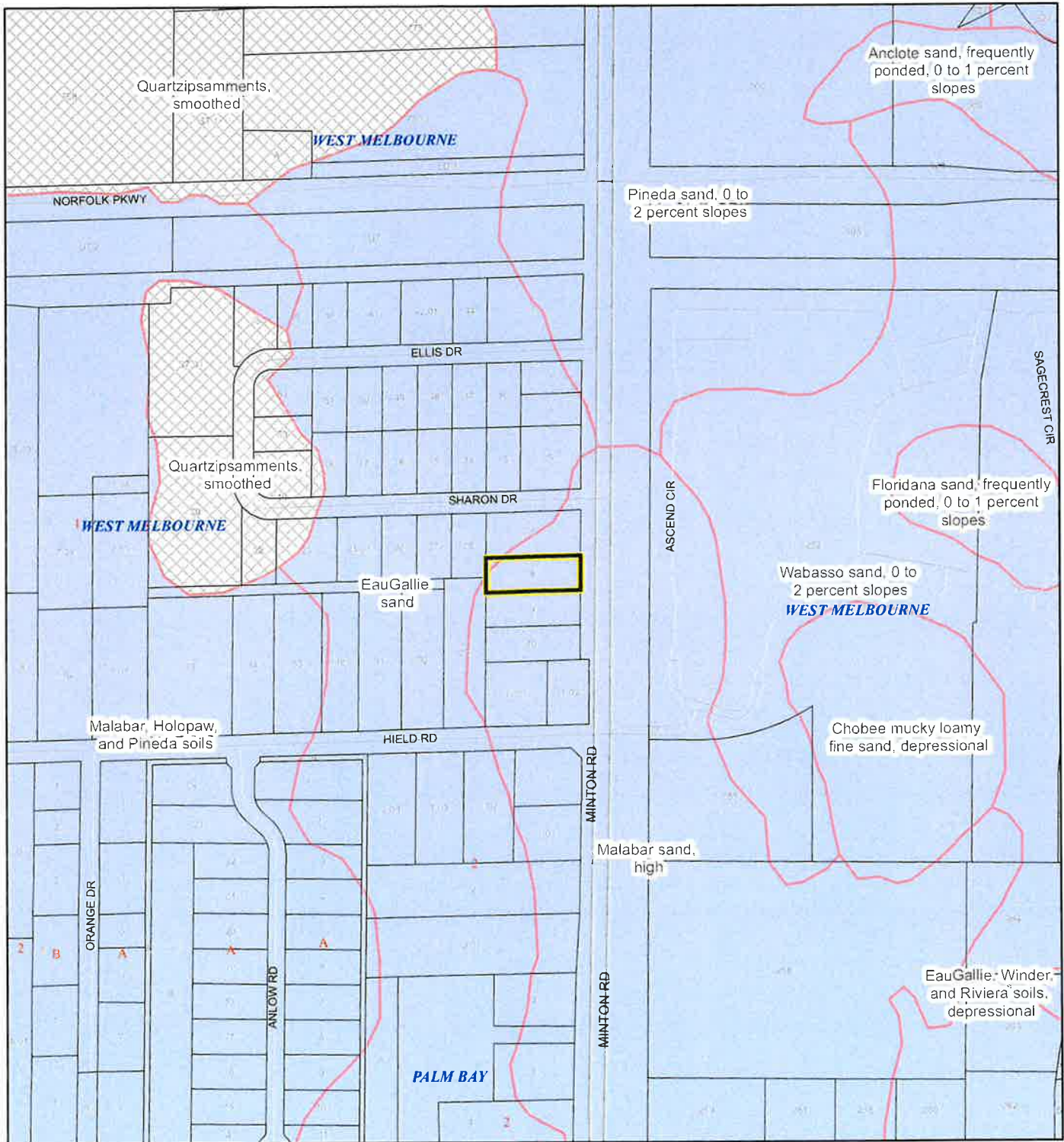
Subject Property

Parcels

USDA SCSSS SOILS MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

LAUGHING CLOWN LLC









25Z00028



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones		
	A	
	AO	X
	AE	
	Open Water	
	AH	
	VE	
	Subject Property	
	Parcels	

COASTAL HIGH HAZARD AREA MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

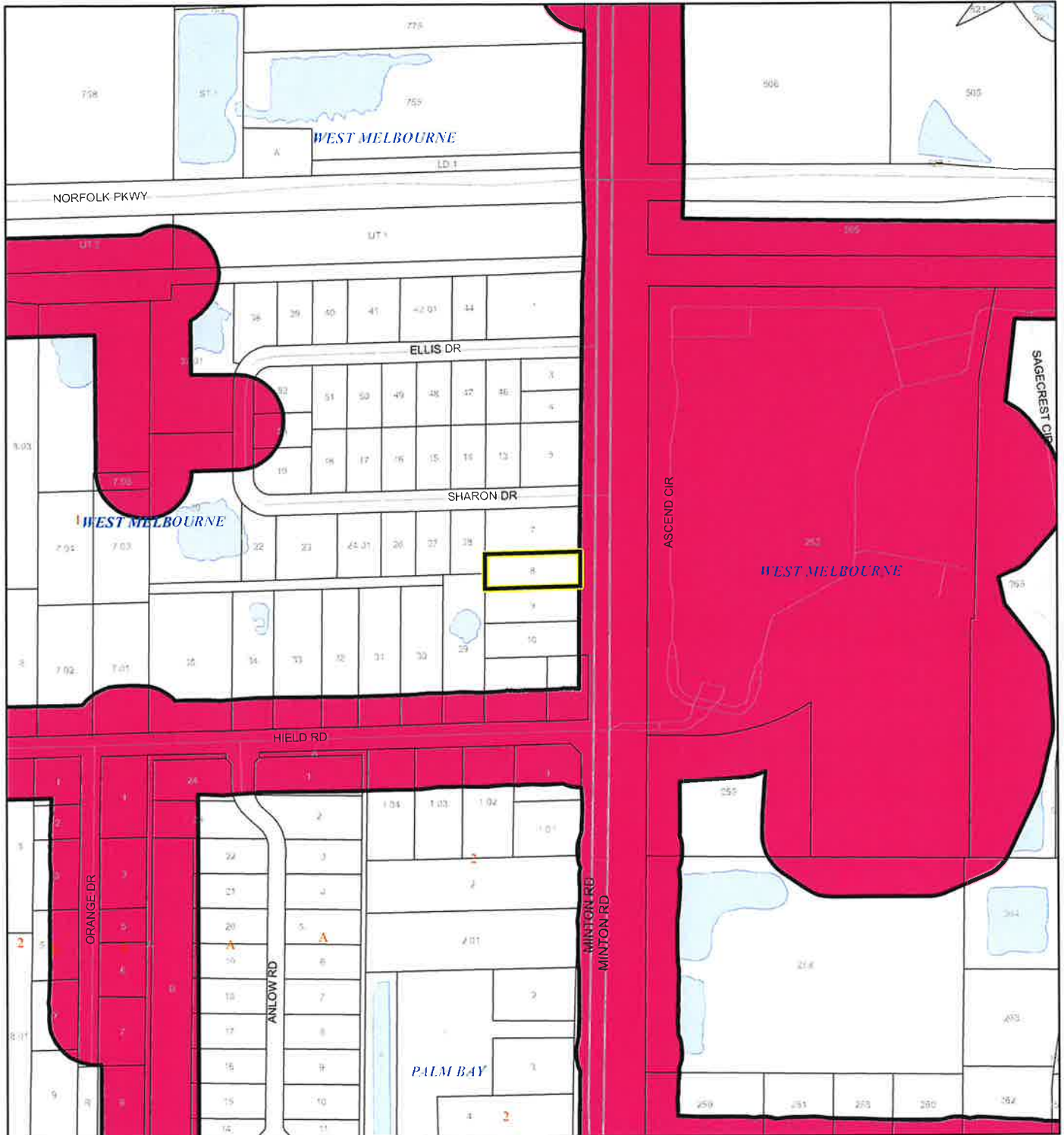
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAUGHING CLOWN LLC

25Z00028



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

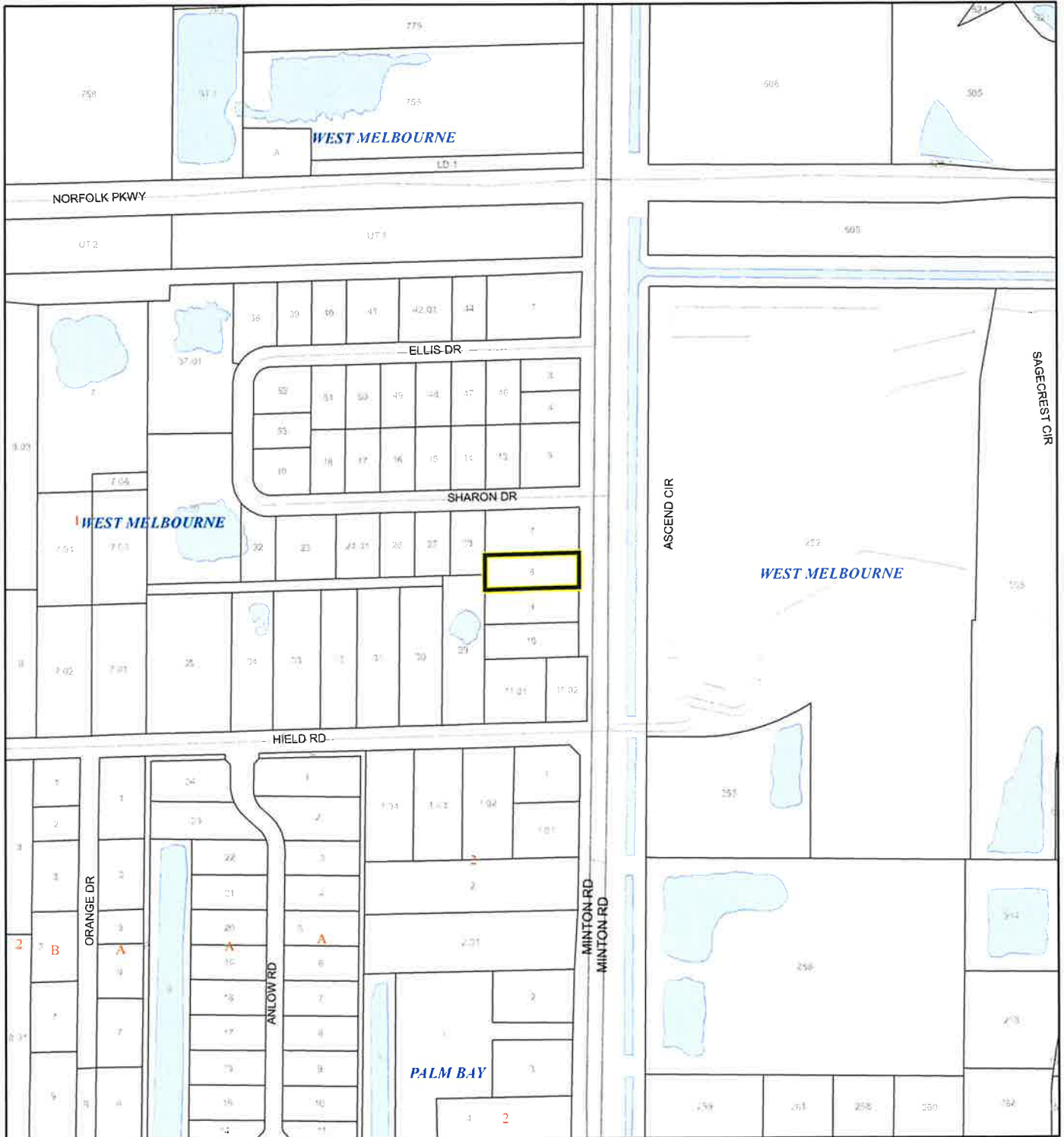
 60 Meters

 All Distances

EAGLE NESTS MAP

LAUGHING CLOWN LLC




25Z00028



1:4,800 or 1 inch = 400 feet

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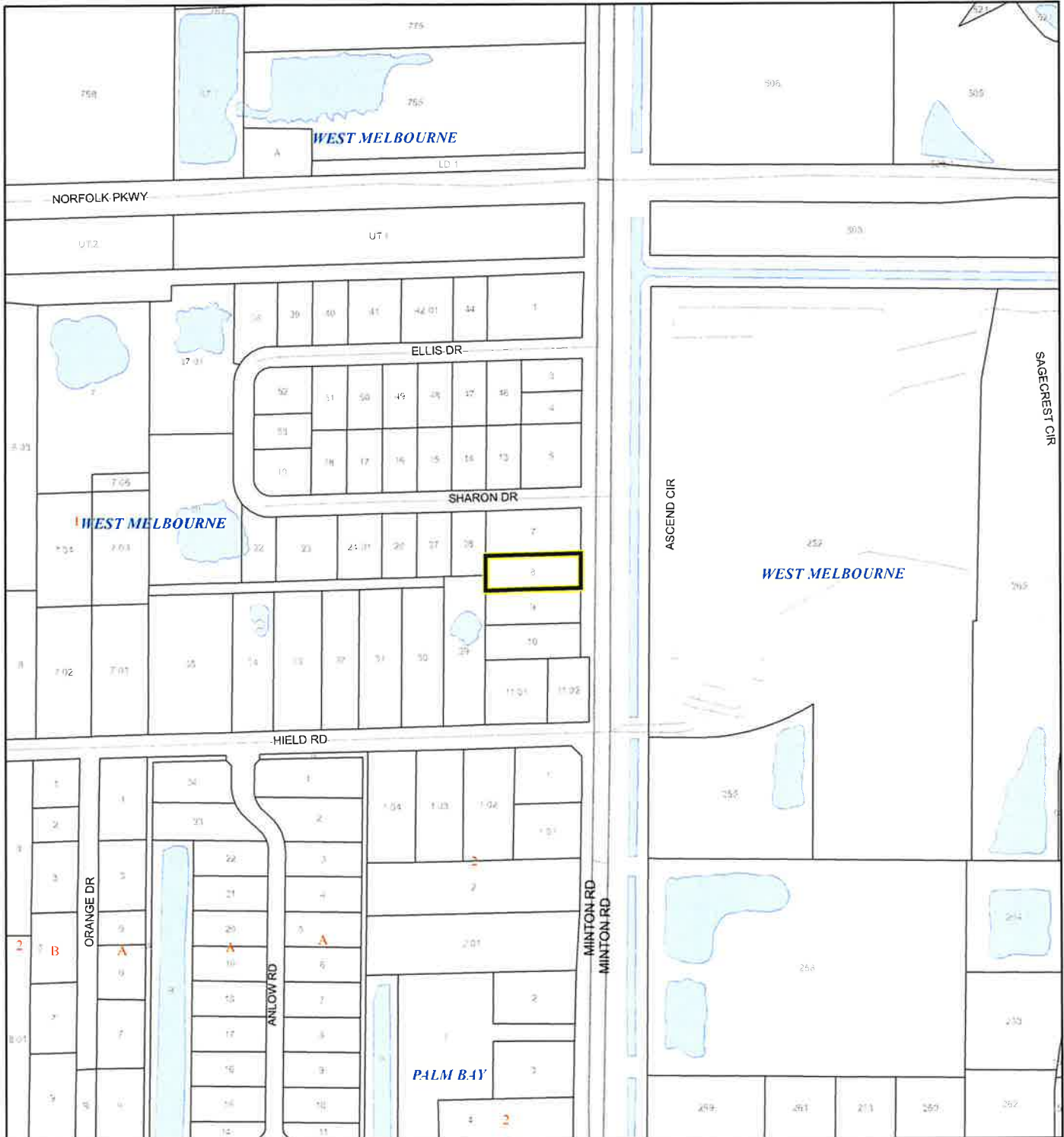
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-  Subject Property
-  Parcels
-  Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

LAUGHING CLOWN LLC




25Z00028



1:4,800 or 1 inch = 400 feet

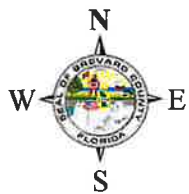
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Produced by BoCC - GIS Date: 10/15/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAUGHING CLOWN LLC
25Z00028



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/15/2025

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

From: [Juleia Cox](#)
To: [AdministrativeServices](#)
Subject: ID#25SS00009 & 25Z00028
Date: Saturday, December 27, 2025 6:53:45 AM

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

Hello my name is Juleia Cox and I live at 3085 Sharon Drive within the 500ft of the property that is requesting zoning changes. I won't be able to attend the meeting but I would like to voice my concerns and hope that helps to make a difference, I do not wish for the property to be changed to community commercial. Our neighborhood doesn't have any thru traffic and my 3 children play out front and we take walks and ride on toys and we feel safe not having to constantly get out of the way and stop for cars. I feel that if it does get changed it would bring a lot more traffic and attention to our neighborhood. Causing us to lose the quiet enjoyment of our home. It would most likely bring parking overflow onto our streets. Reducing our privacy and security. Not to mention the extra noise and lights. It would change the whole character shift for this quiet neighborhood and that's a big reason why we love living here so much.

Thank you for your time and consideration I hope that Judge Fran Jamieson Way will rule towards No in the change.

Have a lovely day.
-Juleia Cox

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 12, 2026**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Jerrad Atkins (D1); John Hopengarten (D1); Ruth Amato (D1); Ron Bartcher (D2); Robert Wise (D2); Erika Orriss (D3); Eric Michajlowicz (D3); Debbie Thomas (D4); Neal Johnson (D4); Robert Brothers (D5); Ana Saunders (D5); and Melissa Jackson (D5).

Staff members present were Trina Gilliam, Planning and Zoning Manager; Paul Body, Planner; George Ritchie, Planner; Derrick Hughey, Planner; Alex Esseesse, Deputy County Attorney; and Alice Randall, Operations Support Specialist.

EXCERPT OF COMPLETE MINUTES

H.1. Laughing Clown LLC requests a Small-Scale Comprehensive Plan Amendment (25S.15), to change the Future Land Use designation from RES-2 to CC. (25SS00009) (Tax Account 2806925) (District 5)

H.2. Laughing Clown LLC requests a zoning classification change from RP to BU-1-A. (25Z00028) (Tax Account 2806925) (District 5)

Trina Gilliam read both item H.1. and H.2. into the record as they are companion applications but will need separate recommendations.

Clayton Bennett spoke to the application. We're here with two applications. One is for the comprehensive plan to change the comp plan as well as a rezoning. This is a developed piece of property that has previously been used for a dentist office. It's professional office and the applicant would like to use it for general retail. This is on Minten Road, which is an arterial roadway. Access is currently off Minten Road into the parking lot, so there would be no traffic pushed into the community and to the west. There was a letter that we received of objection, and I think part of that was on the traffic. Again, this is accessed off Minten Road so there would be no additional trips towards the west into the community. It's an existing development and they intend to comply with the county noise ordinance and lighting ordinance. We're not asking for any deviations from the county ordinances. If there are any specific questions I'd be glad to answer them.

NO PUBLIC COMMENT

Motion to recommend approval of Item H.1. by Jerrad Atkins, seconded by Erika Orriss. Motion passed unanimously.

Motion to recommend approval of Item H.2. by Jerrad Atkins, seconded by Neal Johnson. Motion passed unanimously.

Meeting adjourned at 6:28 p.m.