



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.16.

9/7/2023

Subject:

Tracey C. and Teresa B. Higginbotham (Randy Rodriguez) request a change of zoning classification from GU to AU. (23Z00024) (Tax Accounts 2312731, 2319995, & 2319996) (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 GU (General Use) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from GU to AU on 3 undeveloped parcels totaling 3.55 acres to have chickens and honeybees.

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

The developed character of the surrounding area is a mix of developed single-family residential lots and undeveloped single-family zoned lots. The predominate zoning in the area is RU-1-9 to the north and General Use (GU) to the south. South of the canal remains vacant.

The subject property does not have access to a county maintained road, as required by Section 62-102 for the purposes of obtaining a building permit. Such access issues must be resolved under a separate process prior to obtaining a building permit.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. In addition, the Board may wish to consider the potential impacts of Agritourism, or any of the more intense agricultural uses permitted in AU, on surrounding properties.

On August 14, 2023, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once the resolution is received, please execute and return a copy 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, 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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Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

STAFF COMMENTS

23Z00024

Tracey and Teresa Higginbotham

GU (General Use) to AU (Agricultural Residential)

Tax Account Number: 2312731, 2319995, 2319996
Parcel I.D.: 23-35-28-01-1-4, 23-35-28-01-1-4.01, 23-35-28-01-1-4.02
Location: Approximately 1,054ft north of Port St. John Parkway and
approximately 1,877ft east of Golfview Ave (District 1)
Acreage: 3.55 +/- acre

Planning & Zoning Board: 8/14/2023
Board of County Commissioners: 09/07/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU	AU
Potential*	0	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES* RES 1:2.5

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from GU (General Use) to AU (Agricultural Residential) on 3 parcels totaling 3.55-acre to have chickens and honey bees. The parcels are currently undeveloped and have retained the original zoning classification of GU.

The subject property does not have access to county owned and maintained roads, as required by Section 62-102 for the purposes of obtaining a building permit. Such access issues must be resolved under separate processes prior to obtaining a building permit.

Per an email dated May 25, 2023, from Public Works, it is estimated that the applicant will need to make substantial improvements to have access that will allow for development of the property; however, this is not a qualifying criterion that needs to be met for a change in zoning classification.

A previous zoning action on file, dated January 28, 1999, for the subject properties indicate the conditional use permit request for 150 ft. lattice tower was Tabled and a small-scale plan amendment with zoning change from GU & AU to BU-1 was denied under zoning action **Z-10090b**.

At this time, there are no active code enforcement associated with the subject properties.

Land Use

The subject properties retains the Residential 1:2.5 (RES 1:2.5) Future Land Use designation (FLU). The existing GU zoning can be considered consistent with the existing RES 1:2.5 FLU designation. The proposed AU zoning classification can be considered consistent with the existing RES 1:2.5 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.10 – Residential 1:2.5 (maximum of 1 unit per 2.5 acres)

The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within the Future Land use Element.

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

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 applicant has proposed to use the land for agricultural uses. The applicant has not specified whether this is for personal or commercial use. Regulations for beekeeping, is pre-empted by the State. Each beekeeper having honey bee colonies in Florida is required by law to register with the Florida Department of Agriculture and Consumer Services (FDACS). Agricultural uses could impact

the residential uses in the surrounding area. Regardless, the County can not issue building permits without meeting the criteria set fourth by Sec. 62-102.

- 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 (Member 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;

The surrounding area land use patterns have been vacant because of access issues since the adoption of the Brevard County Future Land Use Map. There are three (3) predominant FLU designations surrounding the subject property: RES 4 (north, east and southeast), RES 1:2.5 (south) and Recreation (REC) (west). The subject property southernmost boundary is approximately 189 feet from the I-95 Highway off-ramp.

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

There has been no permitted development within a one-half mile radius over the immediately preceding three years.

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

There is no development approved within the past three years that has not yet been constructed.

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

No material violation of relevant policies has been identified.

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 developed character of the surrounding area is a mix of developed single-family residential lots and undeveloped single-family zoned lots. The predominate zoning in the area is RU-1-9 to the north and General Use (GU) to the south.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SFR	RU-1-9	RES 4
South	Undeveloped	AU	RES 1:2.5
East	Undeveloped	GU	RES 1:2.5
West	Undeveloped	GU	RES 1:2.5

To the north beyond the Brevard County Stormwater Canal are single-family residence within a subdivision, zoned RU-1-9 and approximately 0.25 acre in size.

East of the subject property is are 2 undeveloped lots with GU zoning over 1.5 acre in size.

To the south is one undeveloped lot with AU zoning, owned by the applicant, on 1.81 acre.

To the west are undeveloped lots with GU zoning.

The current GU classification is a holding category allowing a single-family residence on five-acre lots with a minimum width and depth of 300-feet. The minimum house size in GU is 750 square feet.

AU 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.

Florida Statute 570.86(1) defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An activity is an agritourism activity regardless of whether the participant paid to participate in the activity."

Furthermore FS 570.86(5) defines "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. The term also includes the potential of a participant to act in a negligent manner that may contribute to the injury of the participant or others, including failing to follow the instructions given by the agritourism operator or failing to exercise reasonable caution while engaging in the agritourism activity."

None of the parcels within a 500 ft radius of the subject property claim an Agricultural Classification Use with the Brevard County Property Appraiser. Five parcels within a 500 ft radius, to the north across the canal, retain Homestead Exemption status.

One zoning actions has been approved within a half-mile radius of the subject property within the last three years: **21Z00023**, approved by the Board on December 22, 2021 with a Binding Development Plan to develop the property as a farm with no agritourism, was a request to change GU (General Use) to AU (Agricultural Residential) on 8.36 acres located to the west approximately 1225 feet from the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Golfview Ave, between Port St. John Parkway and Fay Blvd, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 35.77% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 35.83% of capacity daily. The proposal will not create a deficiency in LOS. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permittable uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the

development proposal will cause a deficiency of the above-mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

This proposal does not meet the threshold requirement to submit a school concurrency.

The applicant will need to verify potable water access for the parcel can be obtained through the City of Cocoa utilities service. The closest Brevard County sewer line is approximately 0.5 miles north on Fay Blvd.

Environmental Constraints

- Wetlands Protection/Hydric Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the 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.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. In addition, the Board may wish to consider the potential impacts of Agritourism, or any of the more intense agricultural uses permitted in AU, on surrounding properties.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00024

Applicant: Tracey & Teresa Higginbotham

Land Use Request: GU to AU

Note: To have chickens and honey bees

LPA Hearing Date: 06/12/2023; **BCC Hearing Date:** 07/13/2023

Tax ID Nos: 2319995, 2319996, & 2312731

- 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:

- Wetlands Protection/Hydric Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the 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.

Land Use Comments:

Wetlands Protection/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils (Anclote sand); indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the 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.

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. A tree survey will be required at time of a site plan submittal. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

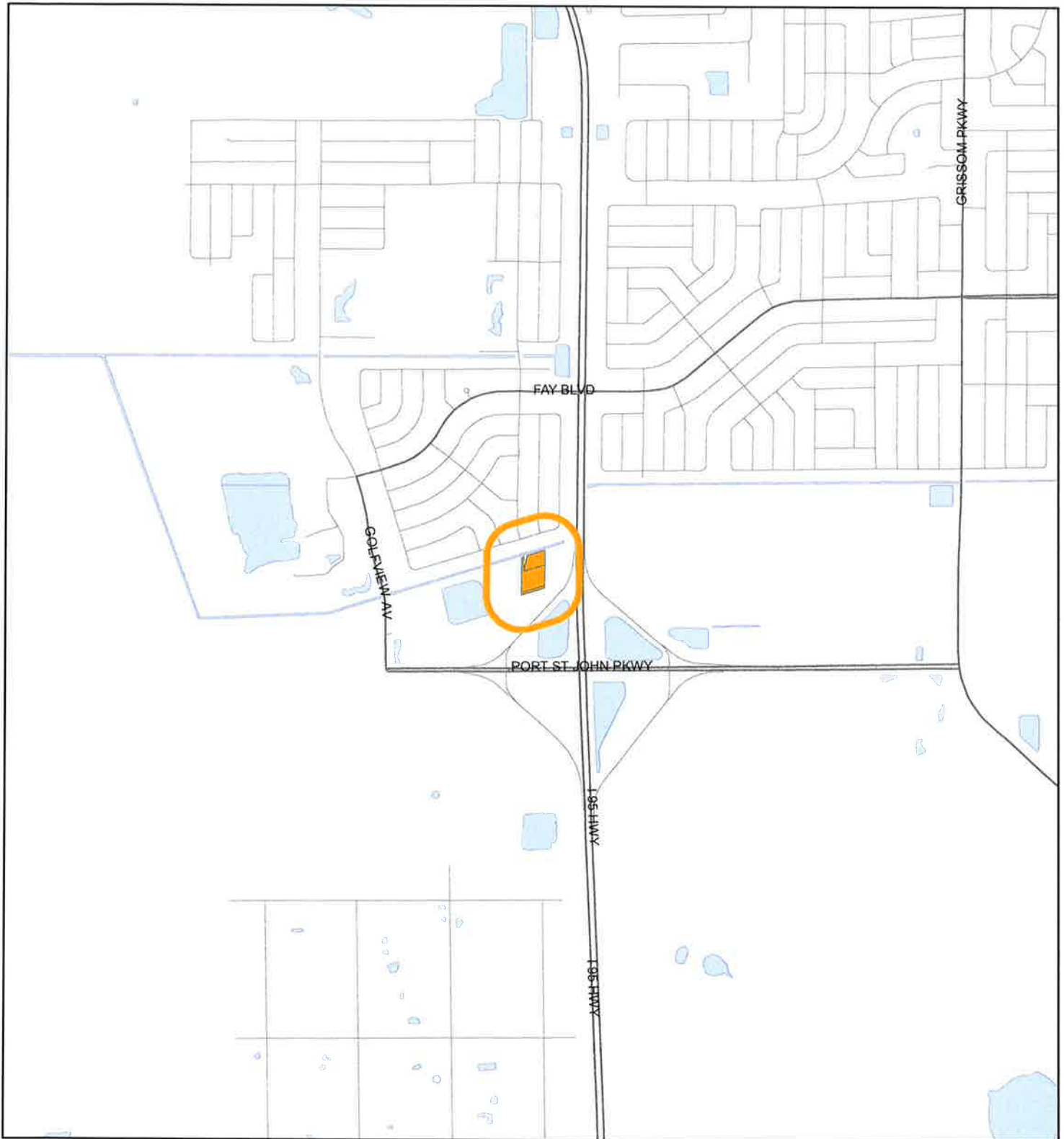
Protected Species

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

LOCATION MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



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.

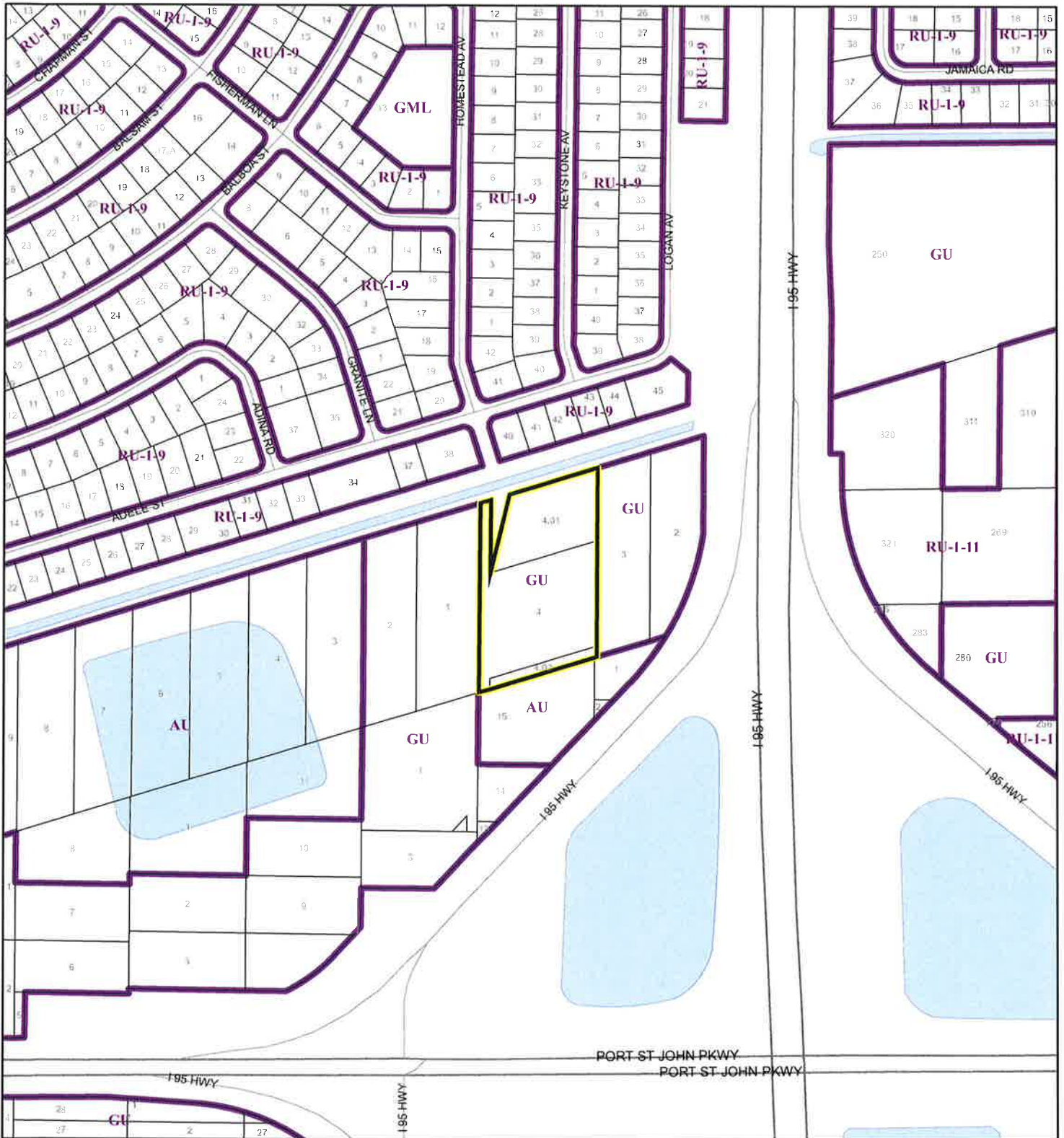
Produced by BoCC - GIS Date: 3/31/2023

Buffer
Subject Property

ZONING MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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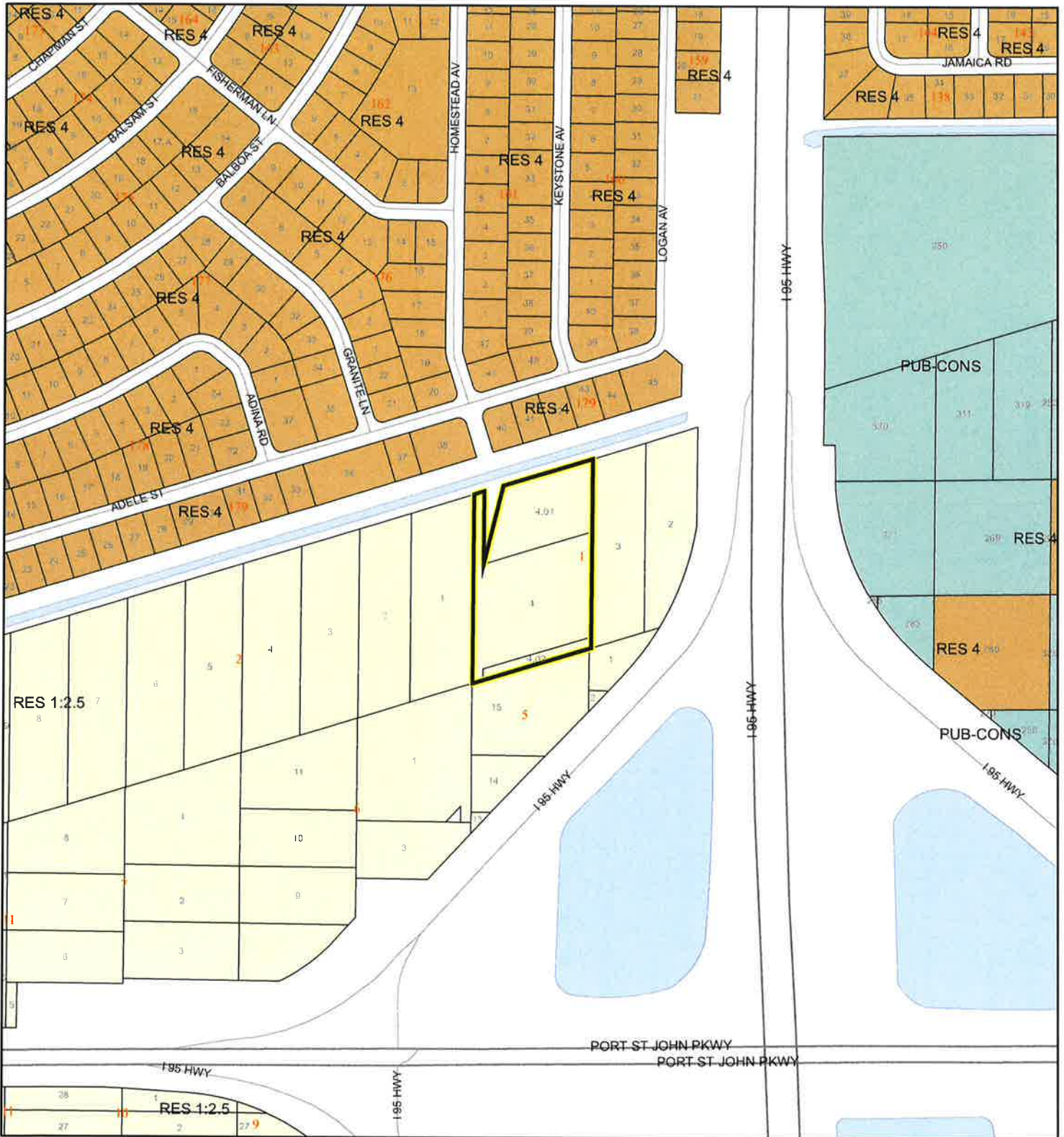
Produced by BoCC - GIS Date: 4/3/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

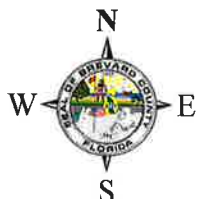
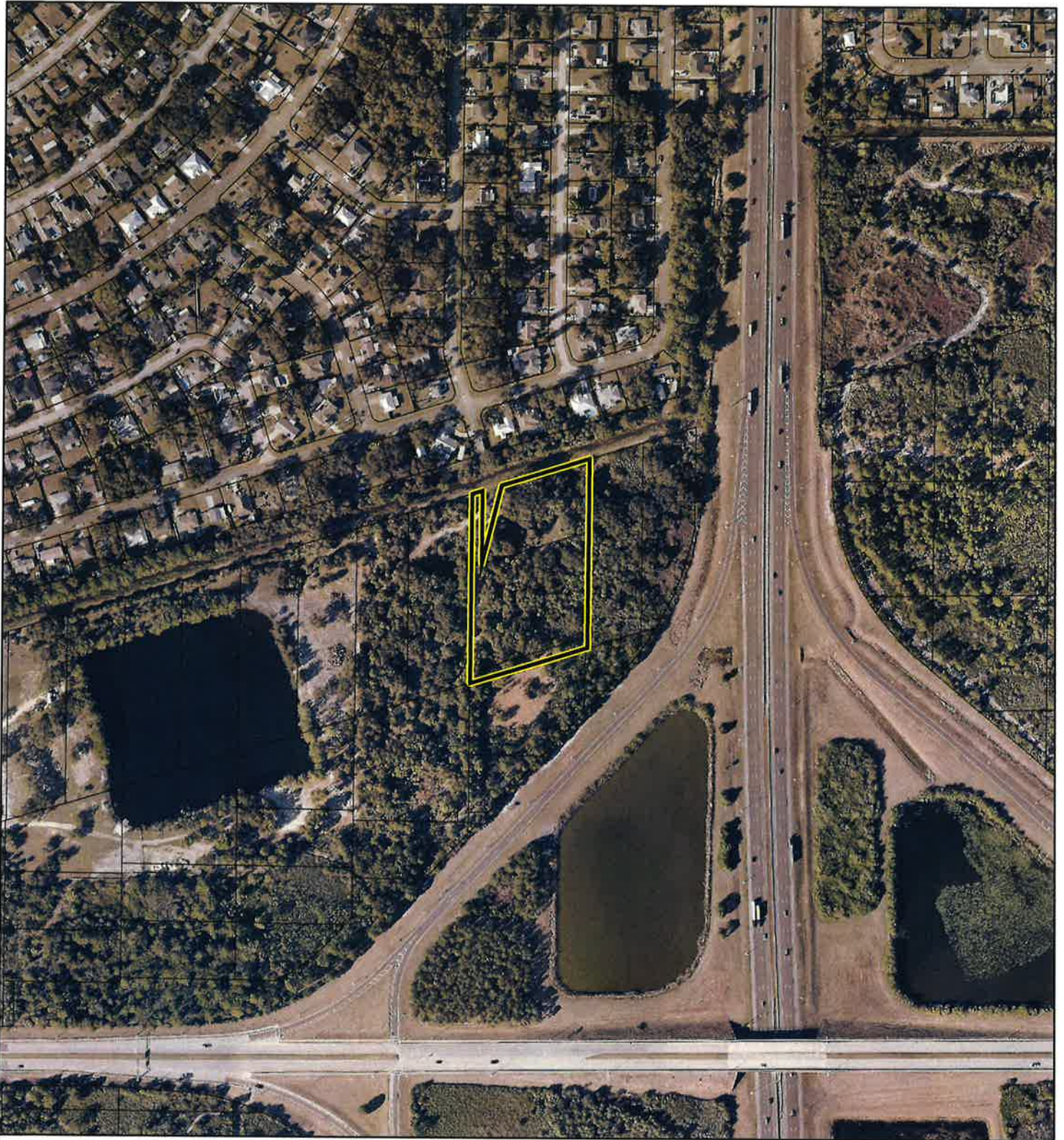
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/31/2023

AERIAL MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 3/31/2023

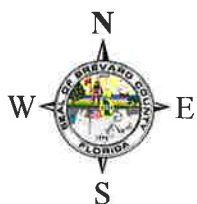
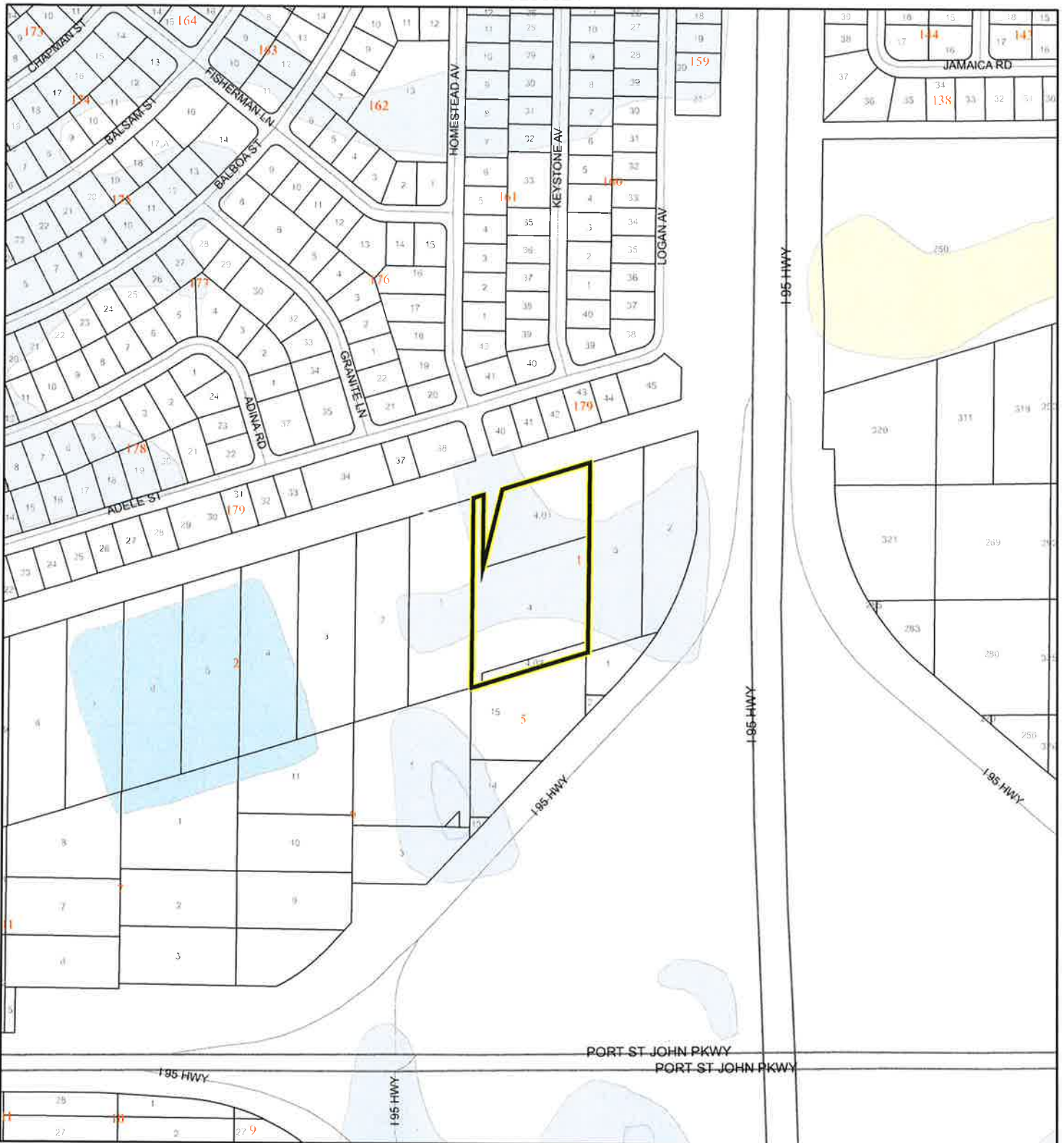
 Subject Property

 Parcels

NWI WETLANDS MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

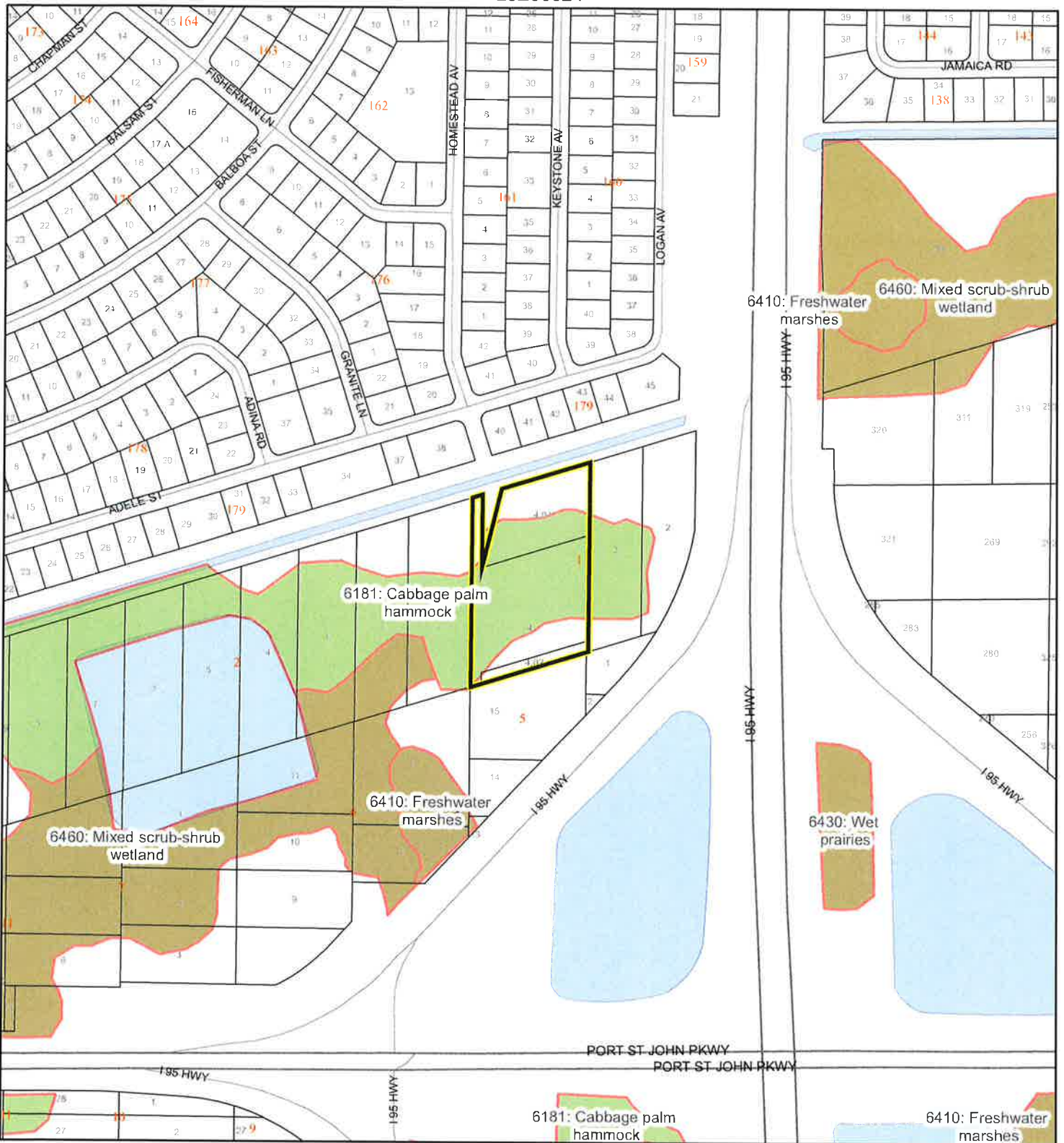
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|------------------|
| 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

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

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

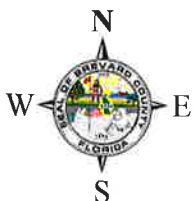
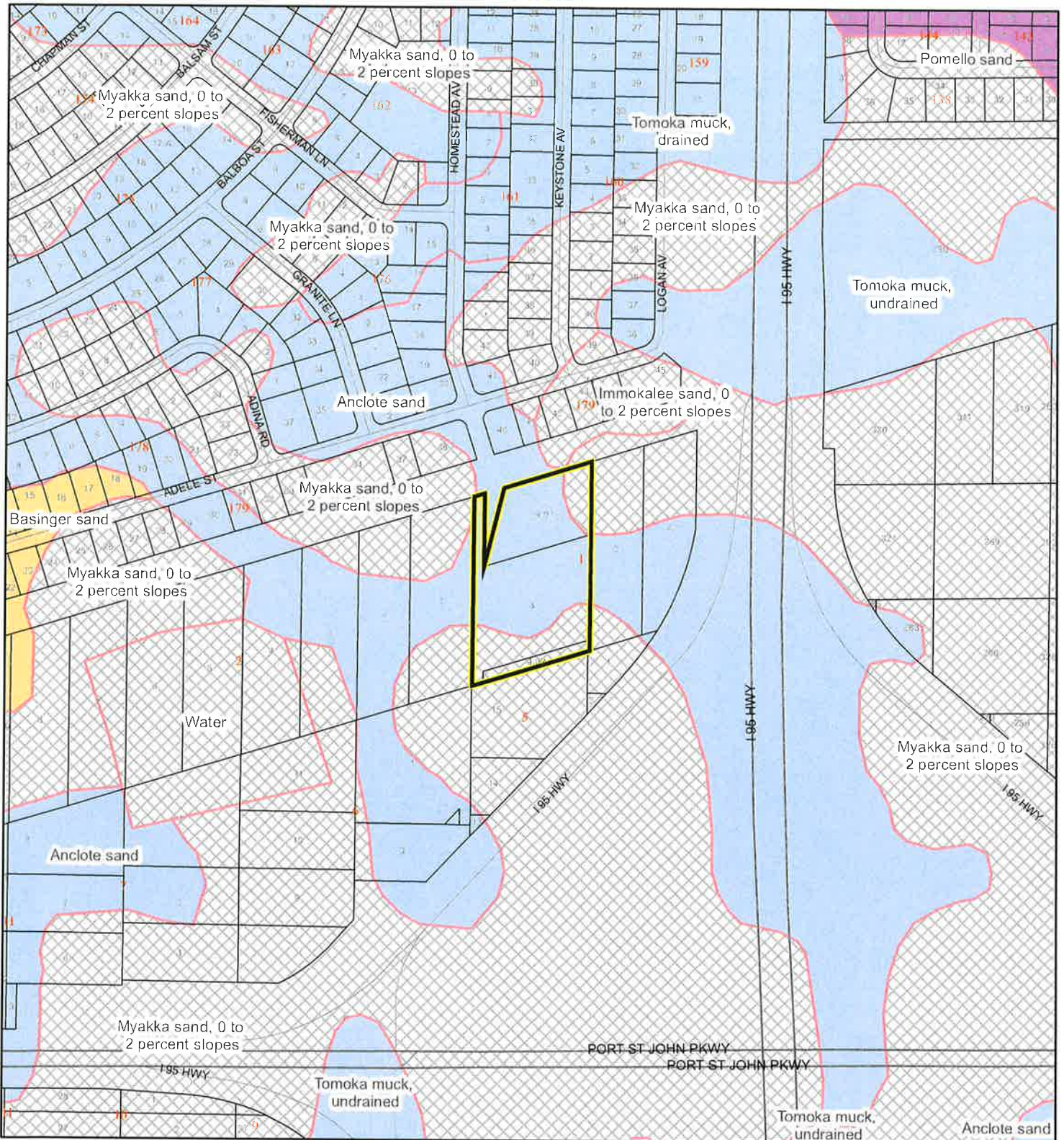
Subject Property

Parcels

USDA SCSSS SOILS MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

USDA SCSSS Soils

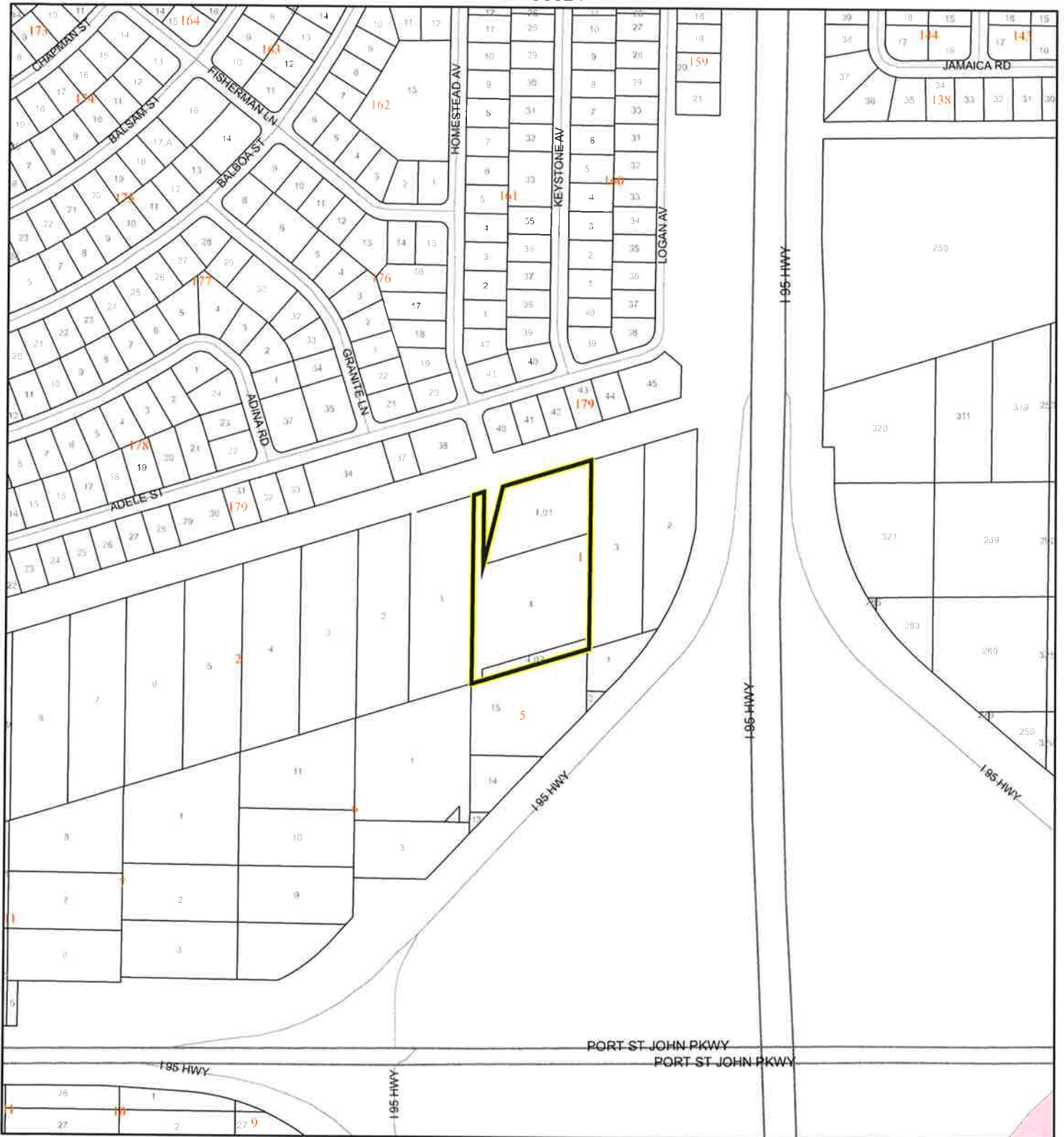
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



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Produced by BoCC - GIS Date: 3/31/2023

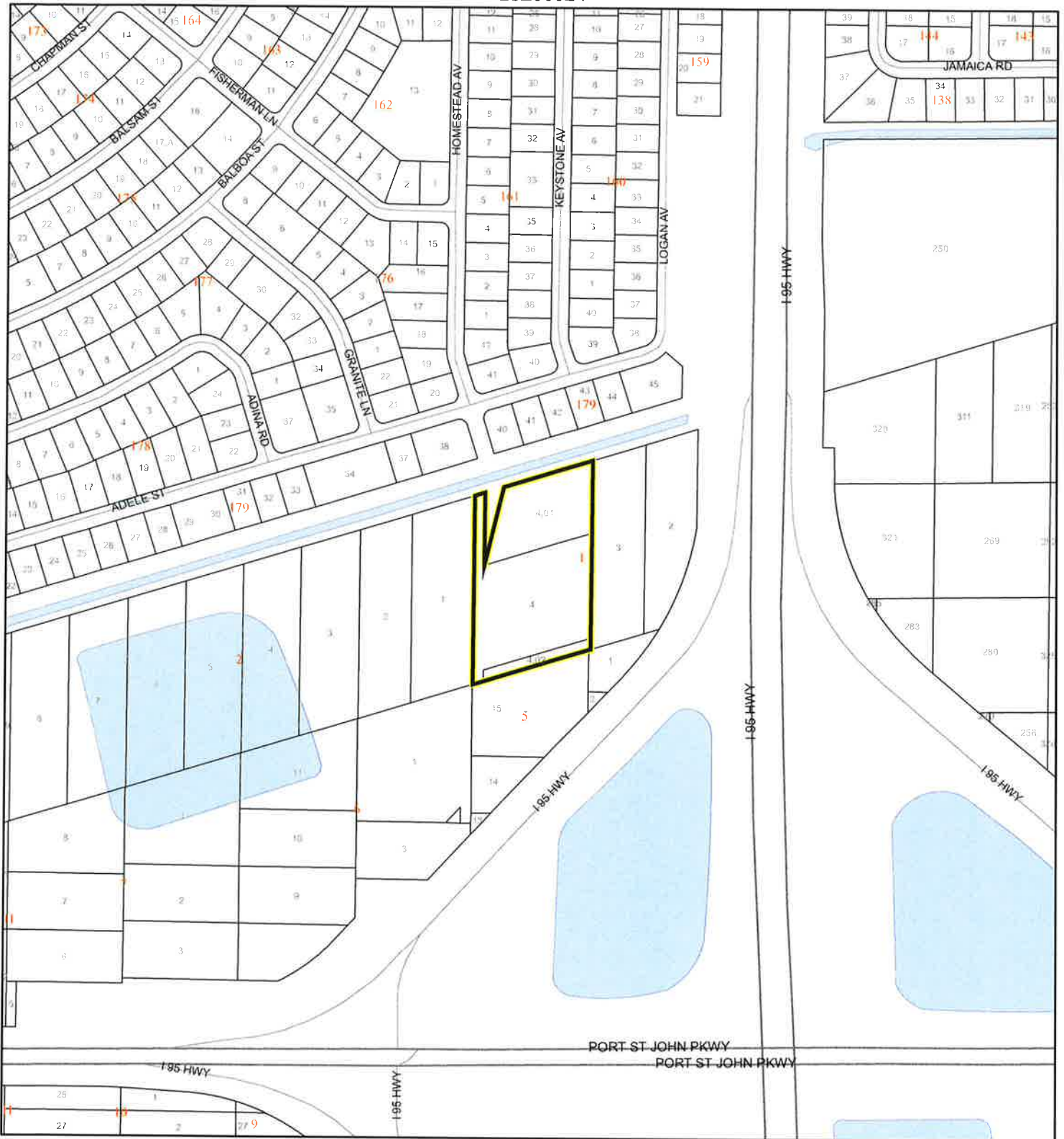
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

 Subject Property

 Parcels

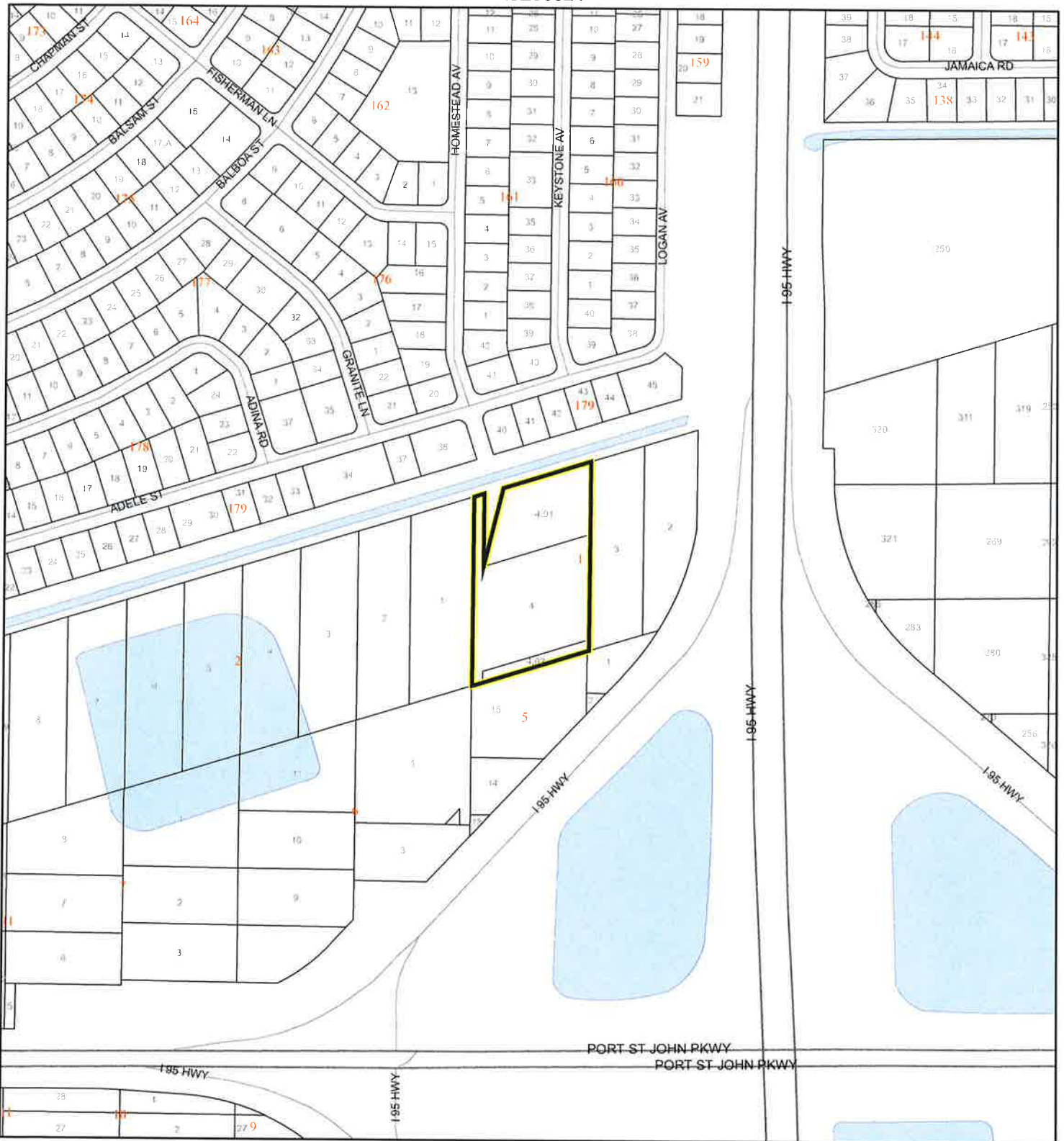
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

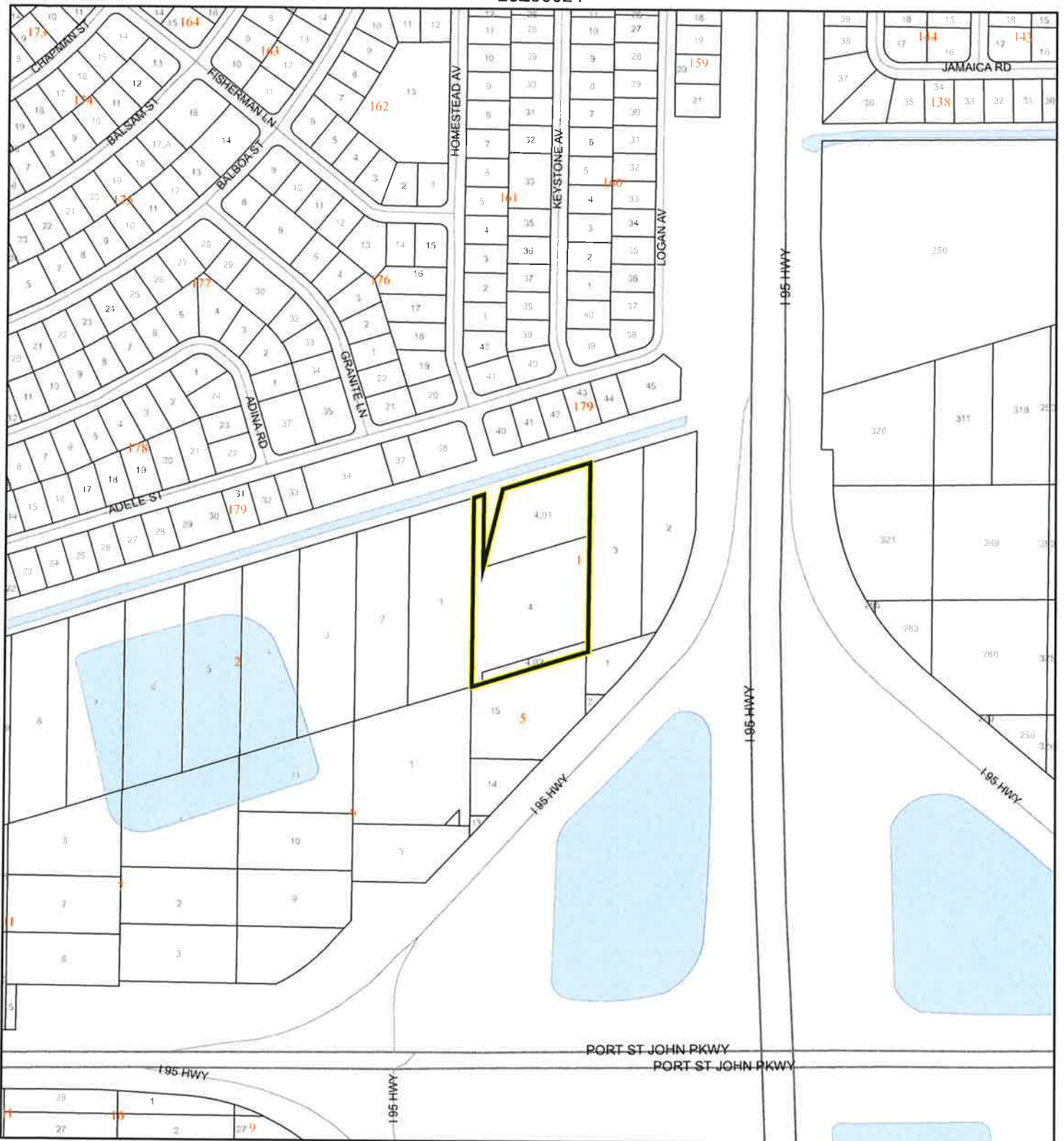
 60 Meters

 All Distances

EAGLE NESTS MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

 Subject Property

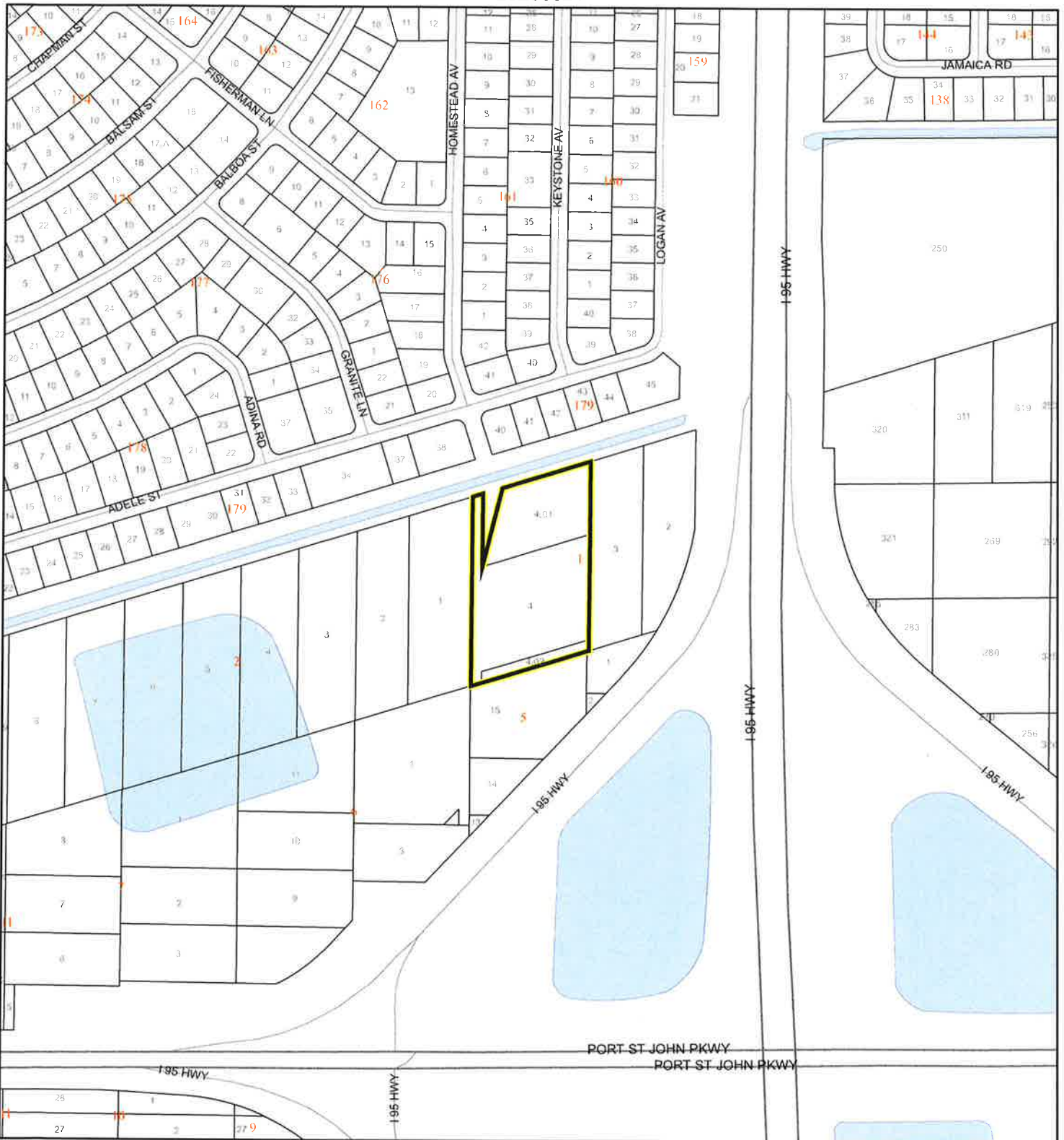
 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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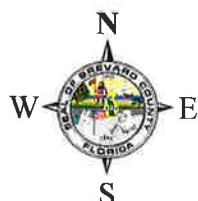
Produced by BoCC - GIS Date: 3/31/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

HIGGINBOTHAM, TRACEY & TERESA

23Z00024



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/31/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 14, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Brian Hodgers (D2); Lorriane Koss (D2 Alt); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Tracey C. and Teresa B. Higginbotham (Randy Rodriguez)

A change of zoning classification from GU (General Use) to AU (Agricultural Residential). The property is 3.55 acres, located approx. 0.20 miles north of Port St. John Pkwy., and approx. 0.35 miles east of Golfview Ave. (No assigned address. In the Cocoa area.) (23Z00024) (Tax Accounts 2312731, 2319995, 2319996) (District 1)

Tracey Higginbotham, 6545 Birch Drive, Cocoa, stated he would like to rezone three parcels from GU to AU so in order to have the same zoning as his other adjacent properties.

No public comment.

Ron Bartcher asked if Mr. Higginbotham will be raising honeybees. Mr. Higginbotham replied maybe, he had some bees on the property previously, but they had to be removed.

Mr. Bartcher asked if Mr. Higginbotham is aware that the staff comments note the property does not have access to a county-maintained road that would be required for a building permit. Mr. Higginbotham replied yes, he is aware. Mr. Bartcher stated it is also noted that substantial improvements would be needed to allow development of the property. Mr. Higginbotham replied he is aware of that.

Motion by Ron Bartcher, seconded by Brian Hodgers, to recommend approval of a change of zoning classification from GU to AU. The motion passed unanimously.