



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.2.

10/1/2020

---

### Subject:

Brevard Medical City, LLC, requests Adoption of the 2019-2.2 Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from Planned Industrial to Community Commercial. (19PZ00086) (Tax Accounts 2632155, 3014505, and 3012173) (District 4)

### 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 adoption of the 2019-2.2 Large Scale Comprehensive Plan Amendment for Brevard Medical City, LLC, to change the Future Land Use designation from Planned Industrial to Community Commercial.

### Summary Explanation and Background:

The proposed amendment is seeking to change the Comprehensive Plan from PI (Planned Industrial) to CC (Community Commercial) on 14.12 acres of land located on the east side of N. Wickham Road, approximately 748 feet north of Jordan Blass Boulevard. The applicant originally requested the Future Land Use Amendment on 16.329 acres of land, but has reduced the request to 14.12 acres, a reduction of 2.209 acres. The applicant has also applied for a change of zoning classification from PIP (Planned Industrial Park), and PUD (Planned Unit Development) to all PUD.

Of the comment letters received from the St. Johns River Water Management District, Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, and the Florida Department of Transportation, only FDOT had comments:

1. The Department recommends Brevard County include the proposed development program in the final Comprehensive Plan Amendment Ordinance to minimize potential impacts of the proposed amendment to State facilities.
2. The Department recommends Brevard County request that the applicant provide a Traffic Impact Analysis as part of the identified PUD request and coordinate with the Department in order to identify appropriate mitigation strategies to address potential impacts to State facilities.

The applicant discussed submitting a preliminary development plan with FDOT and the owner has agreed to the restrictions set forth in the PDP submitted with the PUD zoning request.

The companion PUD request will limit the development to a 152-unit Assisted Living Facility and a 100-bed Independent Living Facility.

On September 9, 2019, the Local Planning Agency recommended approval of the Large Scale Comprehensive Plan Amendment transmittal to the Board of County Commissioners, and on October 3, 2019, the Board of County Commissioners approved the transmittal to the Department of Economic Opportunity.

The Board may wish to consider the compatibility of the requested CC Future Land Use Amendment with the surrounding land uses.

The Local Planning Agency heard the request on September 21, 2020, and unanimously recommended approval.

**Clerk to the Board Instructions:**

Once filed with the State, please return two certified copies of the Ordinance to Planning and Development.



## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

October 5, 2020

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 20-17, which was filed in this office on October 2, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

October 2, 2020

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director      Attn: Cheryl Campbell

**RE:** Item H.2., The Comprehensive Plan, Setting Forth Plan Amendment 2019-2.2 and Transmittal Letter for 2019-2.2 Fall Comprehensive Plan Amendment Adoption Package

The Board of County Commissioners, in regular session on October 1, 2020, conducted the public hearing and adopted Ordinance No. 20-17, the Comprehensive Plan, setting forth Plan Amendment 2019-2.2 Large Scale Comprehensive Plan Amendment for Brevard Medical City, LLC; and executed the Transmittal Letter for changing the Future Land Use designation from Planned Industrial to Community Commercial. Enclosed is fully-executed Ordinance and Transmittal Letter.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Kimberly Powell, Clerk to the Board

Encls. (2)



**Planning & Development Department**  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

**BOARD OF COUNTY COMMISSIONERS**

October 1, 2020

Mr. Ray Eubanks,  
Plan Processing Administrator  
Division of Community Planning  
Florida Department of Economic Opportunity  
107 East Madison Street, MSC-160  
Tallahassee, FL 32399-4120

Re: 2019-2.2 Fall Comprehensive Plan Amendment Adoption Package

Dear Mr. Eubanks,

Enclosed please find the Comprehensive Plan Amendment submittal package for the 2019-2 Fall Comprehensive Plan Amendment cycle – Brevard County Amendment No. 19-03ESR. There is one private application for amendment being considered for adoption in this cycle more fully described in the attached staff report.

The Local Planning Agency held a public hearing regarding the adoption of the 2019-2. Plan Amendment package on September 21, 2020, recommending approval of Comprehensive Plan Amendment, 2019-2.2.

The Brevard County Board of Commissioners approved the adoption of the 2019-2.2 Plan Amendment package during a public hearing on October 1, 2020. Copies of the proposed amendment package have been sent to the St. Johns River Water Management District, the East Central Florida Regional Planning Council, the Florida Department of Environmental Protection, the Florida Department of Transportation (District 5), the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Education, and the Florida Department of Agriculture and Consumer Services.

The plan amendment's "content and effect" is included in this mailing, with minor changes between transmittal and adoption called out in strikethrough/underline, as required by statute.

The proposed amendment package was adopted by Brevard County on October 1, 2020.

The proposed amendment package is not within an area of critical state concern.

The proposed amendment package is not within the Wekiva River Protection Area.

The proposed amendments are not being adopted under a joint planning agreement pursuant to Section 163.3171, Florida Statutes.

The contact person for the 2020-2.2 Plan Amendment package is:

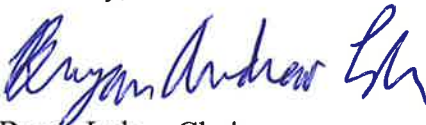
Cheryl W. Campbell, Planner III  
Planning and Development Department  
2725 Judge Fran Jamieson Way, Building A  
Viera, FL 32940  
Cheryl.Campbell@BrevardFL.gov  
(321) 350-8271 FAX (321) 633-2074

A local newspaper of general circulation is:

Florida Today  
1 Gannett Plaza  
Melbourne, FL 32940  
(321) 259-5555

In accordance with Florida Statutes, one paper copy and two copies in Portable Document Format (PDF) on the enclosed CD-ROM of the proposed amendment package including all proposed text, maps, and support documents are sent to your office via this transmittal. If you have any questions regarding the enclosed materials, please contact Cheryl W. Campbell at the above address.

Sincerely,



Bryan Lober, Chair  
Brevard County Board of County Commissioners

Enclosures

cc: Board of County Commissioners (w/out encl.)  
Frank Abbate, County Manager (w/out encl.)  
Eden Bentley, County Attorney (w/out encl.)  
Tad Calkins, Director, Planning and Development Department (w/out encl.)  
Exec. Director, East Central Florida Regional Planning Council  
Director of Planning and Public Transportation Operations, FDOT District Five  
St. Johns River Water Management District  
Florida Department of Environmental Protection  
Florida Division of Agriculture and Consumer Services  
Florida Division of Historic Resources  
Florida Fish and Wildlife Conservation Commission  
Florida Department of Education

**ORDINANCE NO. 20 -17**

**ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2019-2.2; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, PART XI, ENTITLED FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

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

**WHEREAS**, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

**WHEREAS**, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 31, 2019, for adoption as the Fall Cycle Large Scale Comprehensive Plan Amendment 2019-2.2; and

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

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

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON OCTOBER 2, 2020.

**WHEREAS**, on September 21, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2019-2.2, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

**WHEREAS**, on October 1, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved the adoption of Plan Amendment 2019-2.2; and

**WHEREAS**, Plan Amendment 2019-2.2 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

**WHEREAS**, Plan Amendment 2019-2.2 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

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

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

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

**Section 3. Adoption of Comprehensive Plan Amendments.** Pursuant to Plan Amendment 2019-2.2 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

**Section 4. Legal Status of the Plan Amendments.** After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2019-2.2, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

**Section 5. Severability.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 6. Effective Date.** The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of the State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 1 day of October, 2020.

ATTEST

A handwritten signature in blue ink, appearing to read "Scott Ellis", is written over a faint circular official seal.

Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

By: A handwritten signature in blue ink, appearing to read "Bryon Lober", is written over a horizontal line.

Bryon Lober, Chair

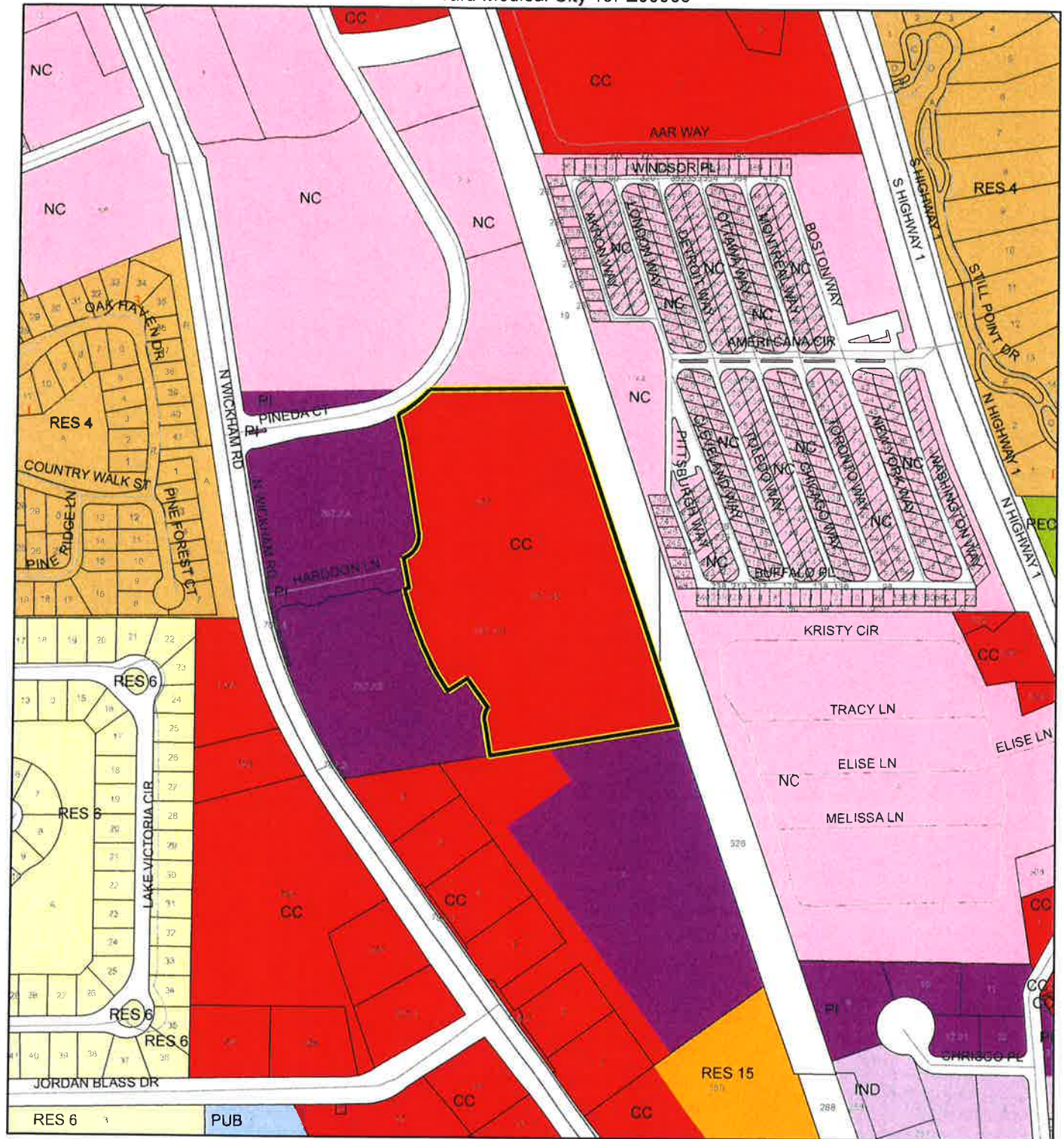
Approved by the Board on Oct. 1, 2020.

**LSCPA**  
**Brevard Medical City, LLC**  
**Adoption 2019-2.2**  
**Exhibit A**

# PROPOSED FUTURE LAND USE MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



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: 8/3/2020

**Resolution 20Z00014**

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

**WHEREAS, Brevard Medical City, LLC; Brevard Medical City Owners Association, Inc.; and Chateau Madeleine, LLC,** has requested a change of zoning classification from PIP (Planned Industrial Park) and PUD (Planned Unit Development) to all PUD, retaining existing CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with an assisted living facility on Tax Parcels 767.Y (3.76 acres), and a waiver request for building separation between existing and proposed ALF expansion. The property described as follows (See Attached); 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 Brevard County 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 change of zoning classification from PIP and PUD to all PUD, retaining existing CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with an assisted living facility on Tax Parcels 767.Y (3.76 acres), and a waiver request for building separation between existing and proposed ALF expansion, 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 October 1, 2020.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

*Bryan Andrew Lober*

Bryan Andrew Lober, Chair  
Brevard County Commission

As approved by the Board on October 1, 2020.

ATTEST:

*Scott Ellis*  
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – September 21, 2020

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.**

## Legal Description (20Z00014)

Part of Phase 1 Brevard Medical City (fka Suntree Viera Professional Park), a Commercial Condominium according to the Declaration of Condominium as recorded in ORB 7223, Page 2347, together with all of Phases Three and Four according to the Fourth Amendment to Declaration for Brevard Medical City a Commercial Condominium as recorded in ORB 7671, Page 1445, together with lands described in ORB 8228, Page 1103, and together with remaining lands lying between said Phases 1 and 3 (Parcel ID 26-36-13-00-767), inclusive of the Public Records of Brevard County, Florida. Commence at the SW corner of Corplex, as recorded in Plat Book 34, Page 22, of the Public Records of Brevard County, Florida, also being the NE corner of said Phase One Brevard Medical City Condominium; thence S18deg49'42"E along the FECRR right-of-way, a distance of 1,029.20 ft. to the point of beginning; thence continue S80deg32'20"W, along the south line of said Phase One, a distance of 548.45 ft.; thence N09deg27'40"W, a distance of 100.70 ft. to the point of curvature of a circular curve concave to the east, having a radius of 50 ft., and a central angle of 47deg07'07"; thence northerly along the arc of said curve an arc distance of 41.12 ft.; thence N36deg04'36"W a distance of 48.10 ft. to the point of curvature of a circular curve concave to the NE, having a radius of 921.48 ft., and a central angle of 03deg26'12"; thence northwesterly along the arc of said curve an arc distance of 55.27 ft.; thence S57deg20'48"W, a distance of 69 ft. to the point of curvature of a non-tangent circular curve concave to the NE, having a radius of 990.48 ft., and a central angle of 18deg38'39"; thence form a tangent bearing of N32deg39'12"W, run northwesterly along the arc of said curve an arc distance of 322.30 ft.; thence N75deg08'40"E, a distance of 13.30 ft.; thence N11deg11'23"W, a distance of 87.41 ft.; thence S80deg32'22"W, a distance of 19.75 ft.; thence N09deg27'38"W, a distance of 395.74 ft. to a point on a non-tangent circular curve concave to the west on the south right-of-way line of Pineda Court, having a radius of 380 ft.; thence run northeasterly along the arc of said curve and south right-of-way line of Pineda Court, an arc distance of 573.03 ft.; thence N71deg40'08"E, a distance of 175.98 ft. along the north line of and to the NE corner of the lands described in ORB 8228, Page 1103, point of beginning on the FECRR right-of-way; thence S18deg49'42"E, along said FECRR right-of-way, a distance of 1,459.58 ft. to the point of beginning. **Section 13, Township 26, Range 36.** (16.33 acres) Located at the intersection of North Wickham Road and Hardoon Lane. (No assigned address. In the Melbourne area.)

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

**Criteria:**

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

#### **Administrative Policy 5**

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

**Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

- (c) General Standards of Review.

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

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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**ADDENDUM TO STAFF COMMENTS**

**August 26, 2020**

**19PZ00086**

**Commission District      # 4**

**Hearing Dates:**            **LPA   09/21/20**  
                                     **BCC   10/01/20**

**Owner Name:**            **Brevard Medical City, LLC**

**Request:**                   **Future Land Use Amendment request from Planned Industrial (PI) to Community Commercial (CC)**

**Subject Property:**

**Parcel ID#   26-36-13-00-767, 26-36-13-00-767.XC and a portion of 26-36-13-00-767.XA**

**Tax Acct.#   2632155, 3014505 and a portion of 3012173**

**Location:**   **The subject parcel is located on the east side of North Wickham Road just south of Pineda Court and is bound by the Florida East Coast (FEC) Railway to the east**

**Acreage:   14.12 acres**

**Background & Purpose of Request**

The applicant was originally requesting a Future Land Use Amendment on 16.329 acres of land from Planned Industrial (PI) to Community Commercial (CC). The applicant has since requested a Zoning change from Planned Industrial Park (PIP), and Planned Unit Development (PUD) to all PUD. The applicant has reduced the Future Land Use Amendment request from 16.329 acres to 14.12 acres, a reduction of 2.209 acres.

On September 9, 2019, the Local Planning Agency (LPA) approved this Large Scale Comprehensive Plan Amendment (LSCPA) for transmittal to the Department of Economic Opportunity (DEO). On October 3, 2019, the Brevard Board of County Commissioners (BCC) approved this LSCPA of 16.329 acres from PI to CC for transmittal to DEO.

Brevard County Staff received a letter from DEO on November 15, 2019 stating they had no comments with the exception that the Adoption public hearings be held within 180 days of the County's receipt of agency comments or the amendment shall be deemed withdrawn

unless extended by agreement with notice to DEO and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.

County Staff received comment letters from St. Johns River Water Management District (SJRWMD), Florida Department of Environmental Protection (DEP), Florida Fish and Wildlife Conservation Commission (FWC) and Florida Department of Transportation (FDOT) between October 30 through November 12, 2019. The above listed agencies had no comments with the exception of FDOT (see below):

1) The Department recommends Brevard County include the proposed development program in the final Comprehensive Plan Amendment Ordinance to minimize potential impacts of the proposed amendment to State facilities.

2) The Department recommends Brevard County request that the applicant provide a Traffic Impact Analysis (TIA) as part of the identified Planned Unit Development (PUD) request, and coordinate with the Department in order to identify appropriate mitigation strategies to address potential impacts to State Facilities.

The applicant discussed submitting a preliminary development plan (PDP) with FDOT and the owner has agreed to the restrictions set forth in the PDP submitted with the PUD Zoning change request. (See attached)

At the applicant's request, on April 17, 2020, DEO approved a one hundred eighty (180) day extension for the Adoption public hearings and final transmission to DEO extending the deadline from May 9, 2020 to November 5, 2020.

The Zoning change request from PIP and PUD to all PUD is accompanying the Adoption public hearings to be held on September 21, 2020 by the LPA and October 1, 2020 by the BCC. The Zoning change request is for 16.329 acres which includes a 2.21 acre parcel to the north with a Neighborhood Commercial (NC) Future Land Use designation that remains consistent with the requested PUD Zoning change request. The companion PUD request will limit the development to a one hundred fifty-two (152) unit Assisted Living Facility (ALF) and a one hundred (100) bed Independent Living Facility (ILF).

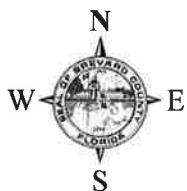
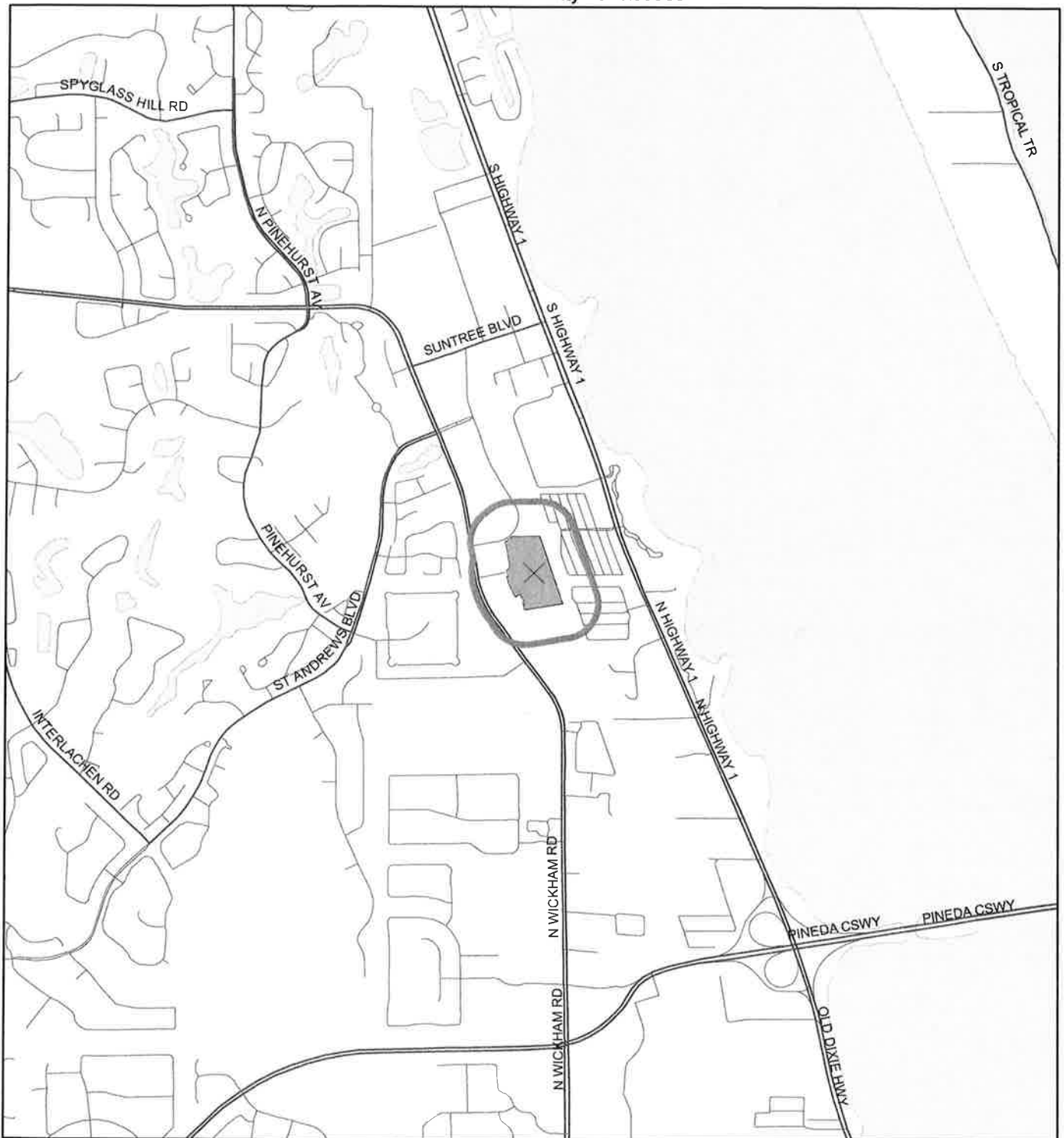
The proposed amendment to the Future Land Use from PI to CC has been reduced from 16.329 acres to 14.14 acres. This reduction of 2.209 acres reduces the Average Daily Trips (ADT) by 81,178, trips from 601,222 to 583,044 ADT (Based upon a Floor Area Ratio (FAR) of 1, for property with a Future Land Use designation of CC).

### **For Board Consideration**

The Board may wish to consider the compatibility of the requested CC Future Land Use Amendment with the surrounding land uses with the inclusion of a PUD to limit development potential.

# LOCATION MAP

Comprehensive Plan Amendment 2019-2.2  
Brevard Medical City 19PZ00086



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

Buffer Distance: 500 feet

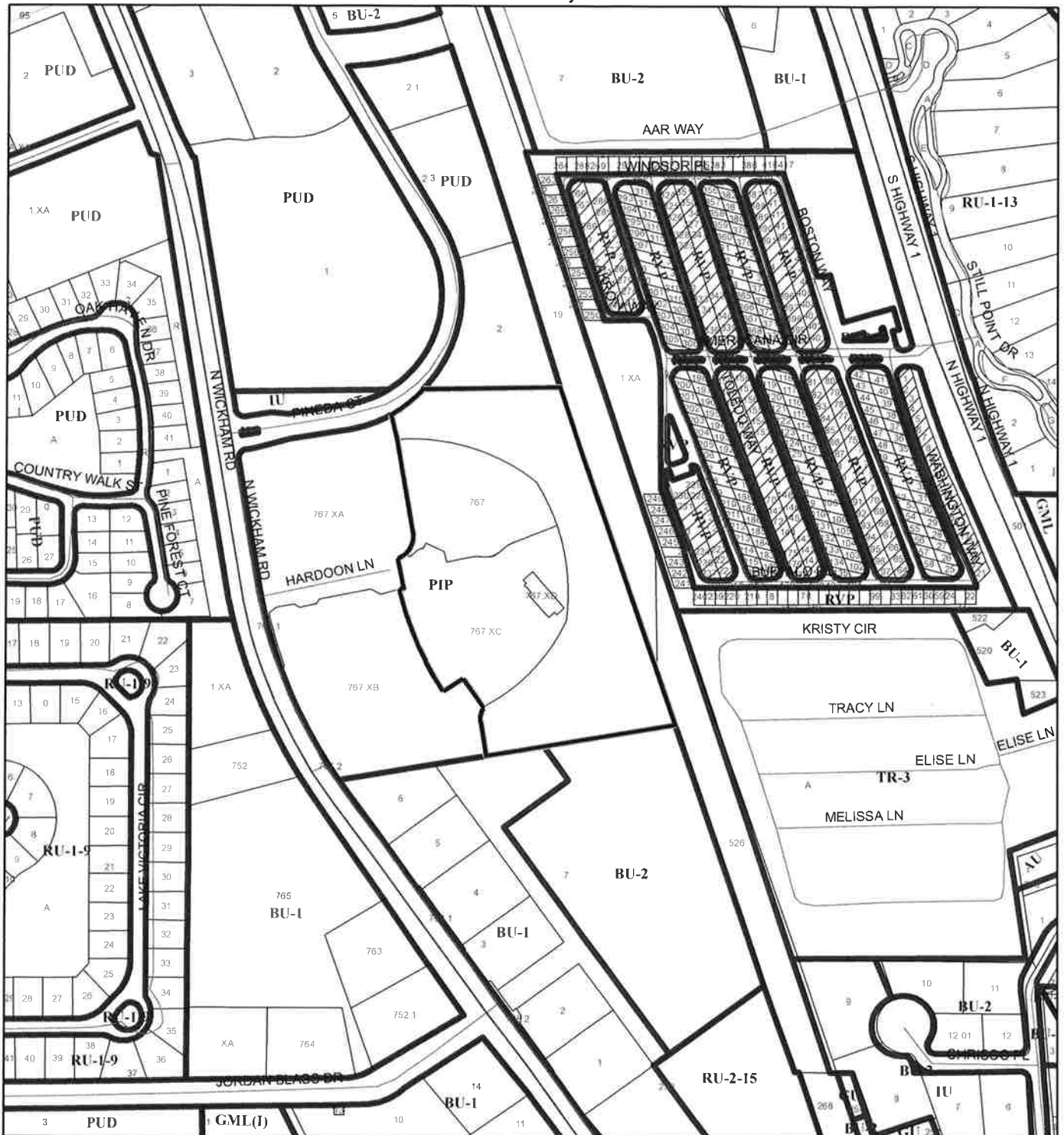
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/3/2020

— Buffer  
■ Subject Property

# ZONING MAP

Comprehensive Plan Amendment 2019-2.2  
Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

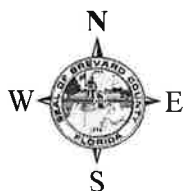
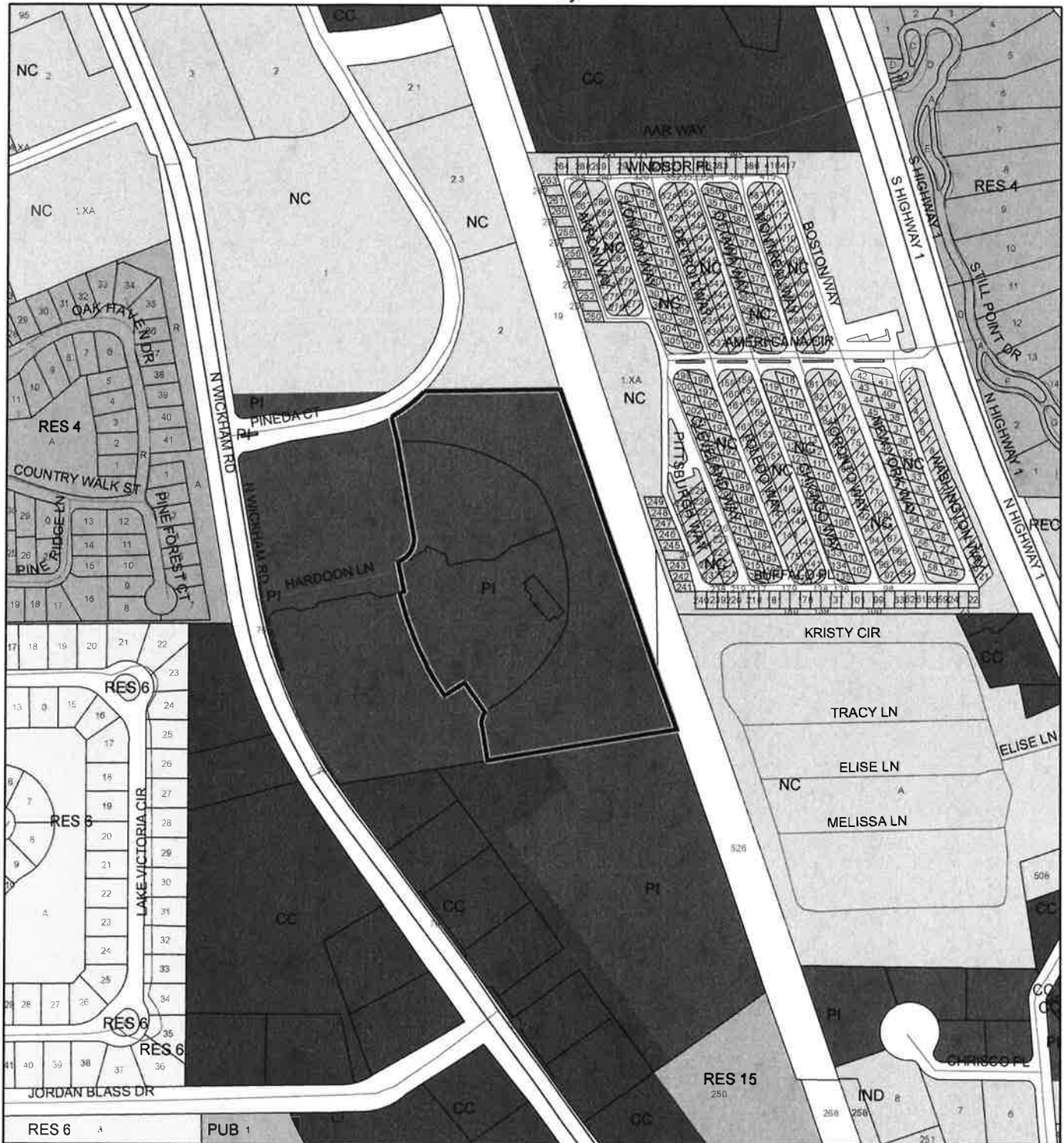
Produced by BoCC - GIS Date: 8/3/2020

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



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.

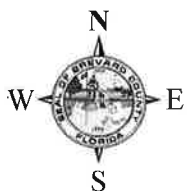
Produced by BoCC - GIS Date: 8/4/2020



# AERIAL MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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: 8/3/2020

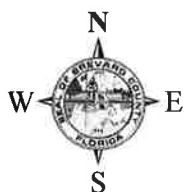
 Subject Property

 Parcels

# NWI WETLANDS MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

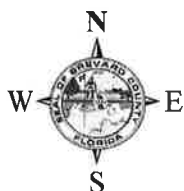
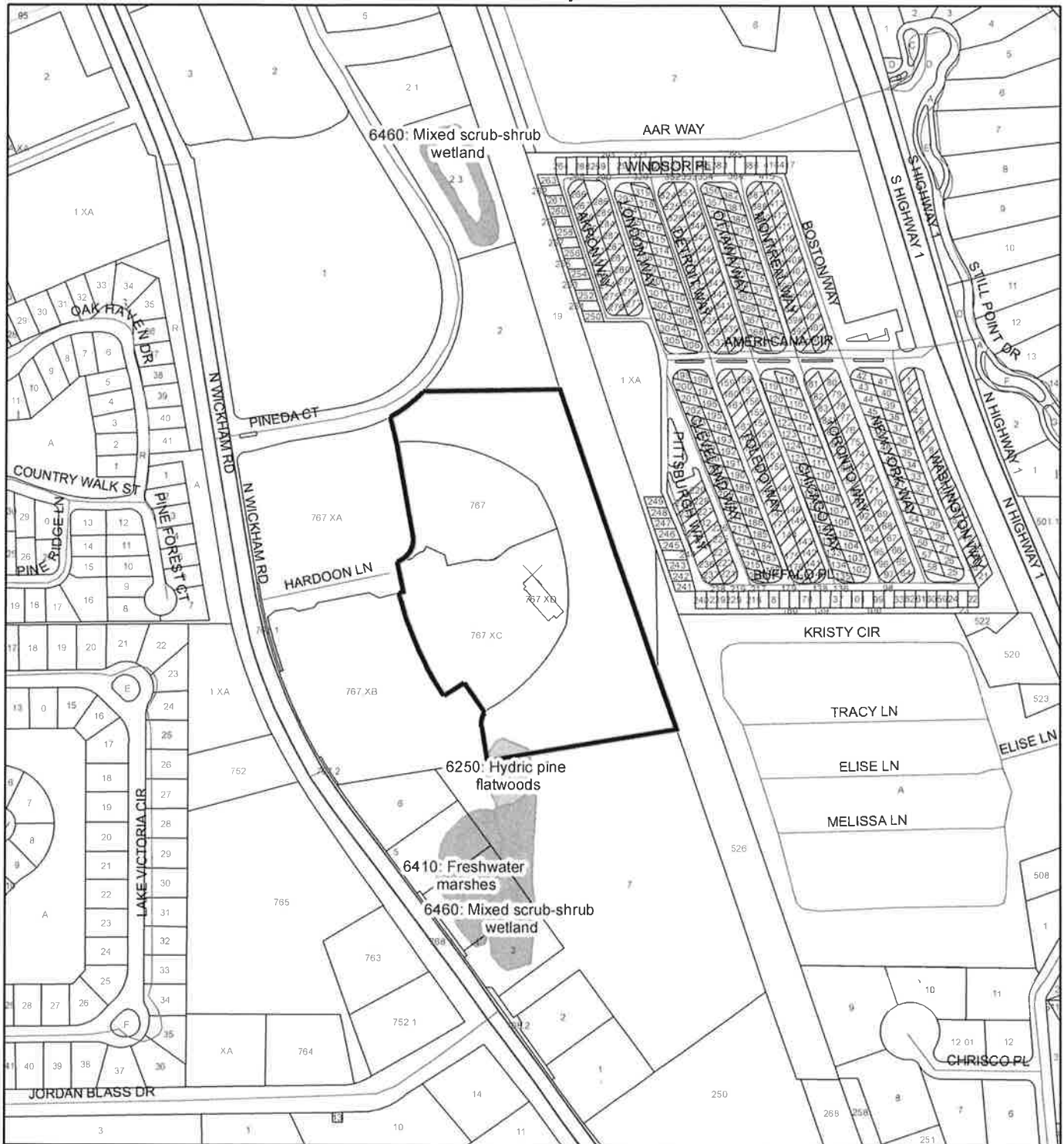
## National Wetlands Inventory (NWI)

	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

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

## 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

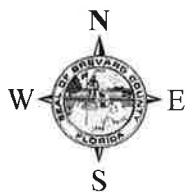
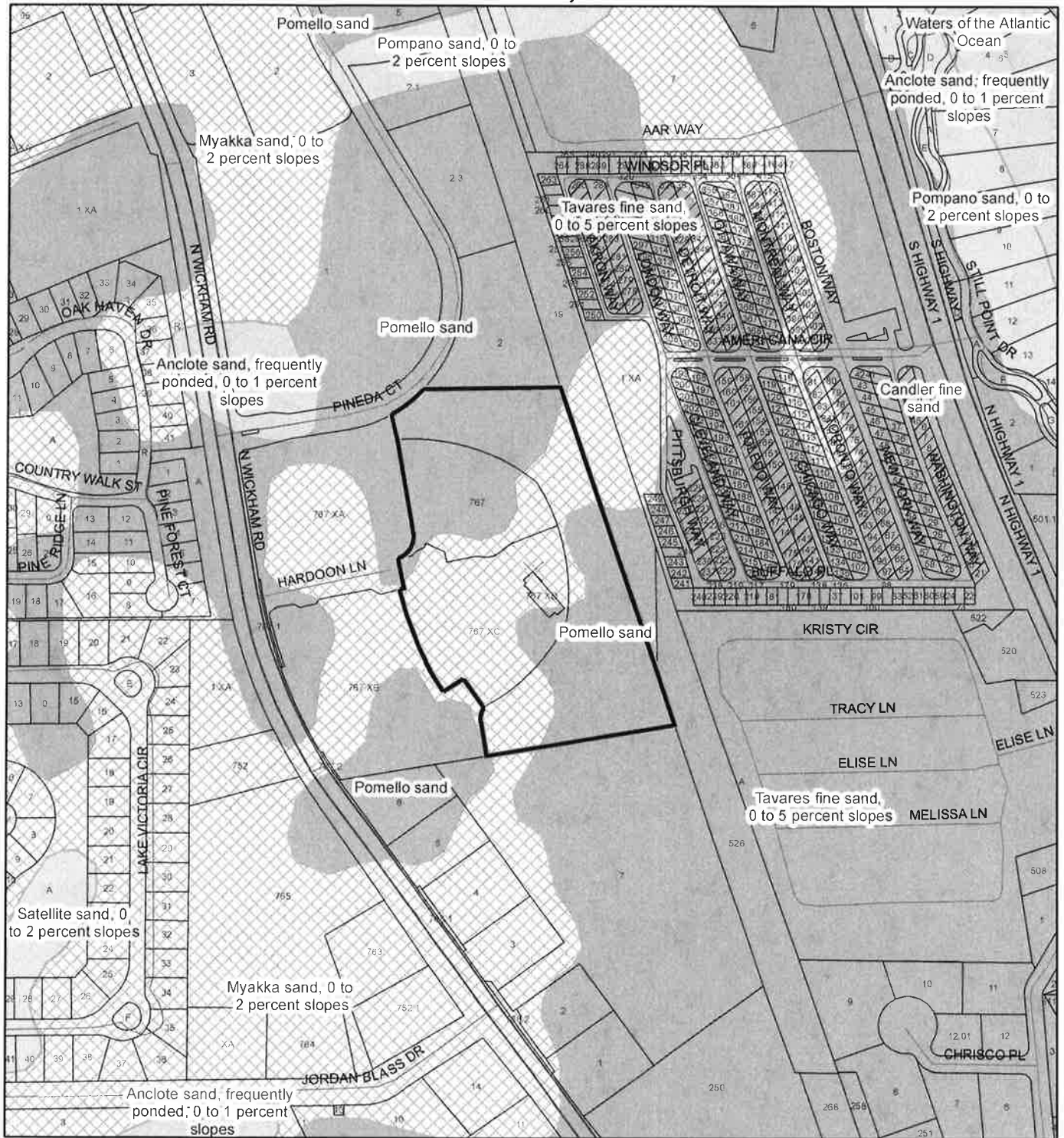
— Subject Property

□ Parcels

# USDA SCSSS SOILS MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

## USDA SCSSS Soils













- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

Comprehensive Plan Amendment 2019-2.2  
Brevard Medical City 19PZ00086



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.

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

# COASTAL HIGH HAZARD AREA MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

— Subject Property

□ Parcels

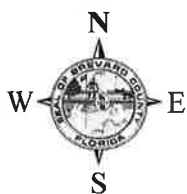
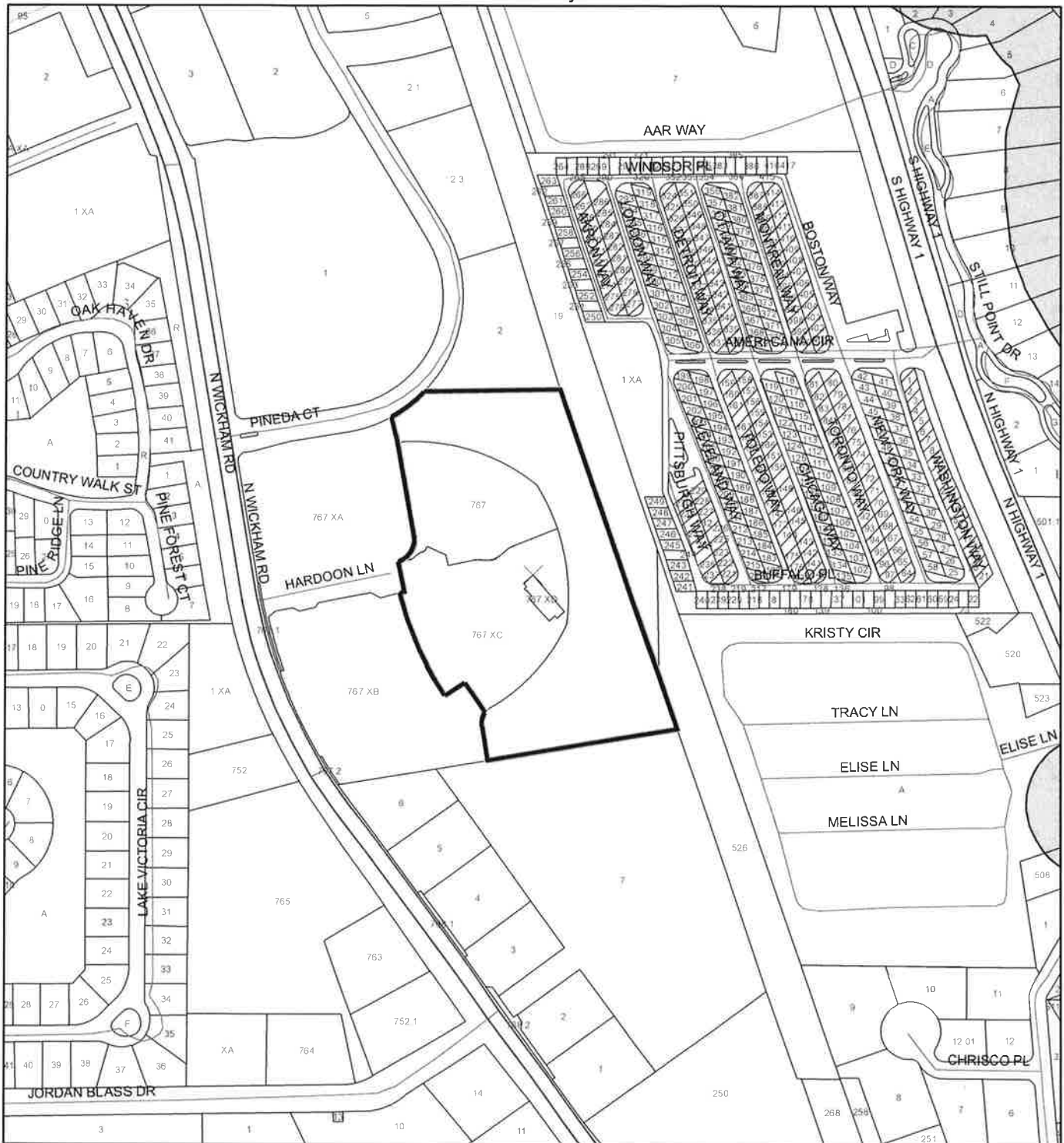
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

■ 60 Meters

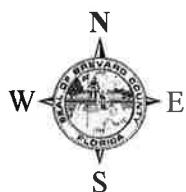
■ All Distances



# SCRUB JAY OCCUPANCY MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

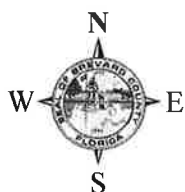
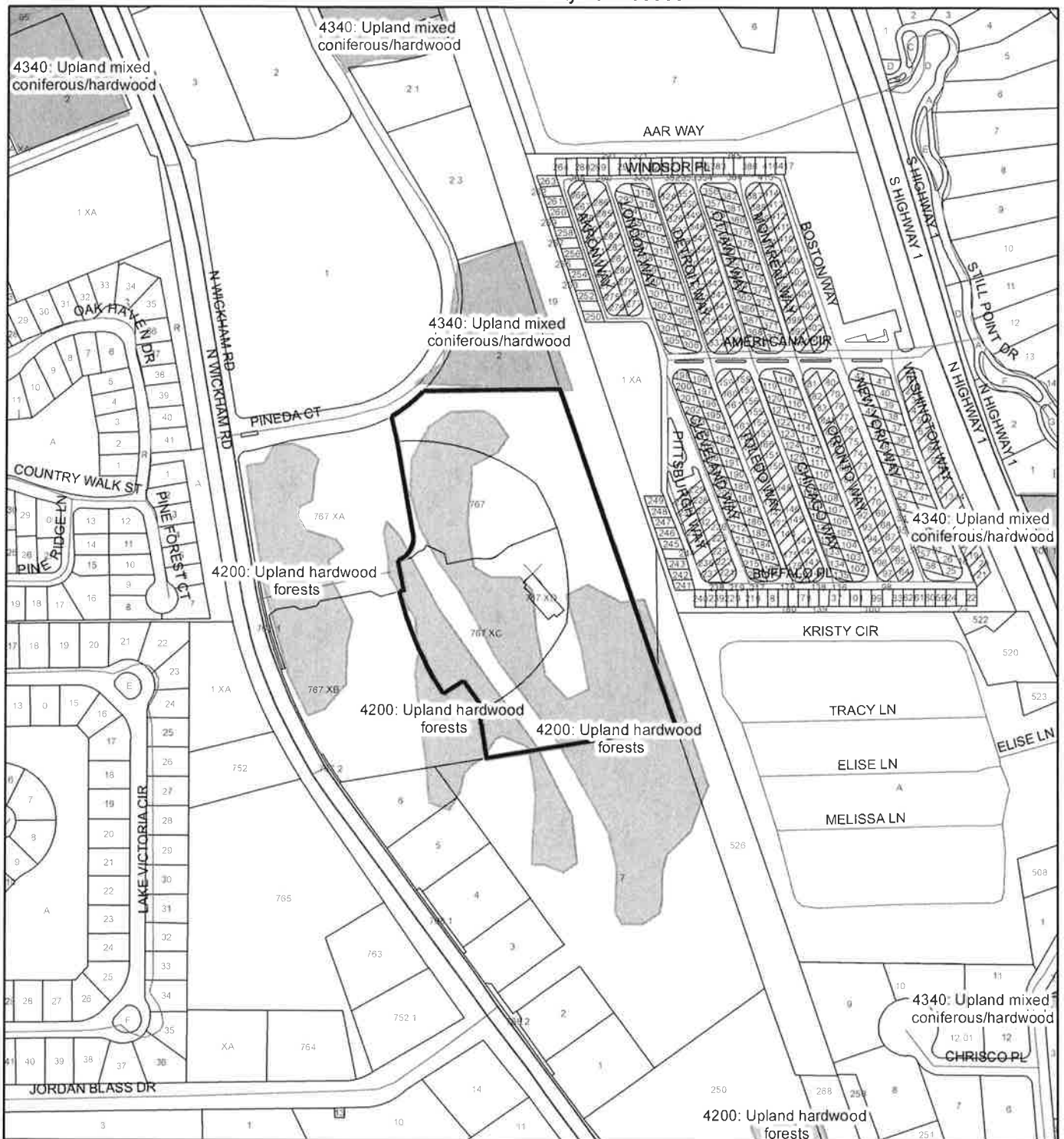
Produced by BoCC - GIS Date: 8/3/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Comprehensive Plan Amendment 2019-2.2

Brevard Medical City 19PZ00086



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 8/3/2020

## 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

## LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, September 21, 2020, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Mark Wadsworth, Chair; Ben Glover; Bruce Moia; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### Excerpt from Complete, Minutes

#### 1. Brevard Medical City (Rob Lee)

An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the adoption of the Fall Plan Amendment Cycle 2019-2.2; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions with require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date.

**b. Plan Amendment 2019-2.2** – a proposal initiated by Brevard Medical City to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from PI (Planned Industrial) to CC (Community Commercial) 14.12 acres, located at the intersection of North Wickham Road and Hardoon Lane. (No assigned address. In the Melbourne area.) (19PZ00086)

Rob Lee, 405 Pinetree Drive, Indialantic, stated the request is to change the Future Land Use designation from Planned Industrial to Community Commercial, and part of it will remain Neighborhood Commercial. He said the applicant would like to construct an independent living facility, which is senior housing, but not the same level of care as assisted living. In order to get the building structured the way it is, they need the PUD zoning to be able to fit the building on the site. They are planning on 100 units of independent living, and an additional 56 units for assisted living.

Mark Wadsworth asked staff to explain where the request is in the process.

Jeffrey Ball stated there are two applications before the board; one is the Future Land Use Large Scale Plan Amendment, which is the adoption hearing. A few months ago, the board heard the transmittal, and since then, the request went to DEO (Department of Economic Opportunity) for review. The DEO sent back comments from the Florida Department of Transportation that needed to be addressed, regarding the general capacity of Wickham Road, and that was the reason to ask for the PUD zoning, because a PUD limits the development to an assisted living facility use, which has a significantly lower traffic impact. The second application before the board is the PUD rezoning request, which is the development of standards that dictates the development program.

No public comment.

Motion by Bruce Moia, seconded by Ben Glover, to approve the proposal initiated by Brevard Medical City to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from PI (Planned Industrial) to CC (Community Commercial). The motion passed unanimously.