



AGENDA REPORT  
February 7, 2019

**Clark A. and Patricia A. Simms request a change of zoning classification  
from RU-1-9 to RU-2-4. (18PZ00130) (District 2)**

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**SUBJECT:**

Clark A. and Patricia A. Simms request a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential). The property is 0.93 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road. (700 St. Lawrence Lane, Merritt Island) (18PZ00130) (District 2)

**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 the request for a change of zoning classification from RU-1-9 to RU-2-4.

**SUMMARY EXPLANATION and BACKGROUND:**

The applicants are seeking a change of zoning classification on the eastern 400 feet of a 1,300 foot deep lot from Single-Family Residential (RU-1-9) to the Low-Density Multi-Family Residential (RU-2-4) for the purpose of developing 3 additional single-family residences for family members while maintaining single-family usage on the western lot remainder (900 foot in depth). The owners propose to maintain the overall lot under a single deed and not to subdivide the property. The overall property size is 2.92 acres. The applicant has asserted that each proposed residence will use the existing driveway for access and that multiple driveways or lots will not be created.

There is no multi-family zoning within the immediate area having access from North Tropical Trail, but an almost 9 acre parcel with the multi-family residential RU-2-30 zoning classification lies approximately 380 feet east of the subject property, gaining access from Jordan Road.

The applicants would have the ability to develop multi-family residential dwellings or a duplex within the proposed Zoning classification, in addition to the single-family residential product they are proposing. The Board may wish to consider whether those additional uses within the RU-2-4 Zoning classification should be limited in order to ensure

compatibility with development patterns in the surrounding area.

The Board may also request the property owners submit a concept plan which depicts the potential house locations and driveway routes that each unit will access in order to fully evaluate the compatibility of the proposed development (lot size, building mass and unit orientation) to the existing residential character.

On January 7, 2019, the Planning and Zoning Board unanimously approved tabling the request to the January 28, 2019, LPA/PZ meeting, as the applicant failed to appear.

On January 28, 2019, the Planning and Zoning Board unanimously approved the request with a Binding Development Plan limited to one single-family unit, and that there be shared access to North Tropical Trail.

**ATTACHMENTS:**

**Description**

- ☐ **Administrative Policies**
- ☐ **Staff Comments**
- ☐ **GIS**
- ☐ **Survey**
- ☐ **Public Comment**
- ☐ **P&Z Minutes 01-07-19**
- ☐ **P&Z Minutes 01-28-19**

## **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 and 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 zoning, conditional uses, comprehensive plan appeals, 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 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 per cent 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 an 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 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.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS):** Acceptable Level of Service currently adopted by the County.

**Current 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 LOS that a proposed development may generate on a roadway.

## REZONING REVIEW WORKSHEET

**18PZ00130**

**Commission District # 2**

**Hearing Dates: P&Z 01/07/19**

**BCC 02/07/19**

**Owner Name: CLARK A. AND PATRICIA A. SIMMS**

**Request: RU-1-9 to RU-2-4**

**Subject Property:**

Parcel ID# 24-36-22-00-811 (east 400 feet)

Tax Acct.# 2444199

Location: West side of N. Tropical Trail, approx. 685 feet north of Lucas Rd.

Address: 700 Saint Lawrence Ln., Merritt Island

Acreage: 0.93

### Consistency with Land Use Regulations

NO\*\* Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Undeveloped or Developed	Undeveloped	3 Single-family residences
Zoning	RU-1-9**	RU-2-4
Potential*	0	3 units; SF or MF use
Can be Considered under FLU MAP	No Residential 4	Yes Residential 4

\*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* The existing zoning classification is not consistent with Section 62-1255, Exhibit A; however by limiting the density to be consistent with the FLUM, the existing zoning can be retained pursuant to Section 62-1255 (b) (2).

	ADT	PM PEAK		
Trips from Existing Zoning	0	0	Segment Number	349B
Trips from Proposed Zoning	29	2	Segment Name	N Tropical Trail Lucas to Crockett
Maximum Acceptable Volume (MAV)	15,600	1,404	Acceptable LOS	E
Current Volume	4,639	418	Directional Split	0.52
Volume With Proposed Development	4,668	420	ITE CODE	
Current Volume / MAV	29.74%	29.74%		
Volume / MAV with Proposal	29.92%	29.88%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

## **Background & Purpose of Request**

The applicants are seeking a change of zoning classification on the eastern 400 feet of a 1,300 foot deep lot from Single-Family Residential (RU-1-9) to the Low-Density Multi-Family Residential (RU-2-4) classification for the purpose of developing 3 additional single-family residences for family members while maintaining single-family usage on the western lot remainder (900 foot in depth). The owners propose to maintain the overall lot under a single deed and not to divide the property. The overall property size is 2.92 acres. Each proposed residence will use the existing driveway for access. The applicant has stated that multiple driveways and lots will not be created.

The RU-1-9 classification permits single-family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre. The minimum house size is 1,100 square feet.

The applicants would have the ability to develop multifamily residential dwellings or a duplex within the proposed Zoning classification, in addition to the single-family residential product they are proposing. There is no multi-family zoning within the area surrounding the property. The Board may wish to consider whether those additional uses within the RU-2-4 Zoning classification should be limited in order to ensure compatibility with development patterns in the surrounding area.

If the request was denied, the current zoning would not allow the development of a second parcel unless a flag lot application were to be pursued to subdivide the lot and the current RU-1-9 zoning being limited by BDP for one unit. An access easement pursuant to Section 62-102 (a) of Brevard County Code is not allowed as the parcel has not been split-out prior to January, 2011.

## **Land Use Compatibility**

The subject property retains the Residential 4 (RES 4) Future Land Use designation on the portion being rezoned. The westerly 900 feet has a Residential 1 Future Land Use designation, which is not part of this zoning request.

**FLUE Policy 1.7** – addresses the Residential 4 land use designation which affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element.

The existing zoning RU-1-9 is not consistent with the 4-unit per acre residential designation. The proposed RU-2-4 zoning is consistent with the 4-units per acre residential designation on which the owner wishes to develop 3 units on 0.93 acres.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

## **Environmental Constraints**

Please refer to comments provided by the Natural Resource Management Department.

## **Applicable Land Use Policies**

The parcel has roughly 101 feet of frontage on N. Tropical Trail and a lot depth of 1,300 feet. Due to the limited road frontage, the owner is presented with road access issues for developing multiple single-family lots. Although the Future Land Use designation allows densities up to 4 units per acre, those consistent zonings: EU,

EU-1, EU-2 and TR-1 all have minimum lot depth requirements of 100 feet. Using any of these zoning classifications, the owners would not be able to develop a road to county standards and still retain sufficient area for future residential development without requesting variances.

Only the RU-1-11, RU-1-13, RA-2-4 and RU-2-4 zoning classifications require a minimum lot depth of 75 feet. Residential development under these conditions leaves only 25 feet of lot width for a roadway to access the western lot, as a flag lot, should the owner wish to split the property into two lots.

By utilizing a multi-family zoning classification, the owners have the option of building attached or detached residential units upon one parcel utilizing the entire lot frontage. By retaining the lot under single ownership, the owners maintain access to their existing residence located on the western remainder of the lot with a simple driveway for access. Flag lot review or public roadway is not required for this type of development.

Residential development could be accomplished as detached or attached residential structures. For neighborhood esthetics, the creation of detached residential buildings would be compatible with the area. There are five (5) existing residential lots to the south of this parcel. The owners of this request are only asking for the development of three (3) units over this same area. House spacing required by code at 15 feet could be expanded to make the development simulate individual single-family lots, if required by the Board and submitted by the applicants via a Binding Development Plan (BDP).

The zoning to the north of this request is zoned Estate Use (EU). To the east across of the N. Tropical Trail right-of-way is zoned Single-family Residential (RU-1-7). To the south, the zoning is EU. To the west lies the remaining portion of this parcel retaining EU zoning.

The EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet. The EU-1 zoning classification is an estate single family residential zoning classification. The minimum lot size is 12,000 square feet with minimum lot width and lot depth of 100'. The minimum living area is 1,800 square feet. The EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet. TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture. RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture. The RA-2-4 classification permits single-family attached development at a density of up to 4 units per acre. RA-2-4 is intended to provide a transition between single-family detached zoning classifications and multiple-family zoning classifications, permitting fee simple ownership of individual attached units. The RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots.

The recent zoning changes within the last three years are:

- **17PZ00051** adopted on 8/3/2017 approving a change from the RU-1-11 to the RU-1-9 zoning classification on one lot totaling 0.567 acres. This action is located 720' to the SE of this request.
- **17PZ00138** adopted on 2/1/2018 approving a change from the AU to the RU-1-11 zoning classification on a lot totaling 0.83 acres which was later divided into two parcels. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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.

## For Board Consideration

The applicants are seeking a change of zoning classification on the eastern 400 feet of a 1,300 foot deep lot from Single-Family Residential (RU-1-9) to the Low-Density Multi-Family Residential (RU-2-4) classification for the purpose of developing 3 additional single-family residences for family members while maintaining single-family usage on the western lot remainder (900 foot in depth). The owners propose to maintain the overall lot under a single deed and not to divide the property. The overall property size is 2.92 acres. Each proposed residence will use the existing driveway for access. Multiple driveways and lots will not be created.

The applicants would have the ability to develop multifamily residential dwellings or a duplex within the proposed Zoning classification, in addition to the single-family residential product they are proposing. There is no multi-family zoning within the area surrounding the property. The Board may wish to consider whether those additional uses within the RU-2-4 Zoning classification should be limited in order to ensure compatibility with development patterns in the surrounding area.

The Board may wish to limit approval of this request under a Binding Development Plan so the property is not subdivided.

The Board may also request the property owners submit a concept plan which depicts the potential house locations and driveway routes that each unit will access in order to fully evaluate the compatibility of the proposed development (lot size, building mass and unit orientation) to the existing residential character.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 18PZ00130</b>	<b>Applicant: Clark Simms and Patricia Simms</b>
<b>Zoning Request: RU-1-9 to RU-2-4</b>	
<b>P&amp;Z Hearing Date: 1/07/19; BCC Hearing Date: 2/07/19</b>	

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A to portion of parcel requesting the rezoning
Floodplains	Not mapped	Wildlife	Potential

**Comments:**

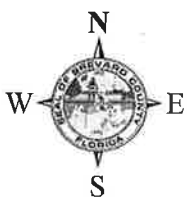
**This review relates to the following property: Twp. 24, Rng. 36, Sec. 22;  
Tax ID No. 2444199**

The subject parcel contains a small area of mapped aquifer recharge soils (Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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.

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM prior to performing any land clearing activities.

LOCATION MAP  
CLARK A. AND PATRICIA A. SIMMS  
18PZ00130



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.

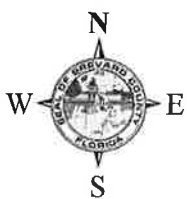
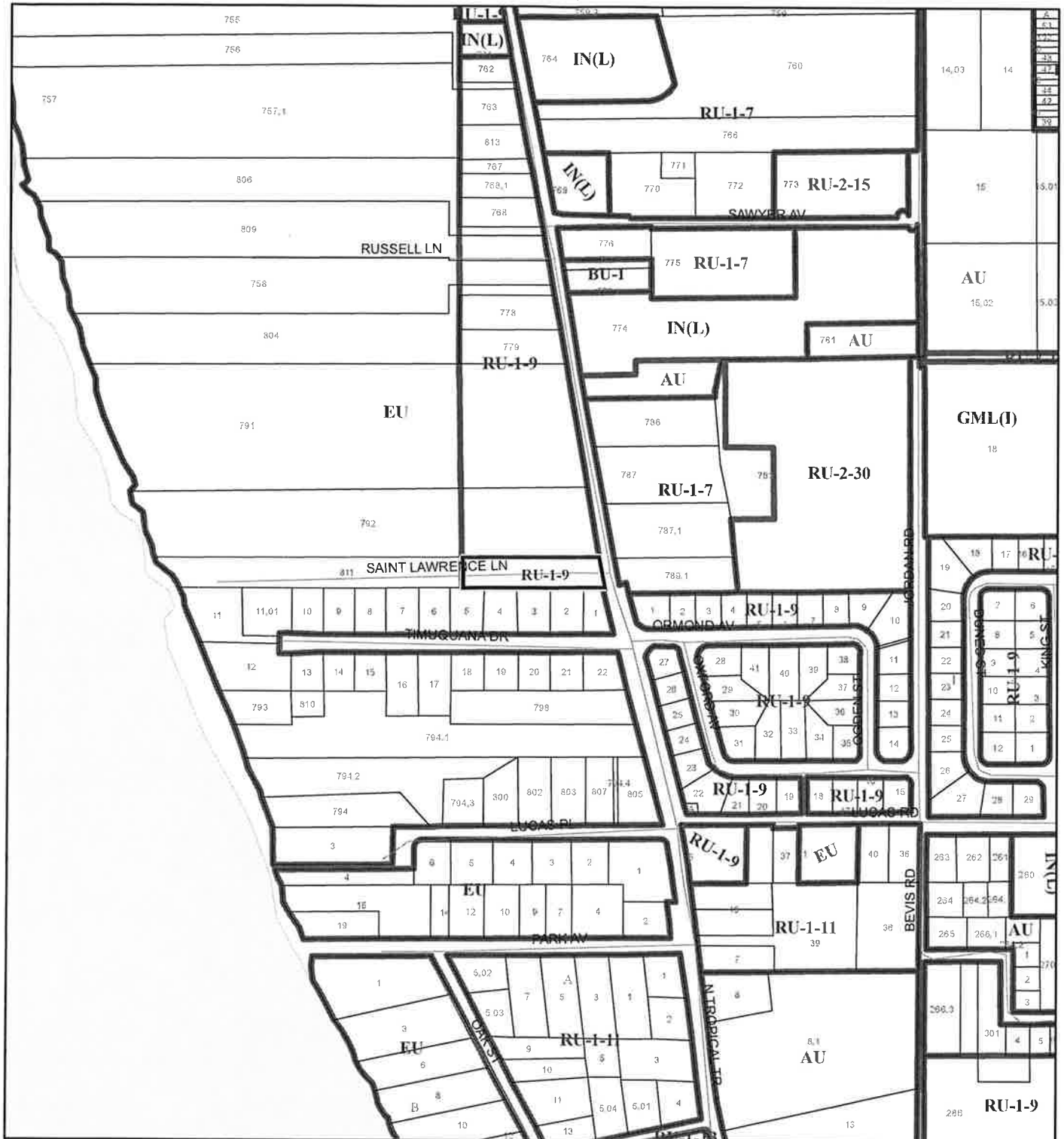
Produced by BoCC - GIS Date: 11/2/2018

Buffer  
Subject Property



# ZONING MAP


CLARK A. AND PATRICIA A. SIMMS  
18PZ00130



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: 11/2/2018

 Subject Property

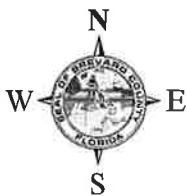
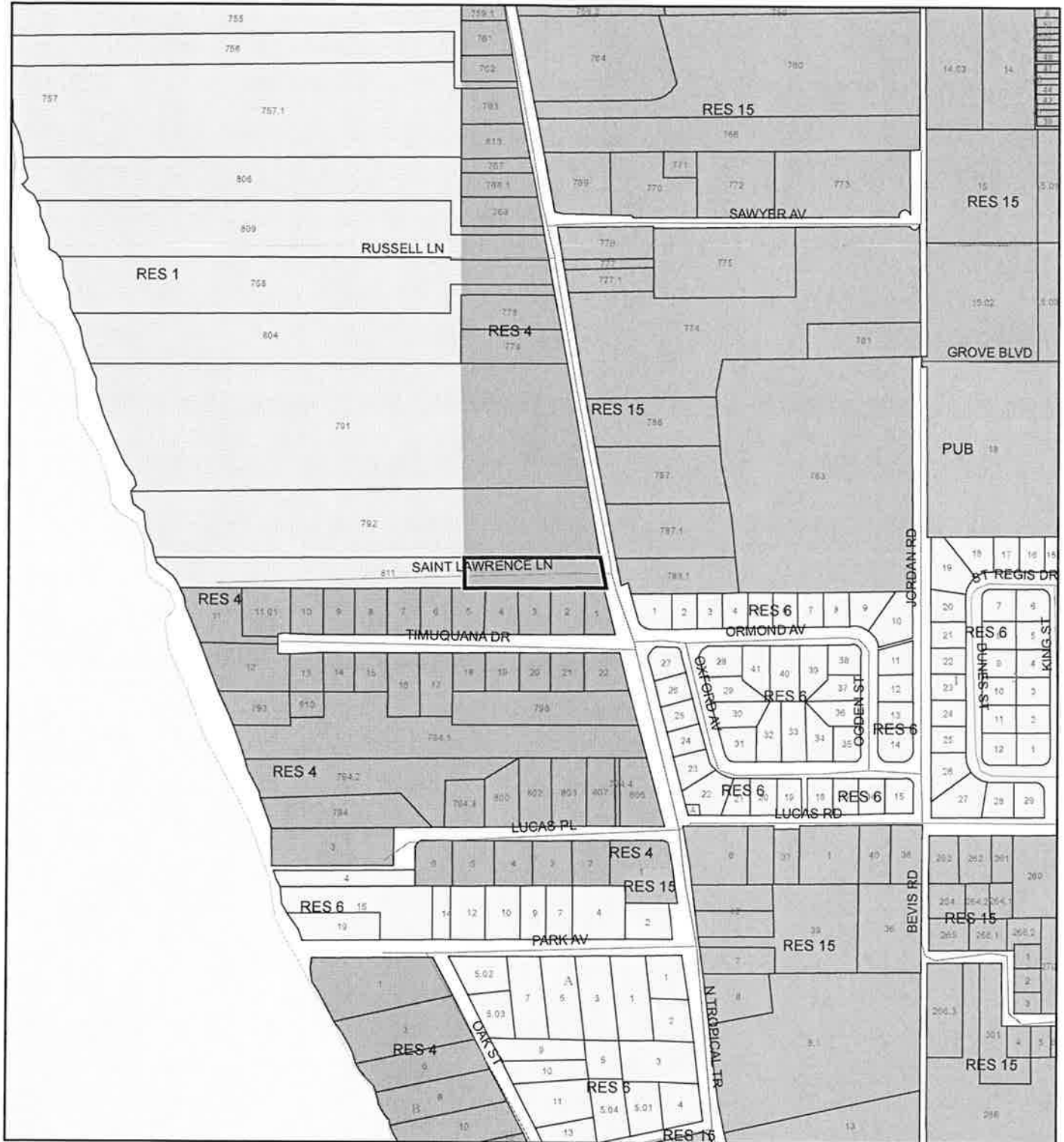
 Parcels

 Zoning

# FUTURE LAND USE MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

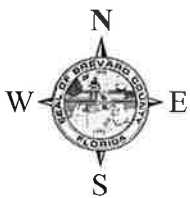
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Produced by BoCC - GIS Date: 11/2/2018

# AERIAL MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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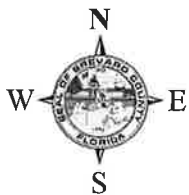
Produced by BoCC - GIS Date: 1/24/2019

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/2/2018

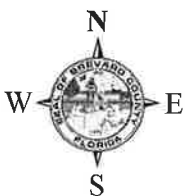
## National Wetlands Inventory (NWI)

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

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/2/2018

## 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

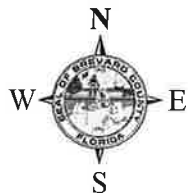
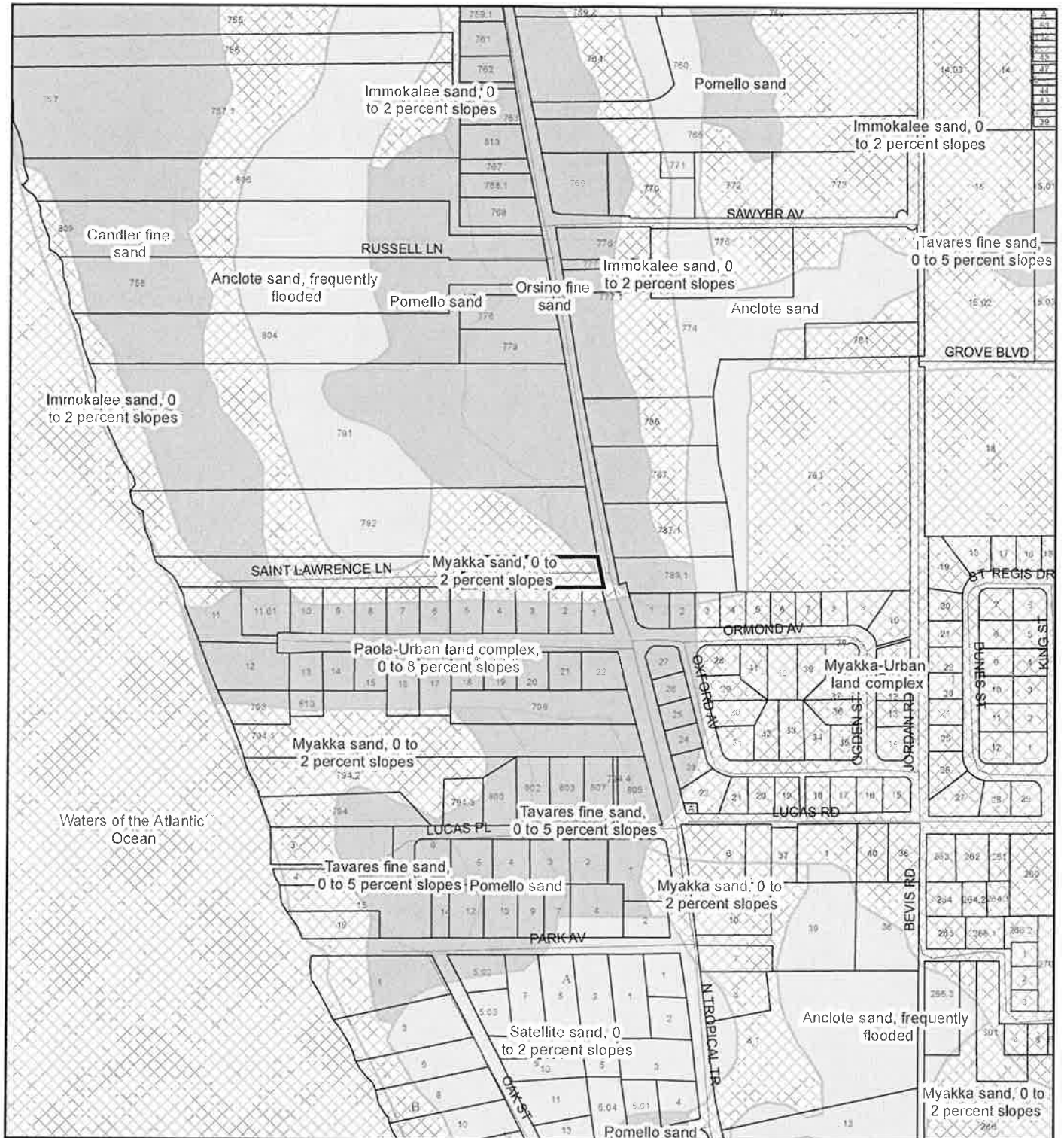
□ Parcels



# USDA SCSSS SOILS MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

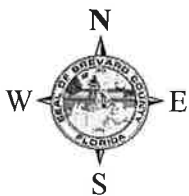
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Produced by BoCC - GIS Date: 11/2/2018

# FEMA FLOOD ZONES MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/2/2018

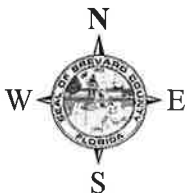
## FEMA Flood Zones

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

# EAGLE NESTS MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/2/2018

 Subject Property

 Parcels



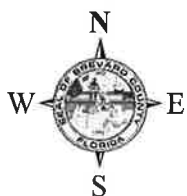
Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP

CLARKA. AND PATRICIAA. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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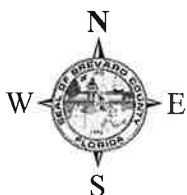
Produced by BoCC - GIS Date: 11/2/2018

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CLARK A. AND PATRICIA A. SIMMS

18PZ00130



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/2/2018

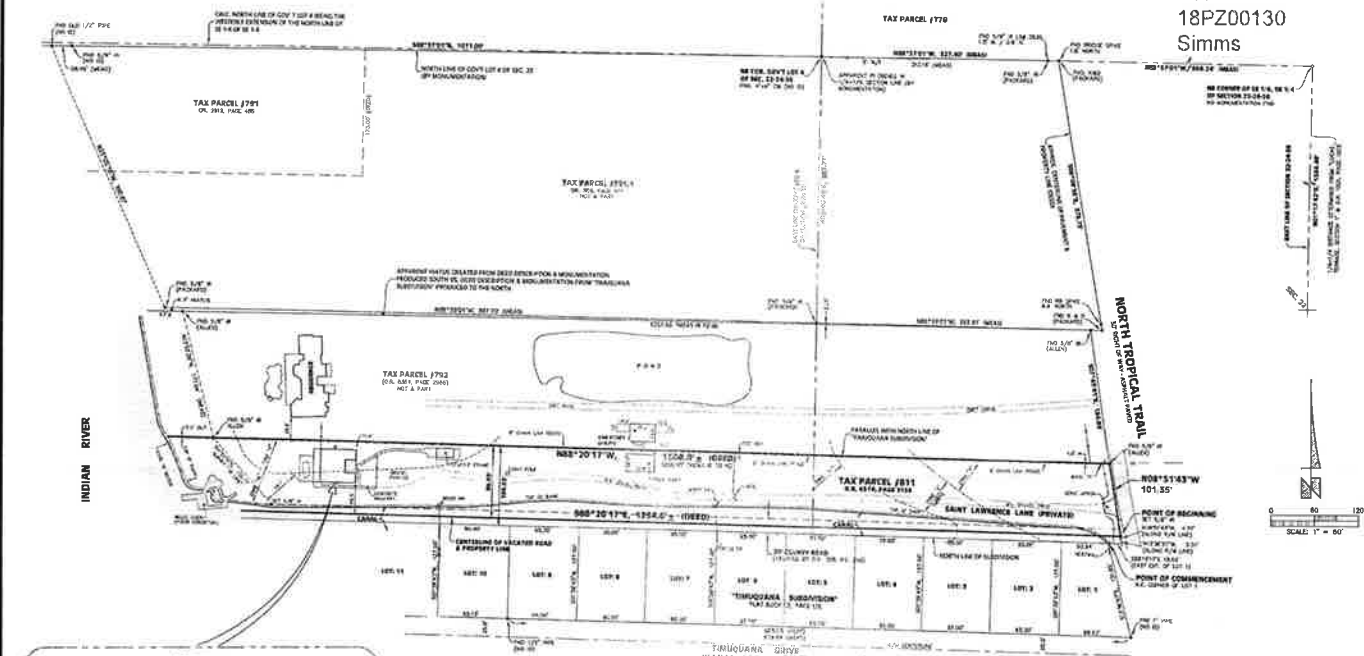
## SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

# SKETCH OF SURVEY

FYI  
18PZ00130  
Simms



## GENERAL NOTES

1. THIS SURVEY WAS MADE BY MEASURING THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE PARCELS AND THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE IMPROVEMENTS.
2. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE PARCELS AND THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE IMPROVEMENTS WERE MEASURED BY MEANS OF A TOTAL STATION.
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## EXEMPTION (S.E. 30, 1/4, SEC. 21, T. 18N, R. 18E, S. 10E)

A portion of the land shown on this map is exempt from taxation under the provisions of the Constitution of the State of Florida, Chapter 218, Section 1, which provides that land owned by the State of Florida, or any agency thereof, or any political subdivision thereof, or any officer or employee thereof, or any person acting on behalf of any of the foregoing, shall be exempt from taxation. The land shown on this map is owned by the State of Florida, and is therefore exempt from taxation.

## SURVEY NOTES

**BOUNDARY SURVEY:** THE BOUNDARY SURVEY OF THIS PARCEL WAS MADE BY MEASURING THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE PARCEL AND THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE IMPROVEMENTS. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE PARCEL AND THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE IMPROVEMENTS WERE MEASURED BY MEANS OF A TOTAL STATION.

**IMPROVEMENTS:** THE IMPROVEMENTS SHOWN ON THIS MAP WERE MEASURED BY MEANS OF A TOTAL STATION. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE IMPROVEMENTS WERE MEASURED BY MEANS OF A TOTAL STATION.

**ADJACENT PARCELS:** THE ADJACENT PARCELS SHOWN ON THIS MAP WERE MEASURED BY MEANS OF A TOTAL STATION. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE ADJACENT PARCELS WERE MEASURED BY MEANS OF A TOTAL STATION.

**ADJACENT RIVERS:** THE ADJACENT RIVERS SHOWN ON THIS MAP WERE MEASURED BY MEANS OF A TOTAL STATION. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE ADJACENT RIVERS WERE MEASURED BY MEANS OF A TOTAL STATION.

**ADJACENT TRAILS:** THE ADJACENT TRAILS SHOWN ON THIS MAP WERE MEASURED BY MEANS OF A TOTAL STATION. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE ADJACENT TRAILS WERE MEASURED BY MEANS OF A TOTAL STATION.

**ADJACENT LANE:** THE ADJACENT LANE SHOWN ON THIS MAP WERE MEASURED BY MEANS OF A TOTAL STATION. THE DISTANCES AND BEARINGS OF THE LINES AND CORNERS OF THE ADJACENT LANE WERE MEASURED BY MEANS OF A TOTAL STATION.

**r.m. packard**  
surveying & mapping  
1999 KALAMAZOO AVENUE, SUITE 100  
KALAMAZOO, MI 49001  
TEL: 269.333.3333 FAX: 269.333.3334

**BOUNDARY SURVEY FOR:**  
**CLARK A. SIMMS**  
1999 KALAMAZOO AVENUE, SUITE 100  
KALAMAZOO, MI 49001

DRAWN BY: RMP  
DATE: 6/22/12  
DWG #: 012-103  
NOTES: FILES  
JOB #: 12-103

SHEET 1 OF 1

**From:** [Alan Gaarder](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Re: 18PZ00130 Staff Comments  
**Date:** Monday, January 7, 2019 9:02:53 AM

---

ID# 18PZ00130 700 Saint Lawrence Lane/Simms property

1/7/2019

Dear Planning and Zoning Board/ Board of County Commissioners. I respectfully request that a binding development plan and a concept plan for single-family product as proposed is required as part of the approval process. Thank-you for your consideration of this matter.

Alan Gaarder  
482 Ormond Av  
Merritt Island FL

(954) 746-7645

On Monday, January 7, 2019, 8:35:57 AM EST, Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

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

## **PLANNING AND ZONING BOARD MINUTES**

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

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete agenda.

### **10. Clark A. and Patricia A. Simms:**

Request a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential). The property is 0.93 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road. (700 Saint Lawrence Lane, Merritt Island) (18PZ00130) (District 2)

Henry Minneboo – Is the applicant here? I don't see anyone.

Rochelle Lawandales – Mr. Chairman, I'll move to table.

Ben Glover – Mr. Chairman, in the history of the board, has an item been denied if there is no notification of them not showing up?

Henry Minneboo – We try not to, only because it's very costly to come in front of us, and they could have blown a tire out here or something trying to get here.

Ron McLellan – I'll second the motion to table.

Rochelle Lawandales – What meeting are we tabling it to?

Henry Minneboo – It has to be the 28<sup>th</sup>.

Henry Minneboo called for a vote on the motion, and it passed unanimously.

## **LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES**

The Local Planning Agency/Planning and Zoning Board met in regular session on Monday, January 28, 2019, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Henry Minneboo, Chair; Ron Bartcher; Ben Glover; Scott Langston; Mark Wadsworth; Bruce Moia; and Peter Filiberto.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Mary Taylor, Customer Service Specialist; and Jennifer Jones, Special Projects Coordinator II.

The Chair, Henry Minneboo, called the meeting to order at 3:00 p.m.

Excerpt of complete agenda.

### **Clark A. and Patricia A. Simms:**

Request a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential). The property is 0.93 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road. (700 Saint Lawrence Lane, Merritt Island) (18PZ00130) (District 2)

Clark Simms – My name is Clark Simms, I'm the property owner at 700 Saint Lawrence Lane. My request is to change the zoning from RU-1-9 (Single-Family Residential) to RU-2-4 (Low Density Multi-Family Residential). What we really want to do is build a home for my mother-in-law, because my wife and I will be taking care of her.

Henry Minneboo – Are you on the west side?

Clark Simms – I'm on the west side of North Tropical Trail.

Henry Minneboo – You're the next property north of the Timuquana subdivision?

Clark Simms – Yes.

Bruce Moia – All you are proposing is one additional residence?

Clark Simms – Probably a duplex because my own parents are getting elderly as well, and we're hoping to have them there.

Bruce Moia – I was wondering why you were asking for multi-family zoning.

Clark Simms – The only other option was to make a flag lot and separate the property, but that's not really what we want to do, and because of the width of the property, that would cause problems with driveways and access.

Bruce Moia – So, you want to maintain ownership of the property and just rezone a portion of it.

Henry Minneboo – With a binding development plan?

Bruce Moia – We don't have any multi-family in that area. How big is the area?

Clark Simms – My property has two different zonings. I have EU-1 (Estate Use Residential) on the two acres, and then the front 0.92 acres is Single-Family Residential.

Bruce Moia – Our staff comments say they could get up to three more units. Is that three additional, or three total?

Clark Simms – It's Residential 4, but I can only put three according to staff because it's less than an acre.

Bruce Moia – Right, but you do back up to single-family residential.

Ben Glover – Bruce, do you want to limit him to just one duplex to keep him from building additional multi-family structures on the property?

Bruce Moia – How does that work when they want multi-family residential against single-family residential? Are there any other additional requirements in the Code?

Erin Sterk – Not really, and the protections preventing them from subdividing aren't there. They say they aren't going to do that, but there's nothing specifically to prohibit that if they could do a flag lot and develop it in a way that would allow the back to have access.

Bruce Moia – If we just flat-out rezone it they could build a triplex and rent it out. I don't think that was the intent, but we might want to have something to limit the development.

Bill Hank – I'm Bill Hank, I live at 685 Timuquana Drive, which is the first street south of the property in question. I live at the end of Timuquana Drive, so I'm kind of away from it. Personally, it probably doesn't affect me very much, but I'm here for another reason. Fourteen years ago I was involved in a small area plan committee that looked at everything in this area, everything west of Tropical Trail, south of Venetian Way, and north of Lucas Road. That small area plan was started because a developer wanted to rezone a 27-acre parcel and put in over 200 units; needless to say, the community got together. That particular plan, because of the opposition from a lot of people, the developer eventually withdrew their request, and as a result of that, Commissioner Pritchard put together a committee to do a small area study of this particular area to see what we could come up with. I know that because I was the co-chairman of that committee. We worked for almost a year and had incredible community support; we met once a month and it was rare not to have 30 – 40 people from the community present who felt strongly about it; and the desire was that we not make a major change like what was being considered. After a year's worth of deliberation, we came up with the recommendation that eventually went to the Commission, saying that nothing in the area would ever be good for anything except a minimum of one acre per dwelling lots. At that time, something went on with Commissioner Pritchard; he was also involved with a small area team that was working north of the Barge Canal, and they came up with a two-acre requirement, and he didn't like that. The end result was that our plan never got submitted to the County Commission, and when we discovered that it was around the time that Chuck Nelson got elected as our new Commissioner. The co-chair and I talked to Chuck and he didn't know anything about it, and within a month it had gone to the Commission and our plan for a minimum of one acre per dwelling in that area was approved and supposedly went on to Tallahassee to get incorporated into the Brevard County Master Land Use Plan. I'm confused with this request as to why that isn't in play; I don't know why it's not being considered, because that's what the plan was to do. That's an unknown at this point. I would like to recommend against approving this request. It's doesn't seem like a big thing, but it opens the door for

other people along Tropical Trail. That being said, I fully understand that both you guys, and the Commission, have the right to approve this if you so desire, and if you do, what I'd like to ask is that you put some hooks in it in the form of a binding development plan that first says the property can never be subdivided. Also, before you approve it, the plan needs to show how he's going to situate a dwelling, or dwellings, on the property, because it is a narrow, 100-foot piece of land, 10 feet of which is taken up by the ditch on the north side of Timuquana Drive, and another 20 feet is taken up for his lane to get to his house on the river, so that doesn't leave a lot of space for building. The third item I think is important is that any such dwellings must be occupied by a blood relative of whoever is the owner at that time, and I'd also like to tie in that under no circumstances can any of the dwellings ever be rented to the general public. I don't know if that's possible, it's just my personal feelings on the subject.

Henry Minneboo – The last part is a little tricky. The first one, though, if he just put one additional, you'd be relatively satisfied?

Bill Hank – Yes, but I'm not sure how he can ever make it fit on that narrow property.

Henry Minneboo – Staff would have a position on that, right?

Erin Sterk – I had similar concerns and it was difficult to decipher how they would meet the lot width depth and get the access road past it, and without a concept plan it's hard to demonstrate that it is feasible. There are a lot of environmental constraints on the property that are unusual.

Bill Hank – The other hang-up that I didn't mention is that to the best of my knowledge, there are no sewers on that portion of North Tropical Trail, so these structures will have to be on septic systems, and I don't know how you fit that in on a piece of property that is right on a canal that directly flows into the Indian River.

Henry Minneboo – I don't think there is sewer up there.

Erin Sterk – I don't think so at all.

Henry Minneboo – Septic tanks have to be 75 feet from that.

Michael Notary – Michael Notary, my dad lives at the end of Timuquana Drive. We don't feel that Mr. Simms is being straight forward with what he is planning on doing with that property, and we feel he wants to put in rentals and do more than he's saying he wants to do.

Lana Walters – My name is Lana Walters, 530 Timuquana Drive.

John Mason – John Mason, same address.

Lana Walters – We're here today to recommend against the approval of this application. We do empathize with the Simms family and their situation, because a lot of us have been, or are about to be, impacted with the same situation with aging family members. As much as we do appreciate that, the impact of this change affects the whole neighborhood and community. We just purchased our property in October, and with the extensive research we did to find our new home, we finally chose this one for a lot of reasons. Had it backed up to a property with low-density multi-family, we probably would not have purchased it. Some of our concerns are the environmental impact on the area, and we are concerned about the market value of the surrounding property; we are directly across from the



subject property and will have an entirely different view, different noise levels, and things like that. The biggest concern we have is the future possibilities for that property. If it is zoned low-density multi-family, what is to stop somebody from turning it into a duplex, or triplex, or seasonal rentals? The entire area could change if that is rezoned. There would be a burden on the property itself, and as mentioned, it is a narrow property. We haven't seen any plans for how they are going to make that happen.

John Mason – We don't necessarily think this is what his intentions are. We've talked about it, and he plans on being there forever, but you don't know. We want to be there forever.

Henry Minneboo – Are you on the north side of the road, or the south side?

Lana Walters – The north side. We are the second house on the canal, so we can see all of it.

Clark Simms – I addressed the last couples' concerns, and I think they were really concerned about me putting a building right behind their lot. It will be as close to my house as possible, so it won't affect their view or anyone else's view. The gentleman who owns the houses that are adjacent to where I'd like to build this duplex, rents his houses out, the two houses on Timuquana Drive, so he has no issue with it. Like I said, it's for my mother-in-law and my parents. With Bill's concern about the small area plan, that was for separate lots, and we're not building a different lot, our objective is not to subdivide and sell off anything. I thought that my only option was going to be to create a flag lot, but after talking to staff – he was here, but he left, and he could have explained it better – he said this would be a better option.

Henry Minneboo – I know North Tropical Trail fairly well. One of the problems I see is that when you start at Lucas Road and go north there's not much double occupancy, meaning two houses, on the same parcel. That prevails as you continue northward, and there's a lot of people who own a lot of land up there.

Clark Simms – Only until you hit Easy Street, which looks like a development someone tried to start.

Henry Minneboo – Easy Street is a little different.

Clark Simms – I meant on the river side. They must have started that development in the mid-2000's.

Henry Minneboo – And it died, but then you go beyond that and everybody has larger parcels, and they just haven't busted them out. I really don't want to elaborate because I own five acres north of there, so I'll reveal that. That's never been our intent, but this is not about what I own. When we open it up for you, we might as well open it up for everybody, so I can't disagree with that one comment.

Erin Sterk – I was able to pull up the South North Tropical Trail Study. Although I can't speak to the exact moments in time that it came forward, on page 10 of the study is the Citizens Resource Group recommended Future Land Use change which depicts the Residential 1 on the portion of the property to the west, and Residential 4 on the property that currently retains the Residential 4. The recommendation of the committee was implemented, but in that recommendation, the front half of that property was always intended, according to the recommendation, to retain Residential 4 density potential. That's why the front half has a denser land use designation than the rear half, as a result of the study.

Henry Minneboo – I can tell you that happened because of some of the oddities to the north of this, and there were actually some businesses through there, and they've come and gone, so I think that might have had some impact.

Erin Sterk – It seems to me like they implemented the recommendations as proposed, leaving this gentleman with the density he has today.

Henry Minneboo – You know when we let one do it, you'll have 10 more applications next week.

Ben Glover – Is there a possibility for him to build another single-family home on the property?

Henry Minneboo – Yes.

Ben Glover – And then we could do away with the multi-family.

Henry Minneboo – He can build one and get away with it, yes.

Ben Glover – I agree with your statement, as far as if we let one do it, everyone is going to apply for it. I'm against the multi-family part of what he is requesting, and if he can make-do with one, then that would probably be the best situation.

Bruce Moia – What I'm seeing is that we don't have any multi-family on that side of the road. There are two choices: one, we deny this and he'll have to do a flag lot, or we approve it with the condition that he gets one unit.

Mark Wadsworth – He can already do that.

Bruce Moia – Yes, but he has to divide the property to do that. We can approve this rezoning, but limit him to one unit, and then he can maintain ownership of the property, but limited to one single-family residence.

Henry Minneboo – Tie it to a binding development plan?

Bruce Moia – In order for him not to have to divide his property, I will make the recommendation that we approve this with the condition that we only allow one additional unit on the property.

Ben Glover – Would that be multi-family?

Henry Minneboo – No.

Bruce Moia – No, one unit.

Mark Wadsworth – I'll second that.

Henry Minneboo – Are you willing to do a binding development plan?

Clark Simms – Yes, sir.

Henry Minneboo – For one unit?

Clark Simms – Yes, sir.

Erin Sterk – Can we clarify that the unit is intended as a single-family unit.

Bruce Moia – One single-family unit, yes.

Henry Minneboo – Is that acceptable to the other side?

Bill Hank – It is to my point of view, but I can tell you there are other people in the area that area thinking that if this goes through, they are going to do the same thing to their property.

Bruce Moia – They can still build one unit.

Henry Minneboo – At least now you have a binding development plan that will limit that.

Erin Sterk – The one valuable piece of doing it this way with the multi-family zoning as opposed to doing the administrative process is that the flag lot would be done administratively, but having the multi-family zoning allows him to share the access. If he had to create a flag lot for his current access and then another access with the canal on the property, two driveways out to Tropical Trail would be challenging.

Bruce Moia – I want to amend my motion to limit the binding development plan so that there would be shared access.

Erin Sterk – You get to the same place in the end, but allow the shared access, and never subdivide the property.

Bruce Moia – And it will make it a little easier for him to get a septic tank on there.

Mark Wadsworth – Second.

Jad Brewer – Is that for an amendment for shared access?

Bruce Moia – Yes, he re-seconded the motion.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.