



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.8.

12/7/2023

Subject:

Lori A. Clark (Chace Bourdon) requests a change of zoning classification from BU-1 to BU-2. (23Z00069) (Tax Accounts 2004828 & 2004829) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 to BU-2 to provide outdoor storage of general contractor equipment necessary for business operations. The applicant is the contract purchaser. The subject property is currently undeveloped, located on the west side of U.S. Highway 1, approximately a half mile south of Aurantia Road. The proposed BU-2 zoning permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square-foot lots. This classification allows more intensive uses (i.e., major auto repairs, facilities, paint and body shops, and contractor storage yards) which potentially have noise, odor, traffic, etc. with impacts on surrounding less intensive zoning classifications.

The existing BU-1 zoning classification does not permit outdoor storage of boats, RVs, and other non-retail items. The requested BU-2 zoning allows for storage yards, permitted with the condition that storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence. It also requires a minimum 300 sq.ft. enclosed building.

Existing single-family residential uses are located north, east, and west of the subject property; however, the primary zoning classification along U.S. Highway 1 is BU-1. This request could be considered an introduction of BU-2 into the immediate area. The closest BU-2 is located approximately 1.2 miles south of the subject property and could be considered an introduction into the surrounding area.

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

On November 13, 2023, the Planning and Zoning Board considered the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 23Z00069

On motion by Commissioner Pritchett, seconded by Commissioner Goodson, the following resolution was adopted by a unanimous vote:

WHEREAS, Lori A. Clark (Chace Bourdon) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Lots 3.02 and 3.03, Indian River Park Re-Subdivision, as recorded in ORB 4865, Pages 2339 – 2340, of the Public Records of Brevard County, Florida. **Section 20, Township 20G, Range 35.** (3.72 acres) Located on the west side of U.S. Highway 1, approx. .45 miles south of Aurantia Rd. (4550 U.S. Highway 1, Mims); and

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

WHEREAS, the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 to BU-2, 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 December 7, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Jason Steele, Chair

Brevard County Commission

As approved by the Board on December 7, 2023.

ATTEST


RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – November 13, 2023

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

23Z00069

Lori A. Clark

BU-1 (General Retail Use) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2004828 & 2004829
Parcel I.D.: 20G-35-20-MK-*-3.02 & 20G-35-20-MK-*-3.03
Location: West side of U.S. Highway 1, approx. 0.45-miles south of Aurantia Rd. (District 1)
Acreage: 3.72 acres

Planning & Zoning Board: 11/13/2023
Board of County Commissioners: 12/07/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	FAR of 1.0	FAR of 1.0
Can be Considered under the Future Land Use Map	Yes CC	Yes CC

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) to provide outdoor storage of general contractor equipment necessary for business operations. The applicant is the contract purchaser. The subject property is currently undeveloped and is located on the west side of U.S. Highway 1, approximately a half mile south of Aurantia Rd.

The existing BU-1 zoning classification does not permit outdoor storage of boats, RVs, and other non-retail items. The requested BU-2 zoning classification allows for storage yards, permitted with conditions that storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.

The subject parcel applied for a Special Use Permit for Beer & Wine Consumption on Premises under Zoning Resolution **Z-1180** but was denied on November 7, 1963.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	BU-1	CC
South	SF Residence	AU	RES 1
East	Across Highway 1, 2 SF Residences	AU	NC
West	SF Residence	AU	RES 1:2.5

To the north is a 1-acre parcel undeveloped with BU-1 zoning. To the south is a developed single-family residence that is 2.12-acres with Agricultural Residential (AU) zoning; To the east across U.S. Highway 1 are two developed single-family residences, one parcel is 2-acres and the other is 5.65-acres with AU zoning. To the west is a 9.42-acre parcel developed with a single-family residence with AU zoning.

The current BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing and wholesaling or outdoor storage.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. This classification allows more intensive uses (i.e. major auto repairs, facilities, paint and body shops, and contractor storage yards) which potentially have noise, odor, traffic, etc with impacts on surrounding less intensive zoning classifications.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of as well as plant nurseries. It allows for commercial uses and sale of items grown on the property.

There have been no zoning actions within a half-mile radius of the subject property.

There are no pending zoning actions within a half-mile radius of the subject property.

Future Land Use

The subject property contains the Community Commercial (CC) FLUM designation. Both the existing BU-1 and proposed BU-2 zoning classifications are consistent with the CC FLUM designation.

FLUE Policy 2.2- The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

BU-2 zoning allows retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, manufacturing, contracting and heavy repair services and warehousing activities with outdoor storage.

B. Existing commercial zoning trends in the area;

Existing general retail commercial uses with BU-1 zoning are located along U.S. Highway 1 between Aurantia Road and Grand Perrin Road. The closest BU-2 is located approximately 1.2-miles south of the subject property off U.S. Highway 1.

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

Existing single-family residential uses are located north, east, and west of the subject property; however, the primary zoning classification along U.S. Highway 1 is BU-1. This request could be considered an introduction or spot zoning of BU-2 into the immediate area. The closest BU-2 is located approximately 1.2 miles south of the subject property.

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

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property would be serviced by private well and septic. No central water or sewer is available.

E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and the following land use issues were identified:

This property contains mapped aquifer recharge soils as shown on the USDA Soil Conservation Service Soils Survey map. Aquifer Recharge soils have impervious area restrictions.

The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

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

This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code regarding the BU-2 zoning classification ordinance as well as contractors' offices, plants and storage yards.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant is requesting to rezone 3.72 acres to BU-2 zoning for outdoor storage of general contractor equipment necessary for business operations. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved.

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

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

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

1. historical land use patterns;

The developed character of the surrounding area is single-family residential with commercial FLU along Highway 1 north. Immediately to the south is a single-family residence. Institutional use further south of the subject property was established nearly 40 years ago and is currently a church with a Res1 FLU. North of the subject property is undeveloped with a CC FLU designation.

There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 1:2.5 and RES 1. The predominant FLU designation along U.S. Highway 1 is NC and CC to the north and RES 1 to the south.

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

There have been two (2) new development to the immediate area within the last three years:

- **20BC03459 is a single-family residence, built February 3, 2021 abutting the subject property to the south.**
- **21BC15016 is a single-family residence, built September 22, 2022 approx. 195-feet southeast of the subject property.**

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

There has not been any actual development approved within this area in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential

surrounding the property. The primary zoning classifications along U.S. Highway 1 is BU-1 and AU.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e, major auto-repair facilities, paint and body shops, and contractor storage yards). Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered.

The Board may consider if the applicant's request is consistent with the general area or an introduction to BU-2 as the subject property is located along a commercial corridor. The closest BU-2 is located approximately 1.2 miles south of the subject property off U.S. Highway 1.

1. 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.

Staff analysis indicates that the surrounding area is residential in character.

2. 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.

Staff analysis indicates the surrounding area is primarily residential.

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.

Staff analysis indicates the surrounding area is primarily residential and not transitional.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR 46, between I-95 and U.S. Highway 1, which has a Maximum Acceptable Volume (MAV) of 14,160 trips per day, a Level of Service (LOS) of D, and currently operates at 87.92% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.17%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 88.09% of capacity daily (LOS D). The proposal is not

anticipated to create a deficiency in LOS. During the site plan review process, staff will evaluate the proposed use to determine roadway capacities.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The parcel does not have access to potable water or sewer, they are currently on a well and septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

This property contains mapped aquifer recharge soils as shown on the USDA Soil Conservation Service Soils Survey map. Aquifer Recharge soils have impervious area restrictions. **The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.**

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 23Z00069

Applicant: Chase Bourdon (Owner: Lori A. Clark)

Zoning Request: BU-1 to BU-2

Note: Prospective buyer owns a small local business that will require outdoor storage of general contractor equipment necessary for their business operations

Zoning Hearing: 11/13/2023; **BCC Hearing:** 12/07/2023

Tax ID No.(s): 2004828 and 2004829

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

This property contains mapped aquifer recharge soils as shown on the USDA Soil Conservation Service Soils Survey map. Aquifer Recharge soils have impervious area restrictions. **The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.**

Land Use Comments:

Aquifer Recharge Soils

The subject property contains mapped aquifer recharge soils (Tavares fine sand, 0 to 5 percent slopes; and Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing and Landscape Requirements

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. Per Section 62-4341(18) of the Brevard County Landscaping, Land Clearing, and Tree Protection ordinance, Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation, canopy coverage, and buffer requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

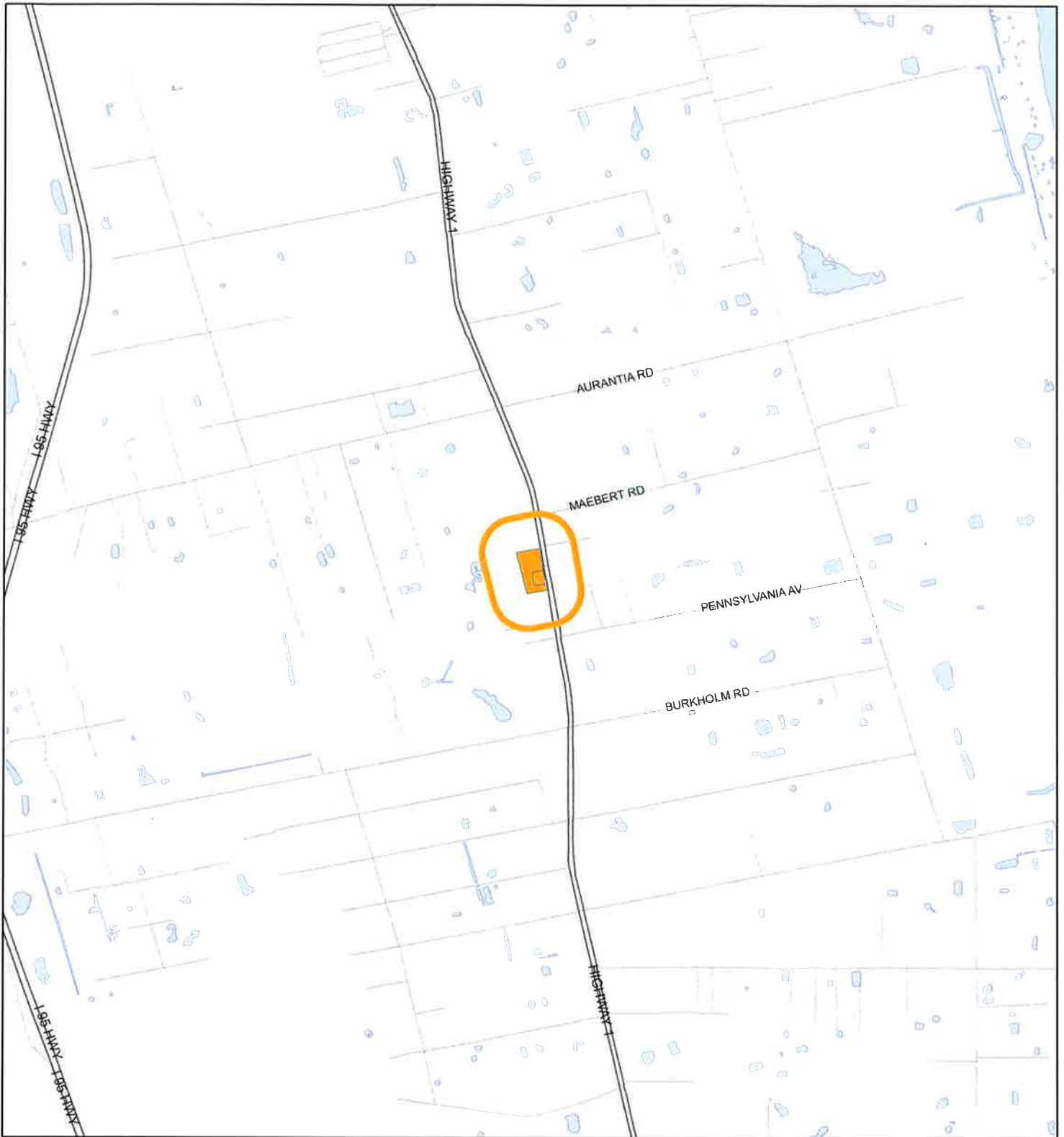
Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils. Specifically, Gopher Tortoises may be found where there are aquifer recharge soils. Additionally, there is a large area of mapped Florida Scrub Jay habitat just north of the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

Lori Ann Clark

23Z00069





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.

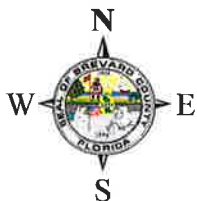
Produced by BoCC - GIS Date: 9/11/2023

-  Buffer
-  Subject Property

ZONING MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

Subject Property

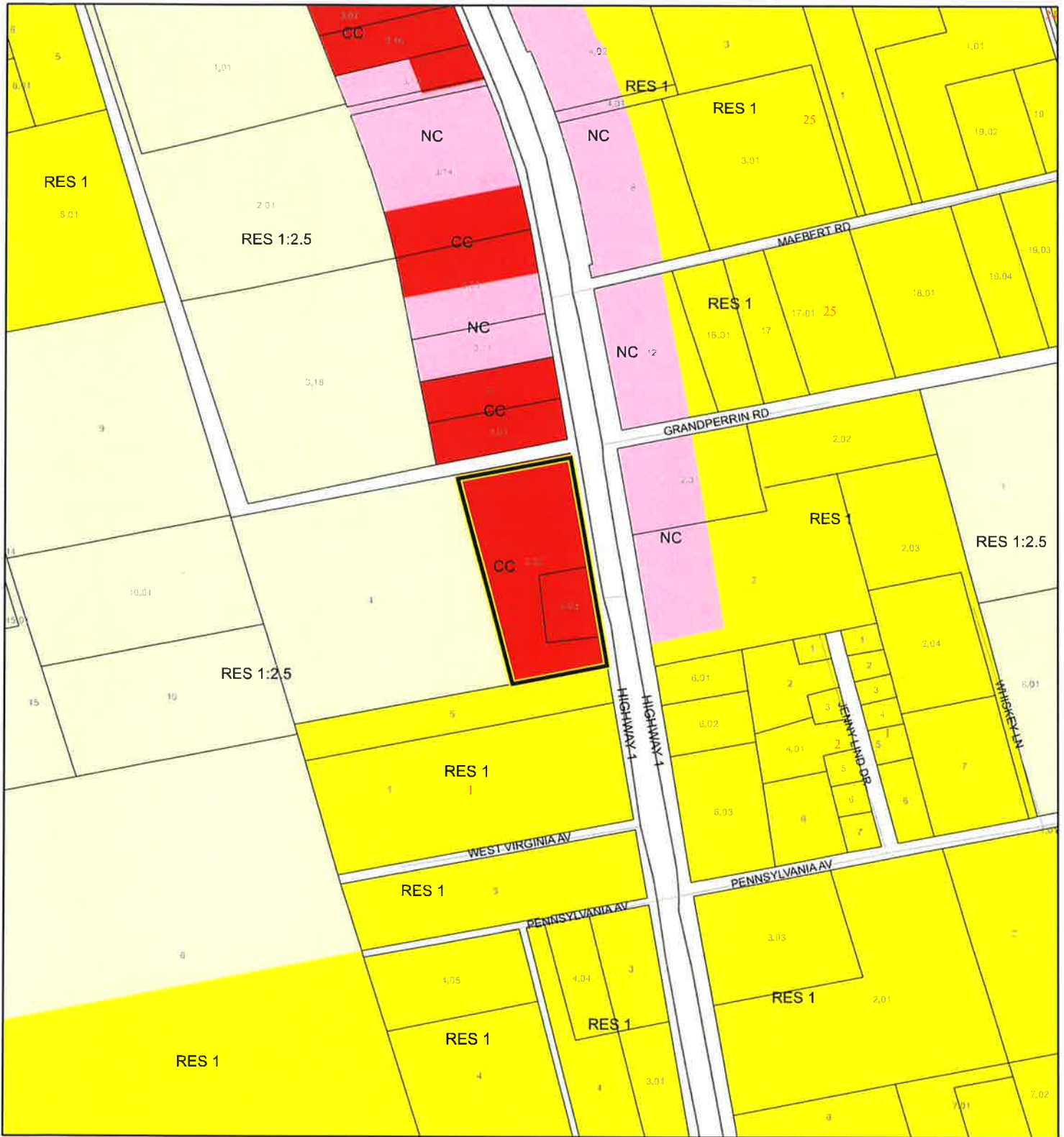
Parcels

Zoning

FUTURE LAND USE MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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Produced by BoCC - GIS Date: 9/11/2023

AERIAL MAP

Lori Ann Clark

23Z00069



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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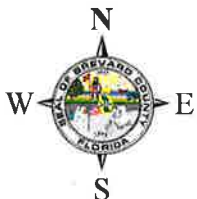
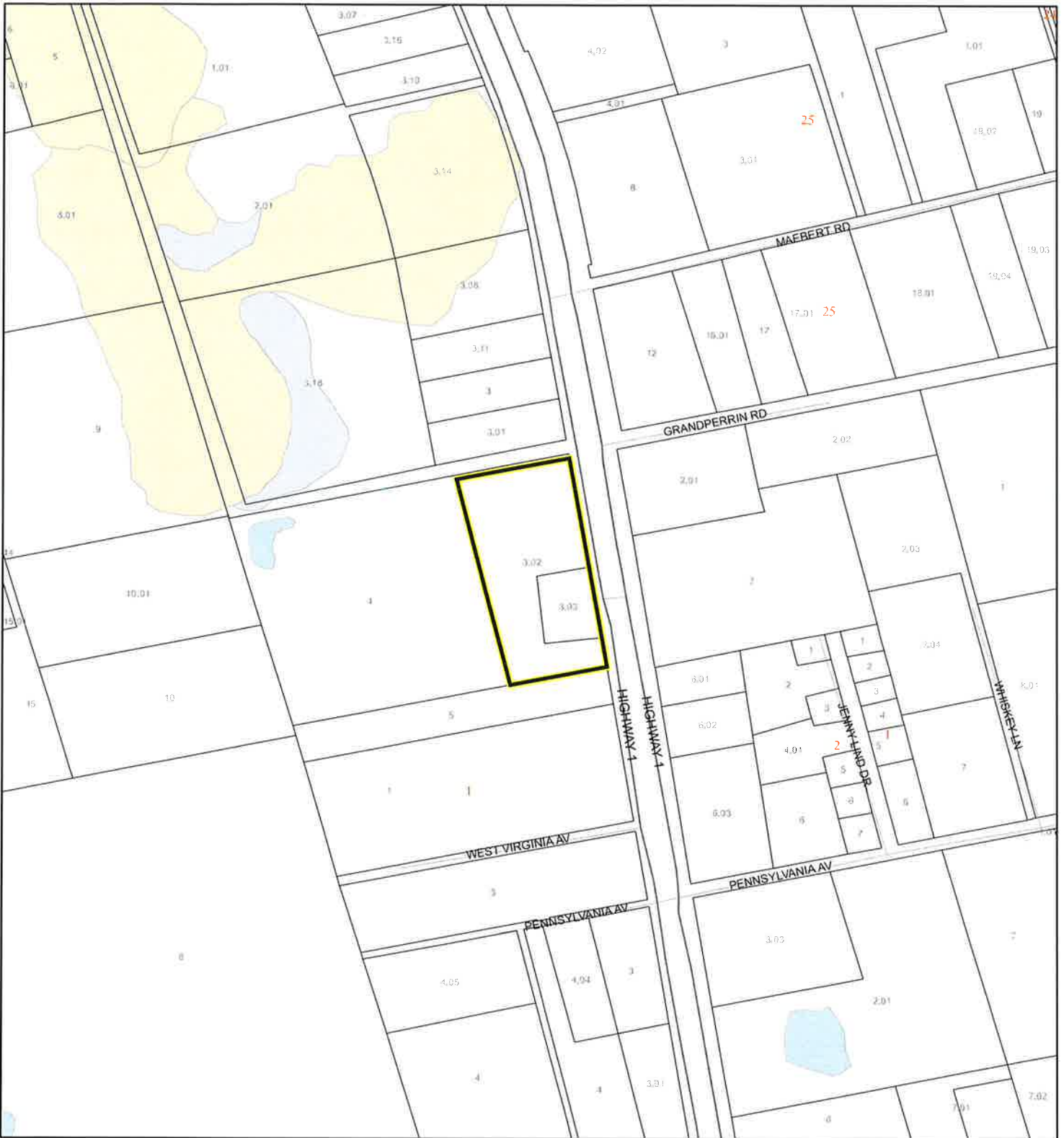
Produced by BoCC - GIS Date: 9/11/2023

 Subject Property

 Parcels

NWI WETLANDS MAP

Lori Ann Clark
23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

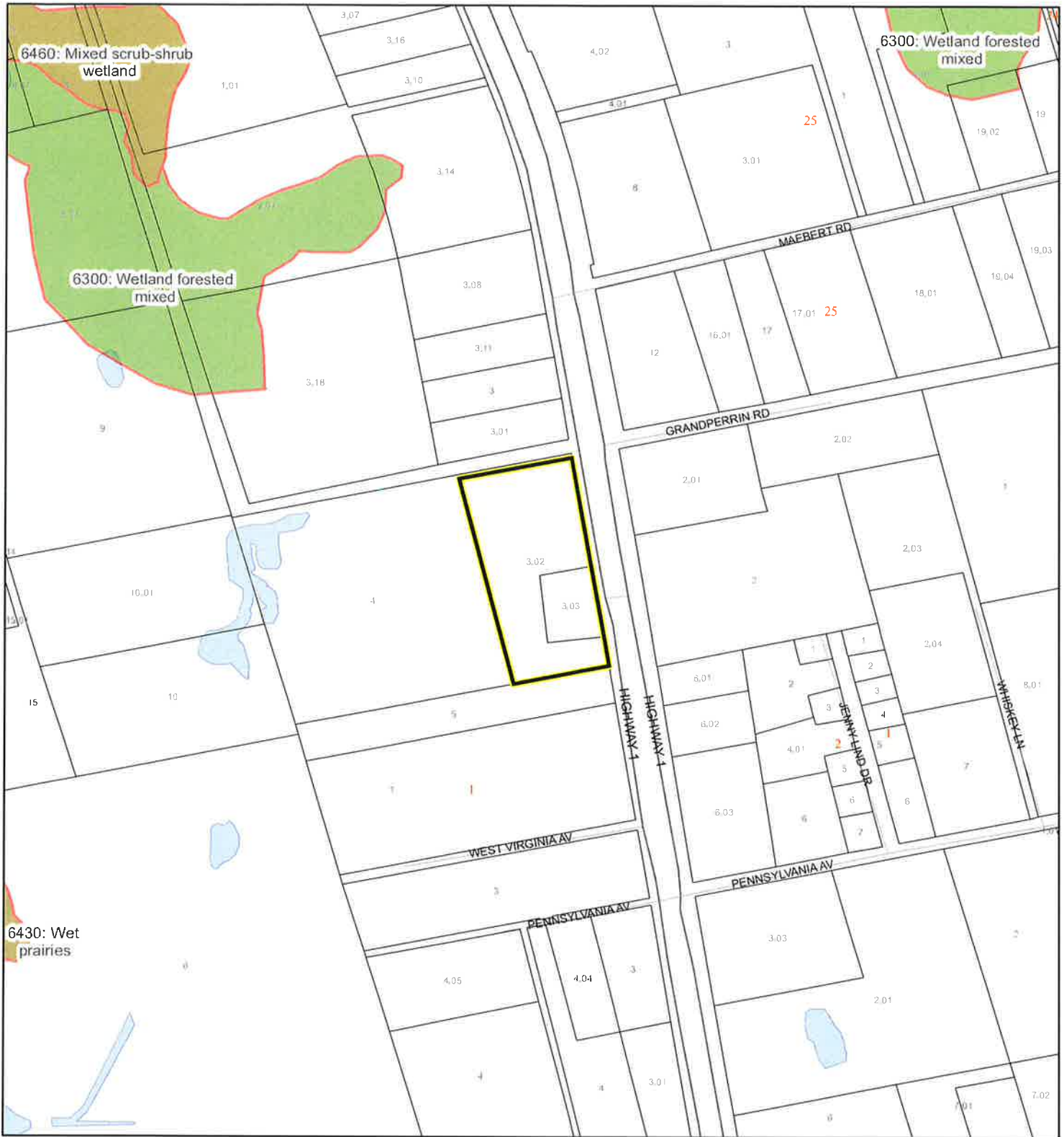
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

SJRWMD FLUCCS WETLANDS

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

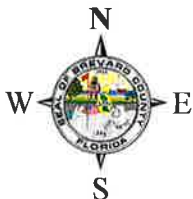
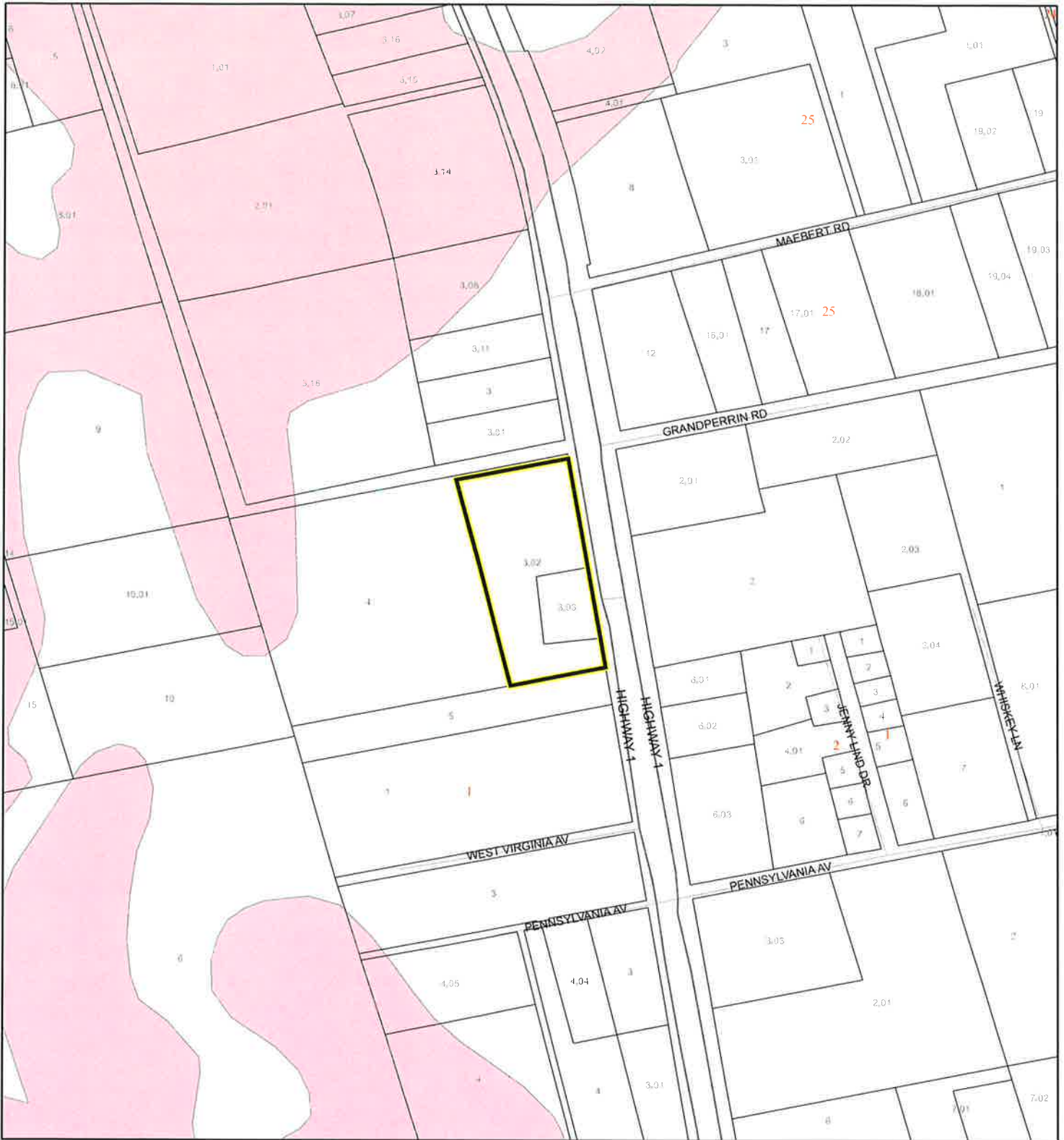
Subject Property

Parcels

FEMA FLOOD ZONES MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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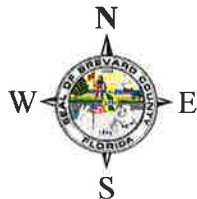
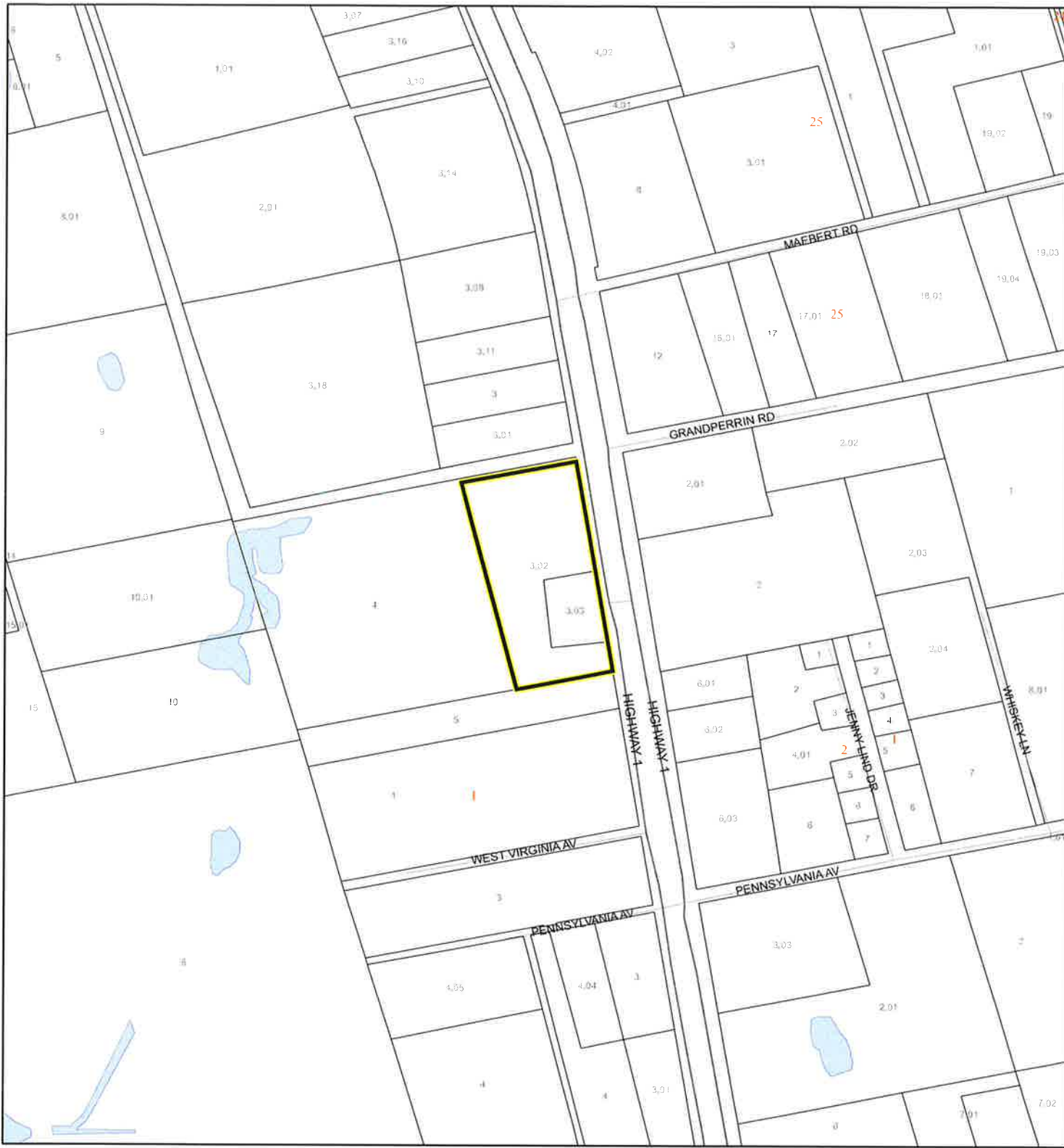
Produced by BoCC - GIS Date: 9/11/2023

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

Lori Ann Clark
23Z00069



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

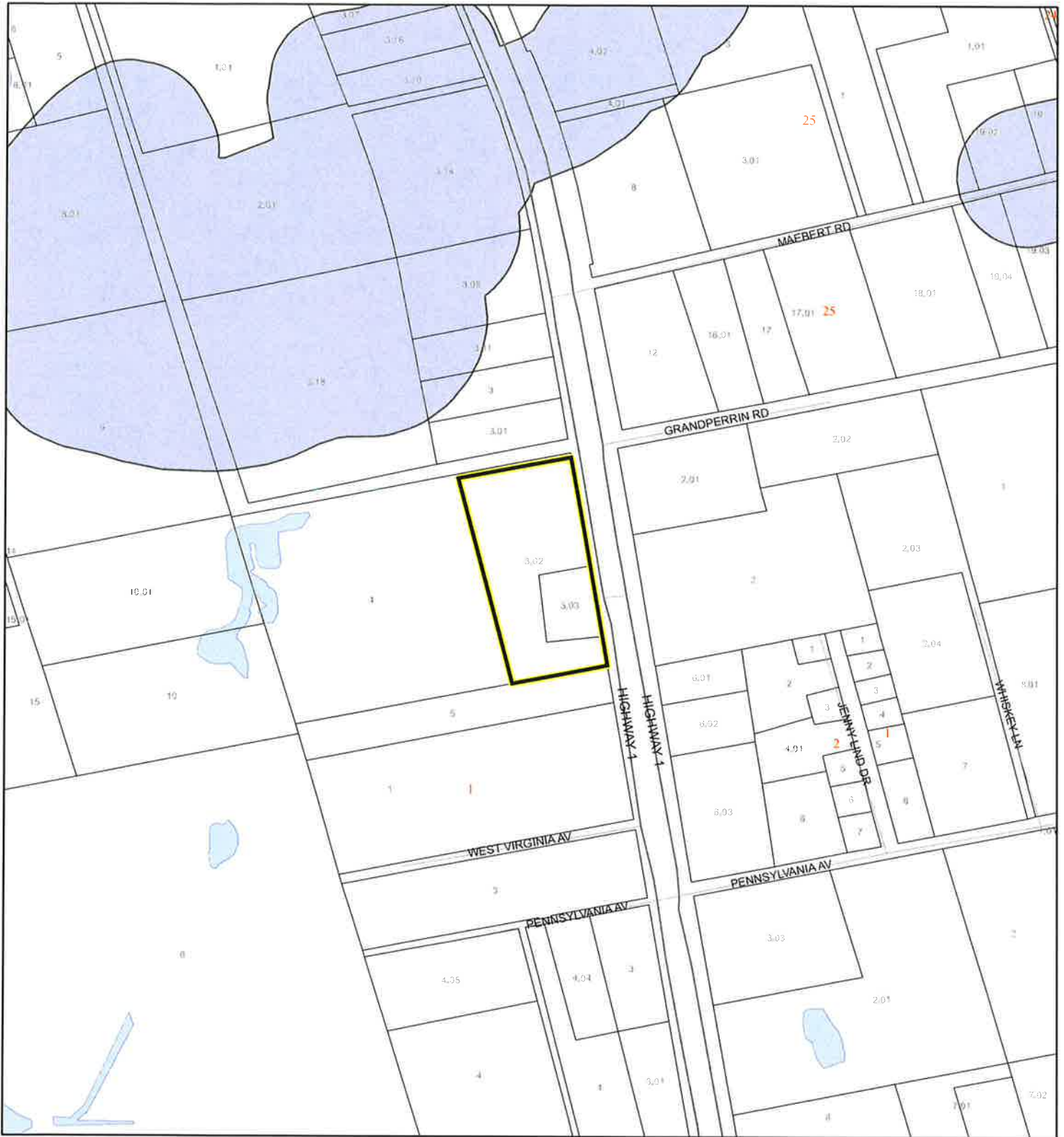
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

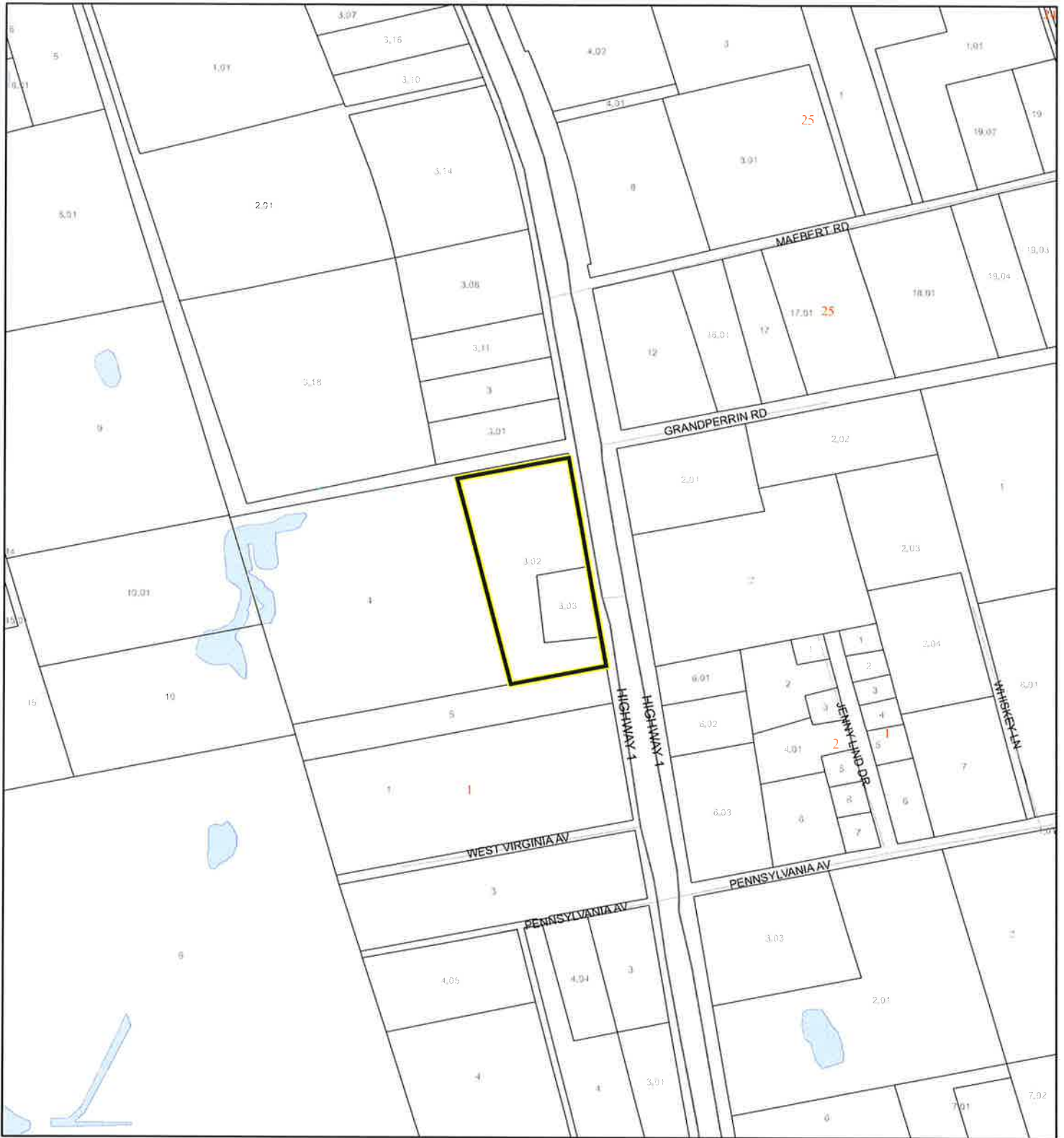
 60 Meters

 All Distances

EAGLE NESTS MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

 Subject Property

 Parcels

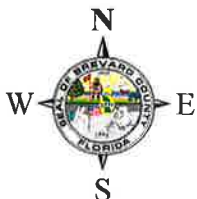
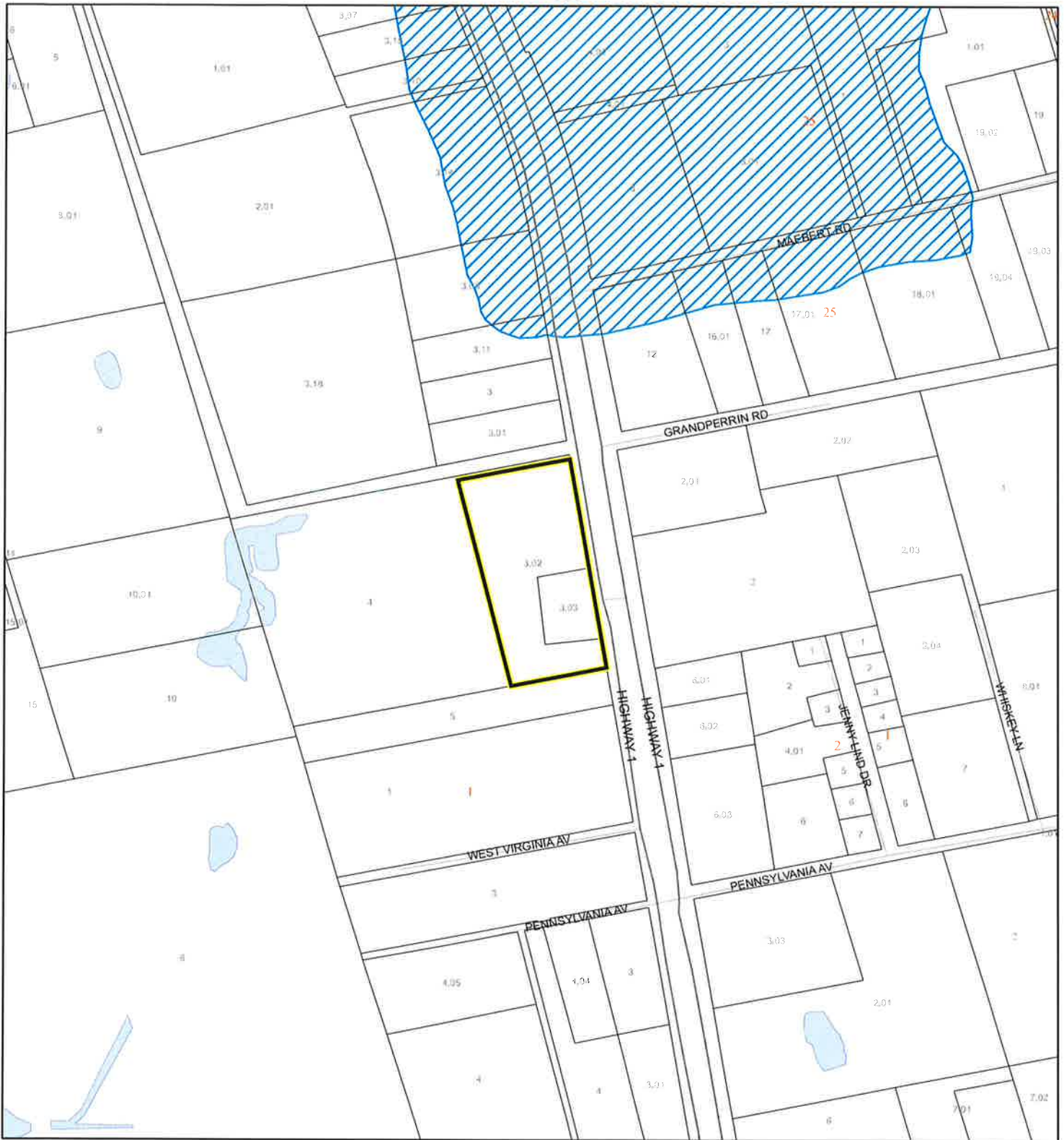


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

 Subject Property

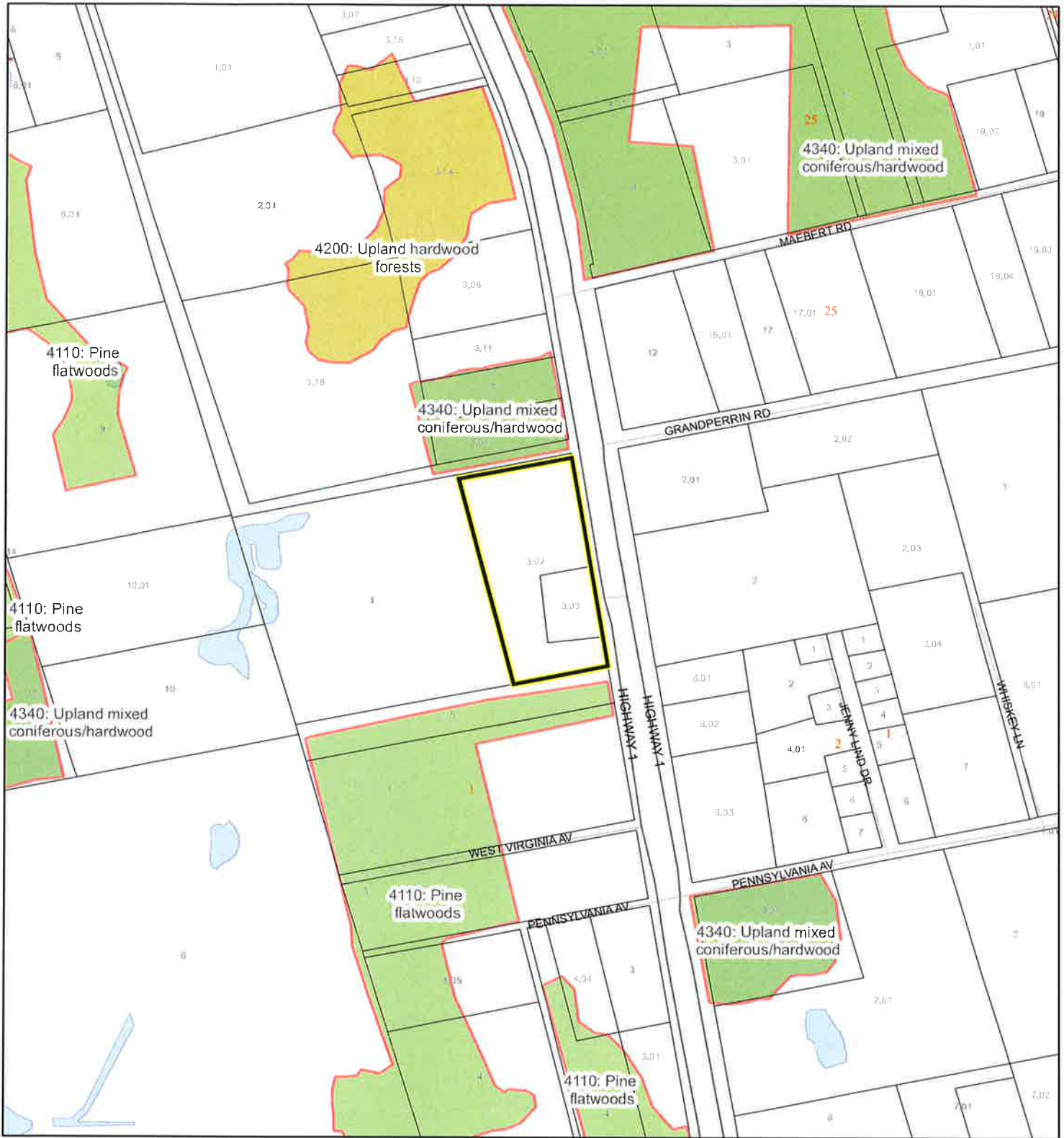
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Lori Ann Clark

23Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/11/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Paul Body, Senior Planner; Trina Gilliam, Senior Planner; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Lori A. Clark (Chace Bourdon)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 3.72 acres, located on the west side of U.S. Highway 1, approx. .45 miles south of Aurantia Rd. (4550 U.S. Highway 1, Mims) (23Z00069) (Tax Accounts 2004828 & 2004829) (District 1)

Chace Bourdon, 2965 Knox McRae Avenue, Titusville, stated he and his brother have owned a crane rental company for five years and have grown to four cranes and two trucks, and the subject property is a good location to be able to expand the business to Mims. He noted a fence is planned for around the property.

No public comment.

Ron Bartcher asked the location of the truck entrance and exit. Mr. Bourdon replied they are combining a smaller lot within a bigger lot, and the smaller lot has the driveway, and there is median access on U.S. Highway 1 that would be the northbound entrance, and the southbound entrance would be directly from U.S. Highway 1.

Jeffrey Ball stated access will be determined during site plan review and the engineers will look at what is designed and determine what the accesses will be as far as lining up with the median access already in place.

Mr. Bartcher asked if there will be a vegetative buffer along the front of the property. Mr. Bourdon replied yes, they plan to have something pleasing and presentable.

Mr. Ball stated landscaping will be addressed at the site plan stage, and it will have to meet code, not only along U.S. Highway 1, but also adjacent to residential.

Robert Sullivan asked the size of the cranes. Mr. Bourdon replied they started with a 45-ton and recently acquired at 250-ton crane. He said they are mostly operator maintained, and the employees are the operators and riggers.

Bruce Moia stated there is AU to the west and to the south, but not to the north, so by code there would have to be a wall on the west and south property boundary, but the residential driveway is on the north side of the property, but it's not zoned AU. He asked if a wall would have to be built along

the driveway because it's residential use. Mr. Ball replied yes, unless a waiver is requested to that section of code. He said staff looks at AU as being residential, so a wall would be required.

Paul Body stated there is no zoning on the stem, it may have been a paper road from Plat Book 2 in Indian River Park, but it isn't developed.

Mr. Moia stated there is a right-of-way and a flag stem for a driveway, so they can't access the roadway even if they wanted to, so they don't have frontage on the road to the north, but they do have a flag stem that is technically a residential use. He said he would think the County would want a barrier if the property is going to be used for outdoor storage of cranes.

Darcie McGee stated staff will look at the buffering between commercial and residential, but no matter the zoning, if it's a residential use the commercial use would need to be buffered.

Motion by Logan Luse, seconded by Bruce Moia, to approve the change of zoning classification from BU-1 to BU-2. The motion passed unanimously.