



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.6.

7/13/2023

Subject:

Church of Deliverance, Inc. (Javier & Abigail Acosta) request a change of zoning classification from IN(L) to RU-1-7. (23Z00027) (Tax Account 2417019) (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 a change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to RU-1-7 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from IN(L) to RU-1-7 for the purpose of allowing the applicants to demolish the current buildings and build a single-family residence. The current zoning classification can be considered consistent with the Future Land Use designation. The subject property is currently developed with a church and pastor's residence. The proposed RU-1-7 zoning classification permits single-family residences on 5,000 square-foot lots, with a minimum lot width of 50-feet and depth of 100 feet, and a minimum house size of 700 square feet. The current IN(L) zoning does not allow for single family residences separate from a religious facility.

This subject property is directly east of N. Tropical Trail and north of Sawyer Avenue. Within 500 feet there are four (4) zoning classifications: RU-1-7, BU-1 (General Retail Commercial), IN(L), and AU (Agricultural Residential). The closest RU-1-7 zoning classification are the immediate parcels to the north and east.

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

On June 12, 2023, the Planning and Zoning Board heard 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 23Z00027

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

WHEREAS, Church of Deliverance, Inc. requests a change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to RU-1-7 (Single-Family Residential), on property described as Tax Parcel 769, as recorded in ORB 8678, Pages 476 - 477, of the Public Records of Brevard County, Florida. **Section 22, Township 24, Range 36** (0.76 acres) Located on the northeast corner of Sawyer Ave. and N. Tropical Trail. (1350 N. Tropical Trail, Merritt Island); 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 IN(L) to all RU-1-7, 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 July 13, 2023.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on July 13, 2023.

ATTEST:



RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – June 12, 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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(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00027

Church of Deliverance, Inc.

IN(L) (Institutional Use, Low Intensity) to RU-1-7 (Single-Family Residential)

Tax Account Number: 2417019
Parcel I.D.: 24-36-22-00-769
Location: 1350 N. Tropical Trail, Merritt Island, FL 32953; East of N. Tropical Trail and north of Sawyer Ave. (District 2)
Acreage: 0.76 acres
Planning & Zoning Board: 6/12/2023
Board of County Commissioners: 7/13/2023

Consistency with Land Use Regulations

- Current zoning is not consistent with 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	IN(L)	RU-1-7
Potential*	Church and pastor's residence	Single-family residence
Can be Considered under the Future Land Use Map	Yes RES 15	Yes RES 15

* 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 IN(L) (Institutional Use, Low Intensity) to RU-1-7 (Single-family Residential) for the purpose of allowing the applicants to demolish the current buildings and build a single-family residence. The current zoning classification is consistent with the Future Land Use designation. The subject parcel is currently developed with a church and pastor's residence.

The subject parcel was originally recorded in Official Record Book 318, Pages 654 & 656 August 23, 1960. The parcel went through an Administrative Rezoning (**Z-10985(47)**) to a new classification, RU-1-7 with a Conditional Use Permit (**Z-3667**) for a church to IN(L) and removal of Conditional Use Permit, which took effect December 2, 2004. The current IN(L) zoning classification does not allow for a single-family residence. This request would be putting it back into its original classification.

Land Use

The subject property is currently designated as Residential 15 (RES 15) FLU. The proposed RU-1-7 zoning can be considered consistent with the existing Residential 15 FLU designation per Sec. 62-1255.

Applicable Land Use Policies

FLUE Policy 1.4 –The Residential 15 Future land use designation. The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) unites per acre. RES 15 FLU requires access to sewer and potable water.

The applicant's request can be considered consistent with the existing Future Land Use.

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

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

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

Criteria:

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

The proposed single-family residence is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- 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 Master Appraiser Institute (MAI) appraisal can determine if material reduction has or will occur due to the proposed request.

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

- 1. historical land use patterns;

The surrounding area is institutional, low-density residential and undeveloped low-density residential in character. There are three (3) land use designations within 500-feet of this site: RES 15 (Residential 15), RES 4 (Residential 4), and RES 1 (Residential 1). There have been no FLU amendments within the past three (3) years.

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

There has been one (1) residential development within this area over the preceding three (3) years:

- **21BC19612 was a single-family residence completed January 11, 2023, approximately 0.4-miles to the north of the subject property.**

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

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

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The applicant is requesting to change the zoning classification from IN(L) to RU-1-7 on 0.76-acres to develop as a single-family residence. There is an existing pattern of single-family residence land uses surrounding the subject parcel.

To the east of N. Tropical Trail is residential in character with single-family homes on lots ranging in size from approximately 0.17-acres to 5.37-acres. Across N. Tropical Trail to the west the lots range from 0.18-acres to 8.04-acres in size and are residential in character. To the north are both institutional and residential parcels ranging from 0.34-acres to 2.23-acres. To the south across Sawyer Ave. are commercial, institutional, agricultural and residential land uses. The lots range from 0.39-acres to 5.22-acres.

- 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.

This developed parcel is directly east of N. Tropical Trail and north of Sawyer Ave. Within 500-feet there are four (4) zoning classifications: RU-1-7 (Single-family Residential), BU-1 (General Retail Commercial), IN(L) (Institutional Use - Light) and AU (Agricultural Residential). The closest RU-1-7 zoning classification is the immediate parcel to the north and also the parcel to the east.

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

The request is not for commercial use. It is located in an existing residential area.

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.

The area is primarily single-family residential along with institutional and a commercial use.

- **Zoning Resolution 21Z00024 was approved by the Board on November 4, 2021 approximately 0.4-miles southeast of the subject property, rezoning from AU to RU-1-11, on 0.24 acres.**
- **Zoning Resolution 21Z00007 was approved by the Board on May 27, 2021 approximately 0.3-miles north of the subject property, rezoning from RU-2-30 to RU-2-15.**
- **Zoning Resolution 20Z00033 was approved by the Board on May 11, 2021 approximately 535-feet southeast of the subject property, rezoning from RU-1-7 and RU-2-30 to RU-2-12 with a BDP limiting the development of the lot to 85 units.**
- **Small Scale Comprehensive Plan Amendment application, 22SS00001 (22S.04), was approved by the Board on May 31, 2022 approximately 0.3-miles northwest of the subject property, changing the FLU from RES 1 to RES 4.**

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	RU-1-7	RES 15
South	Single-family residence	RU-1-7	RES 15
East	Single-family residence	RU-1-7	RES 15
West	2 Undeveloped parcels & 2 Single-family residences	RU-1-9	RES 4

The existing IN(L) zoning classification provides private, nonprofit or religious uses which are intended to service the needs of the public for facilities of an educational, religious, health or cultural nature. Place of Worship is permitted with conditions in this classification.

The proposed RU-1-7 zoning classification permits single-family residences on 5,000 sq. ft. lots, with a minimum lot width of 50-feet and depth of 100 feet. The minimum house size in RU-1-7 is 700 square feet.

The RU-1-9 zoning classification permits single-family residences on an area of not less than 6,600 square feet having a width of not less than 66-feet and depth of not less than 100-feet. The minimum house size is 900 square feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between Lucas Rd. and Crockett Blvd., which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 25.58% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 25.64% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is within the Brevard County utilities service area for sewer with the main line being both on Sawyer Ave. as well as N. Tropical Trail. The parcel has access to Cocoa City Water at the corner of Sawyer Ave. and N. Tropical Trail.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00027

Applicant: Javier & Abigail Acosta

Zoning Request: IN(L) to RU-1-7

Note: Rezone for single-family residence

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

Tax ID No: 2417019

- 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
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach-Urban land complex) 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

Page 7

restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

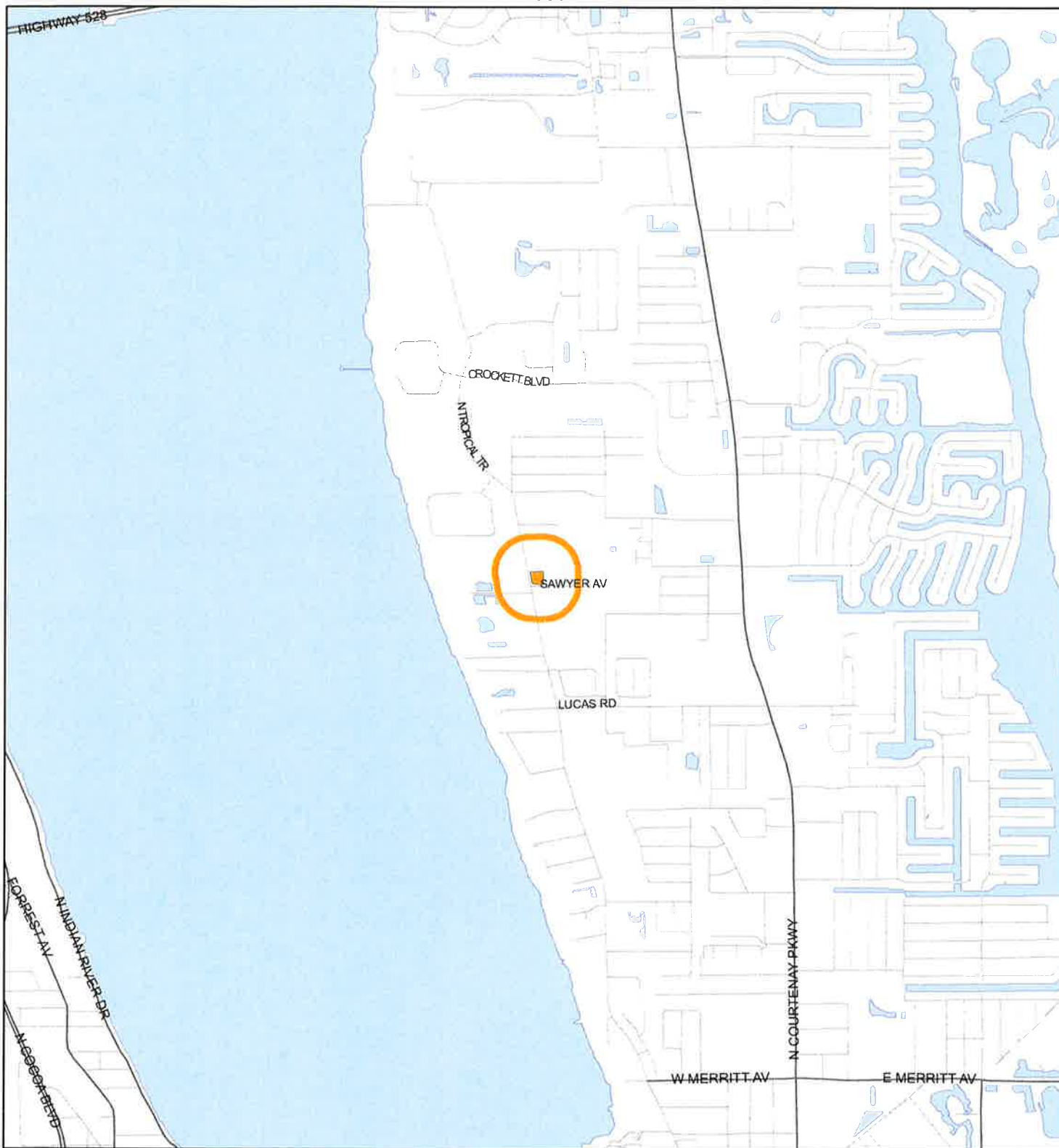
Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

CHURCH OF DELIVERANCE INC

23Z00027





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.

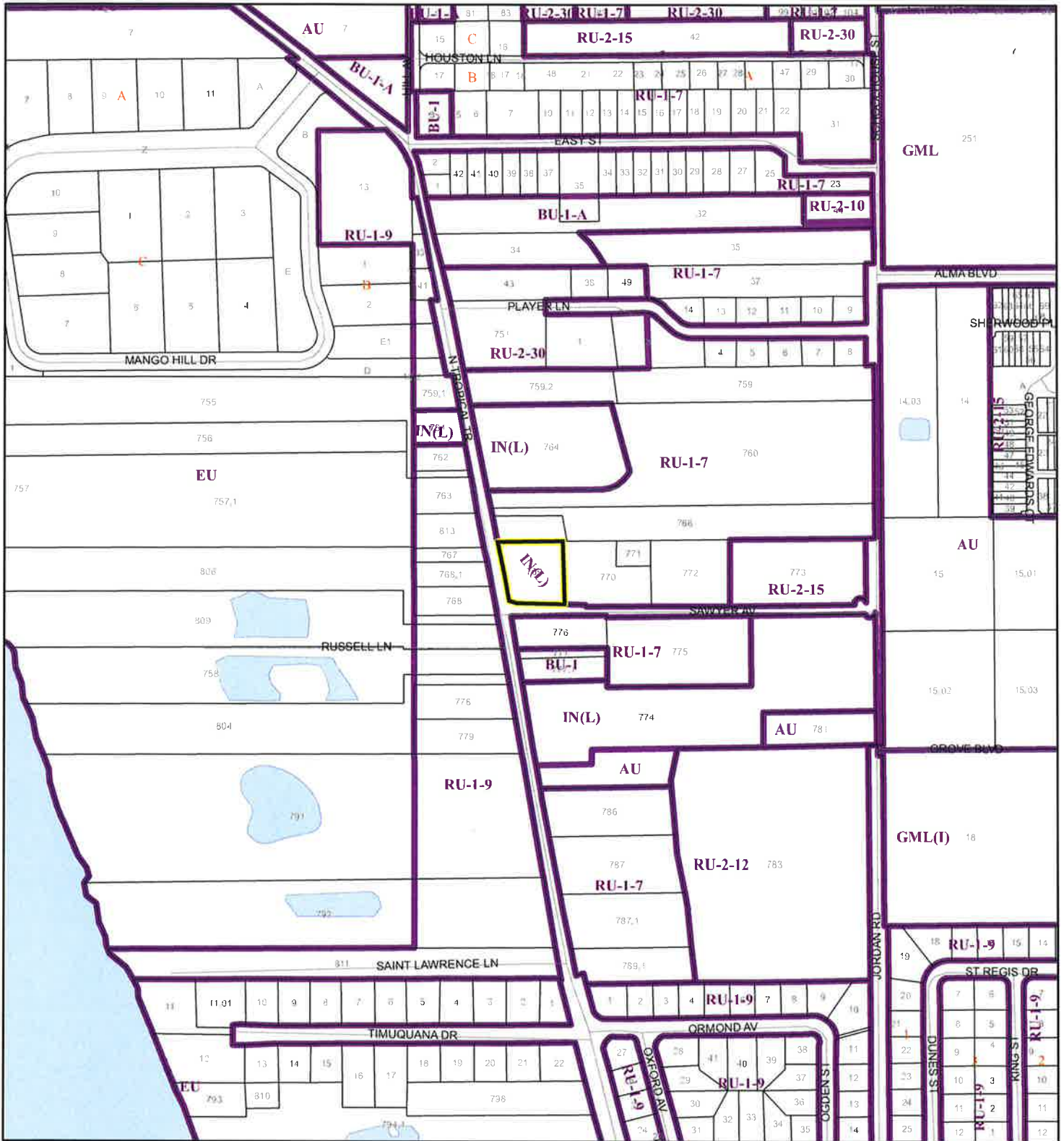
Produced by BoCC - GIS Date: 4/19/2023

-  Buffer
-  Subject Property

ZONING MAP

CHURCH OF DELIVERANCE INC

23Z00027



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.

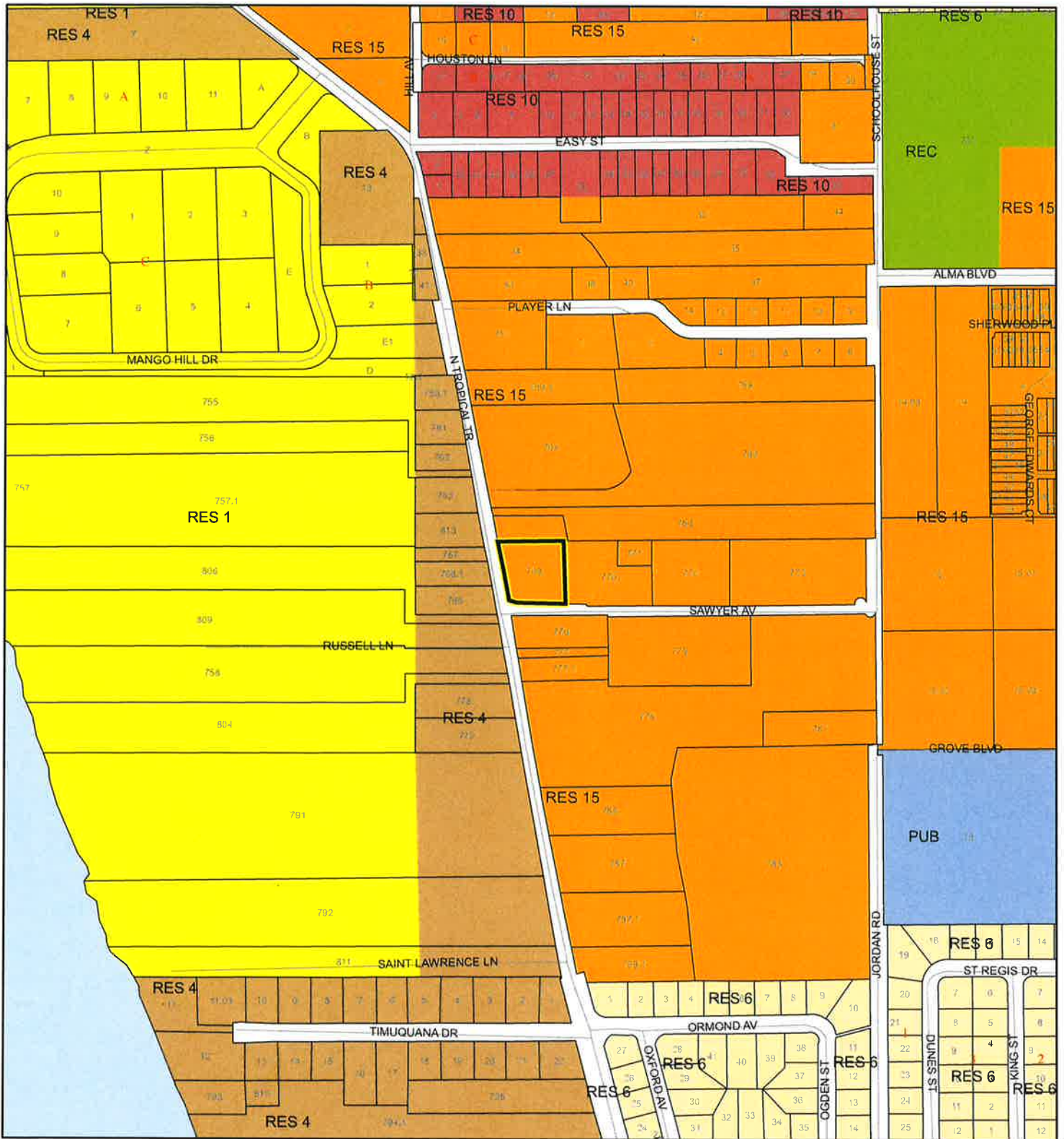
Produced by BoCC - GIS Date: 4/10/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 4/10/2023

AERIAL MAP
CHURCH OF DELIVERANCE INC
23Z00027





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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Produced by BoCC - GIS Date: 4/10/2023

 Subject Property
 Parcels

NWI WETLANDS MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

SJRWMD FLUCCS WETLANDS

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

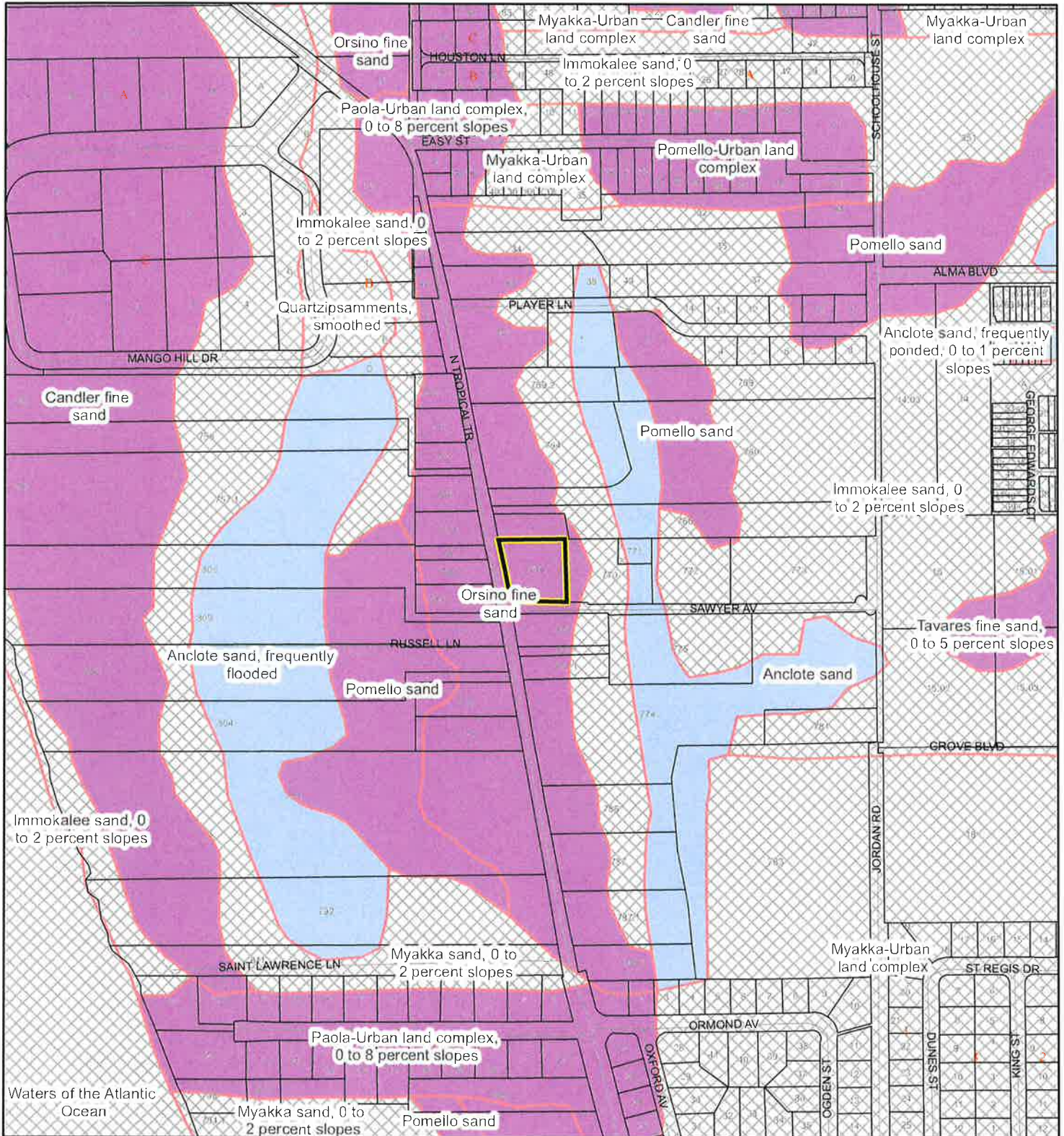
Subject Property

Parcels

USDA SCSSS SOILS MAP

CHURCH OF DELIVERANCE INC

23Z00027

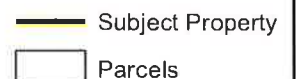


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

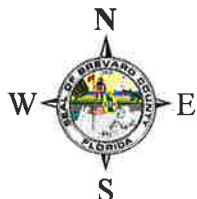
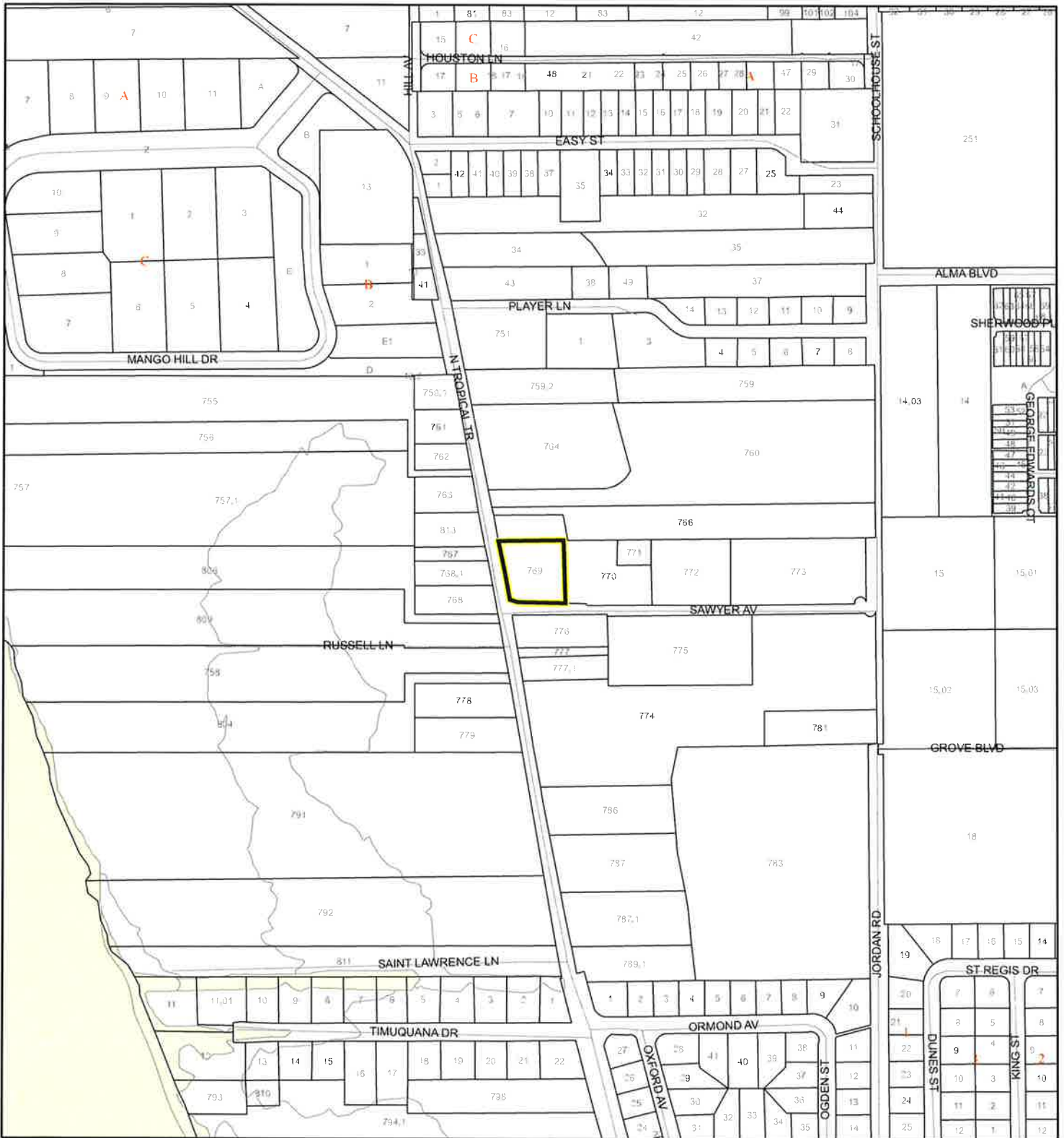
USDA SCSSS Soils



FEMA FLOOD ZONES MAP

CHURCH OF DELIVERANCE INC

23Z00027

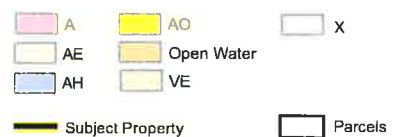


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

FEMA Flood Zones



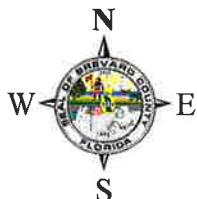
COASTAL HIGH HAZARD AREA MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet



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Produced by BoCC - GIS Date: 4/10/2023

 Subject Property

 Parcels

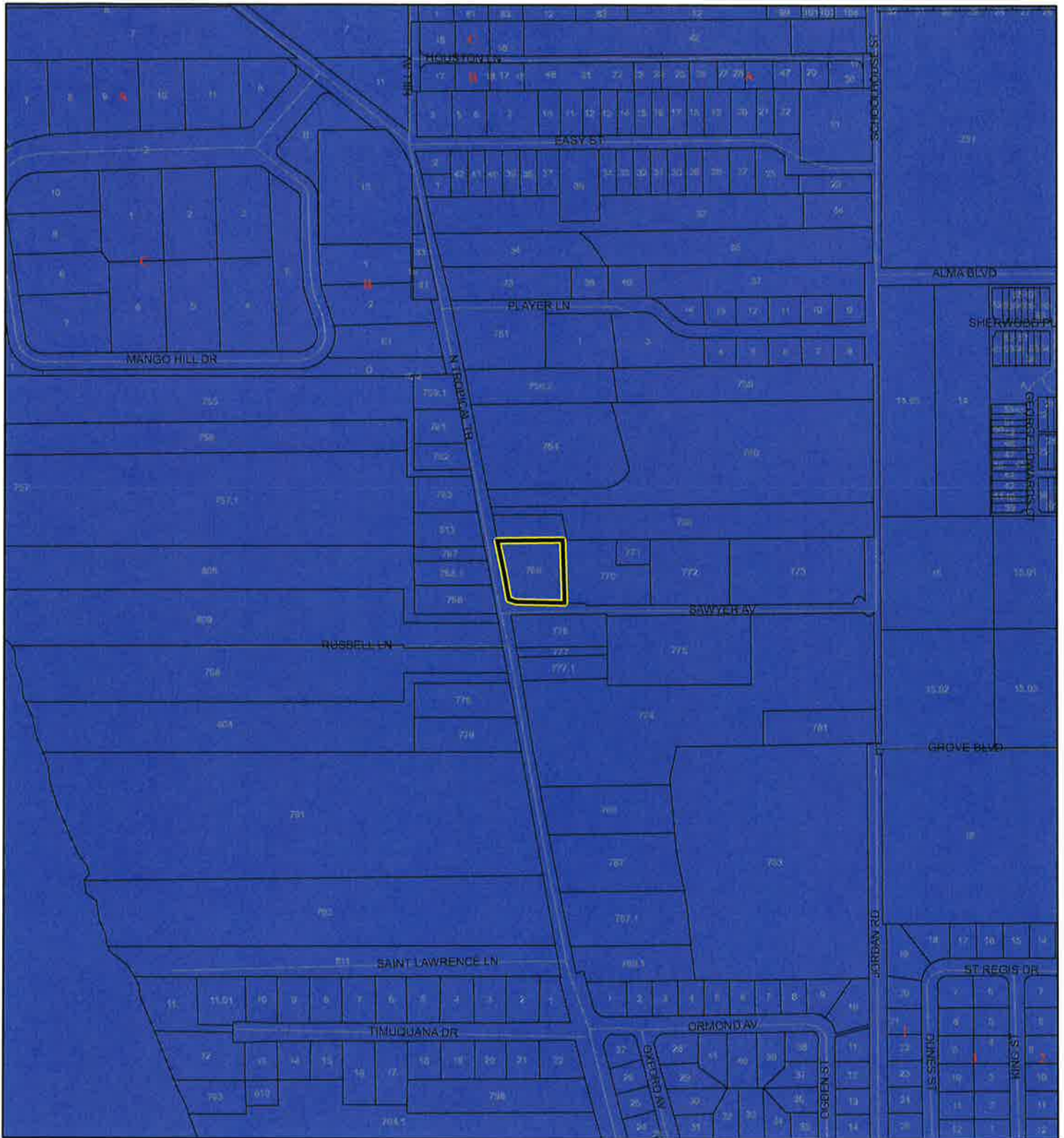
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

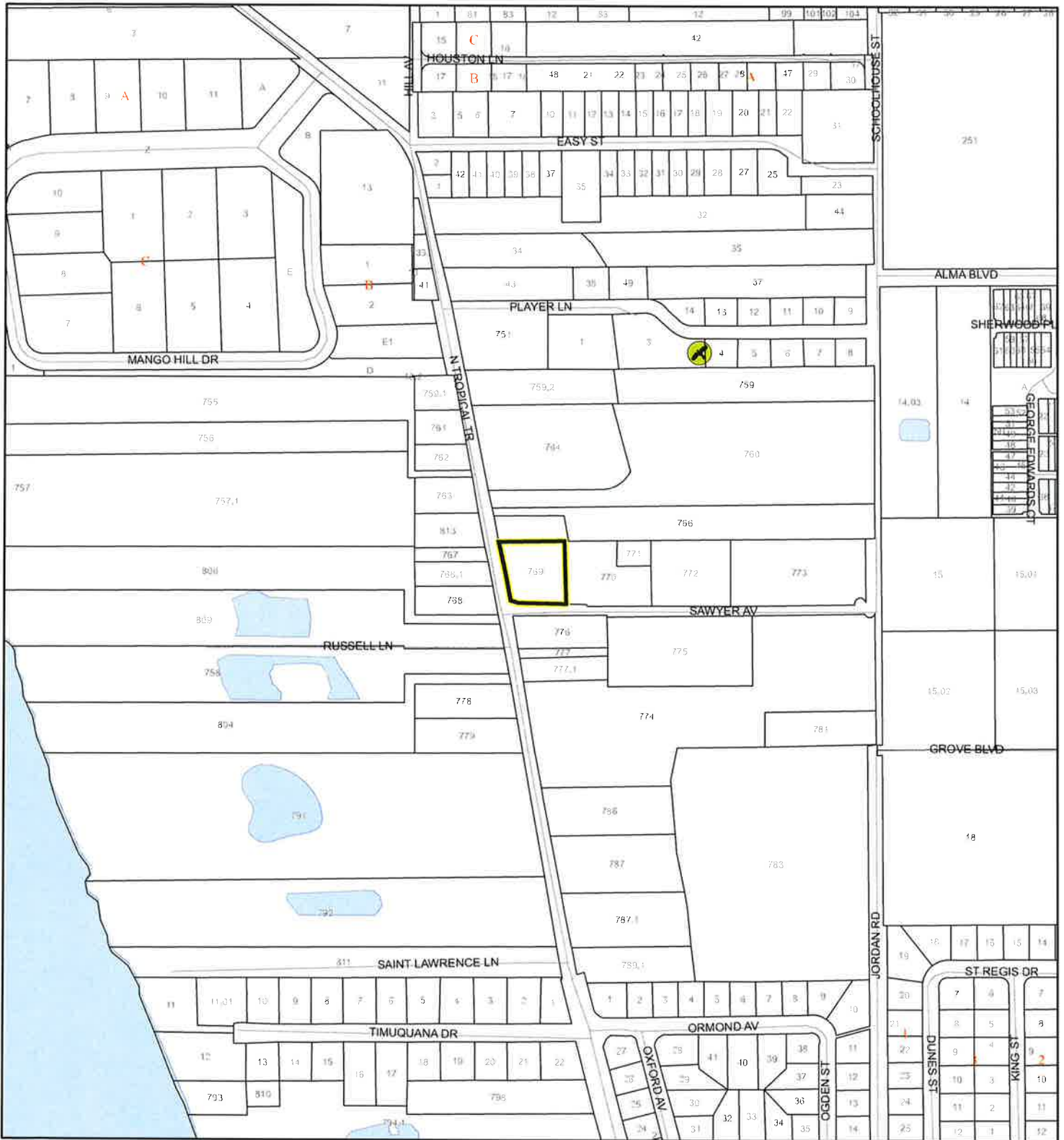
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

 Subject Property

 Parcels

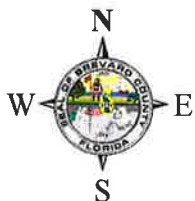
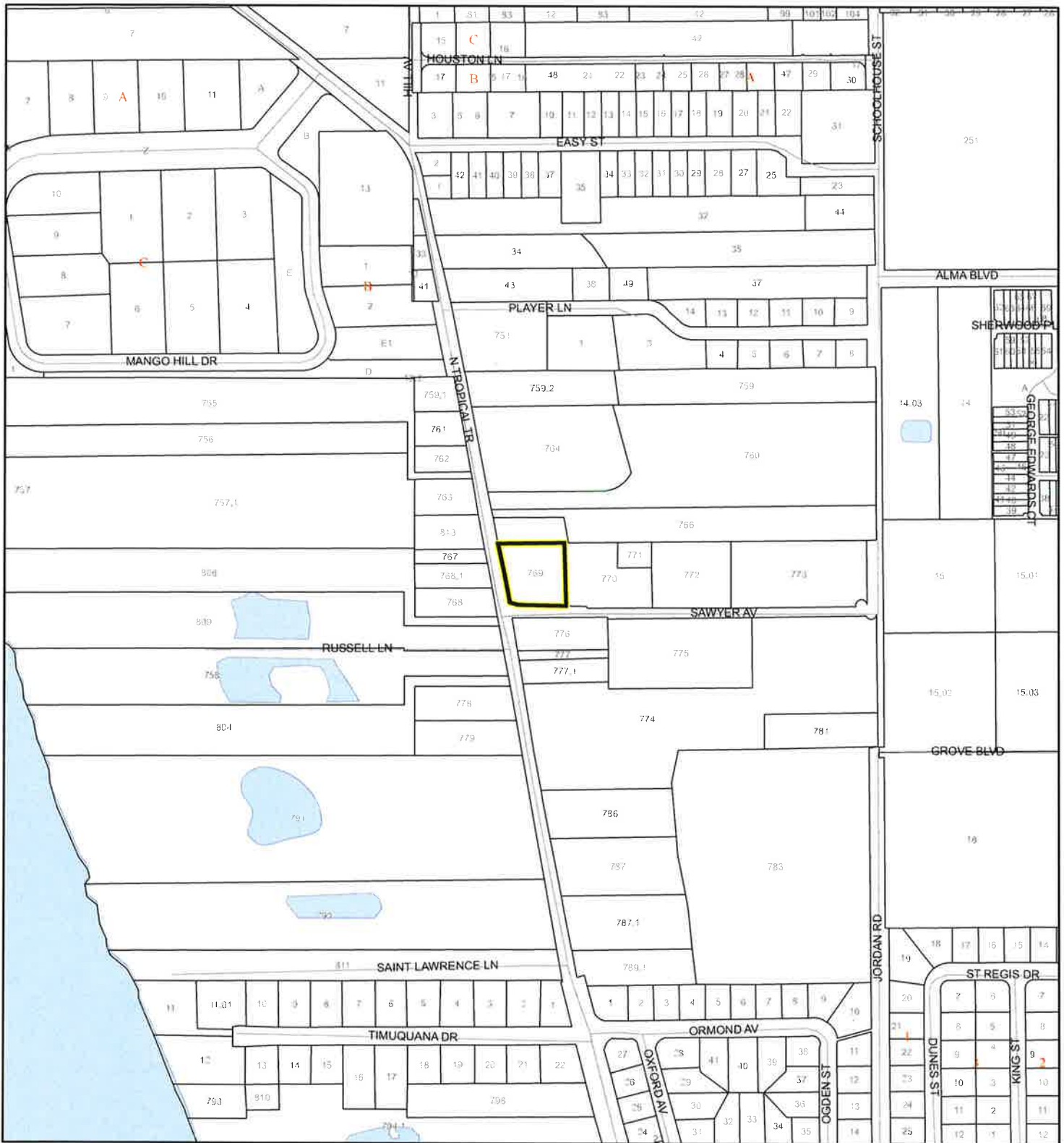


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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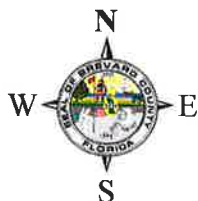
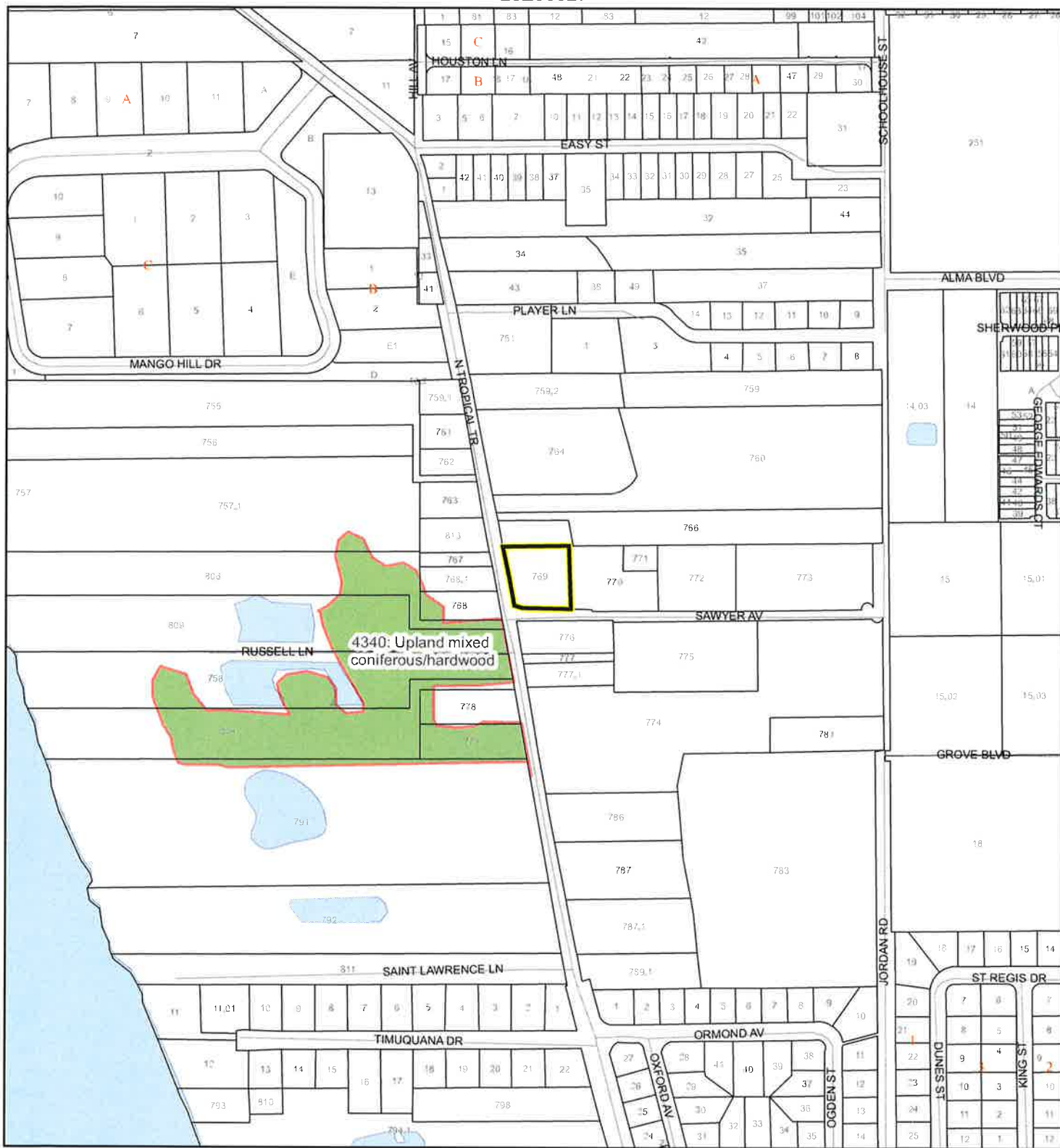
Produced by BoCC - GIS Date: 4/10/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CHURCH OF DELIVERANCE INC

23Z00027



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/10/2023

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, June 12, 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); Brian Hodggers (D2); Lorraine Koss (D2-Alt.); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Robert Brothers (D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Church of Deliverance, Inc. (Javier & Abigail Acosta)

A change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to RU-1-7 (Single-Family Residential). The property is 0.76 acres, located on the northeast corner of Sawyer Ave. and N. Tropical Trail. (1350 N. Tropical Trail, Merritt Island) (23Z00027) (Tax Account 2417019) (District 2)

Abigail Acosta, 6502 Kingsville Way, Zionsville, Indiana, stated the church has been on the market for over a year before she suggested converting it to a single-family residence, which she would like to have as her home. She said she chose the RU-1-7 zoning classification because it is consistent with the houses and vacant lots to the east of the property. She said the plan is to use the same building footprint as the church.

No public comment.

Sherry Scott, 4025 E. Railroad Avenue, Cocoa, stated she is the President of the Church of Deliverance, and the church supports the request. She further stated the church is downsizing because the congregation has downsized dramatically, and they are looking for a smaller location.

John Hopengarten asked if there was a cemetery on the property.

Henry Minneboo replied he knows the neighborhood well, and the property has never had a cemetery.

Motion by Henry Minneboo, seconded by Brian Hodggers, to recommend approval of a change of zoning classification from IN(L) to RU-1-7. The motion passed unanimously.