



AGENDA REPORT
March 7, 2019

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer) request a Small Scale Comprehensive Plan Amendment from PI to RES 1. (18PZ00143) (District 2)

SUBJECT:

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer) request a Small Scale Comprehensive Plan Amendment from PI (Planned Industrial) to RES 1 (Residential 1). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island) (18PZ00143) (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 Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1).

SUMMARY EXPLANATION and BACKGROUND:

This request is seeking a change in Future Land Use (FLU) designation from Planned Industrial (PI) to Residential 1 (RES 1) on a 1.21 acre parcel. This area of Unincorporated Brevard County is comprised of mainly Industrial (IND), Planned Industrial (PI) and Residential 1 (RES 1). Some of the industrially developed land is developed with single-family residences and the closest industrially developed parcel is across North Courtenay Parkway.

A preliminary concurrency analysis indicates that the proposed change in FLU designation would not result in any impacts to level of service. The portion of D'Albora Road along the northerly portion of the subject parcel is substandard to the typical 50 feet section and maintained as a prescriptive right-of-way by Brevard County, with no formal right-of-way dedication.

The Board may wish to consider if changing the Future Land Use (FLU) designation from Planned Industrial (PI) to Residential 1 (RES 1) is consistent with the surrounding

development patterns. The Board may also wish to consider if the development potential of the RES 1 is too intense for the existing right-of-way for D'Albora. This request is accompanied by a companion proposal for a change of zoning classification from Planned Industrial Park (PIP) to Rural Residential (RR-1).

On February 14, 2019, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

On February 25, 2019, the Local Planning Agency heard the request and unanimously recommended approval.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **Public Comment**
- ▢ **North Merritt Island Minutes**
- ▢ **LPA-PZ Minutes**



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 8, 2019

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

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 19-04, which was filed in this office on March 8, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

March 8, 2019

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.1., Ordinance Adopting Small Scale Plan Amendment 19S.02

The Board of County Commissioners, in regular session on March 7, 2019, adopted Ordinance No. 19-04, setting forth Small Scale Plan Amendment 19S.02, to change the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1). Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

Encl. (1)

ORDINANCE NO. 19-04

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIRST SMALL SCALE PLAN AMENDMENT OF 2019, 19S.02, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2019 as Plan Amendment 19S.02; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 19S.02; and

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

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

Officially filed with the Secretary of State on March 8, 2019

WHEREAS, on February 14, 2019, the North Merritt Island Dependent Special District held a duly noticed public hearing on Plan Amendment 19S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on February 25, 2019, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 19S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on March 7, 2019, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 19S.02; and

WHEREAS, Plan Amendment 19S.02 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 19S.02 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 19S.02 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 19S.02, shall amend the 1988 Comprehensive Plan and become part of that plan and the

plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Community Affairs, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 7 day of March, 2019.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Kristine Ishardi, Chair

As approved by the Board on March 7, 2019.

EXHIBIT A
19S.02 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

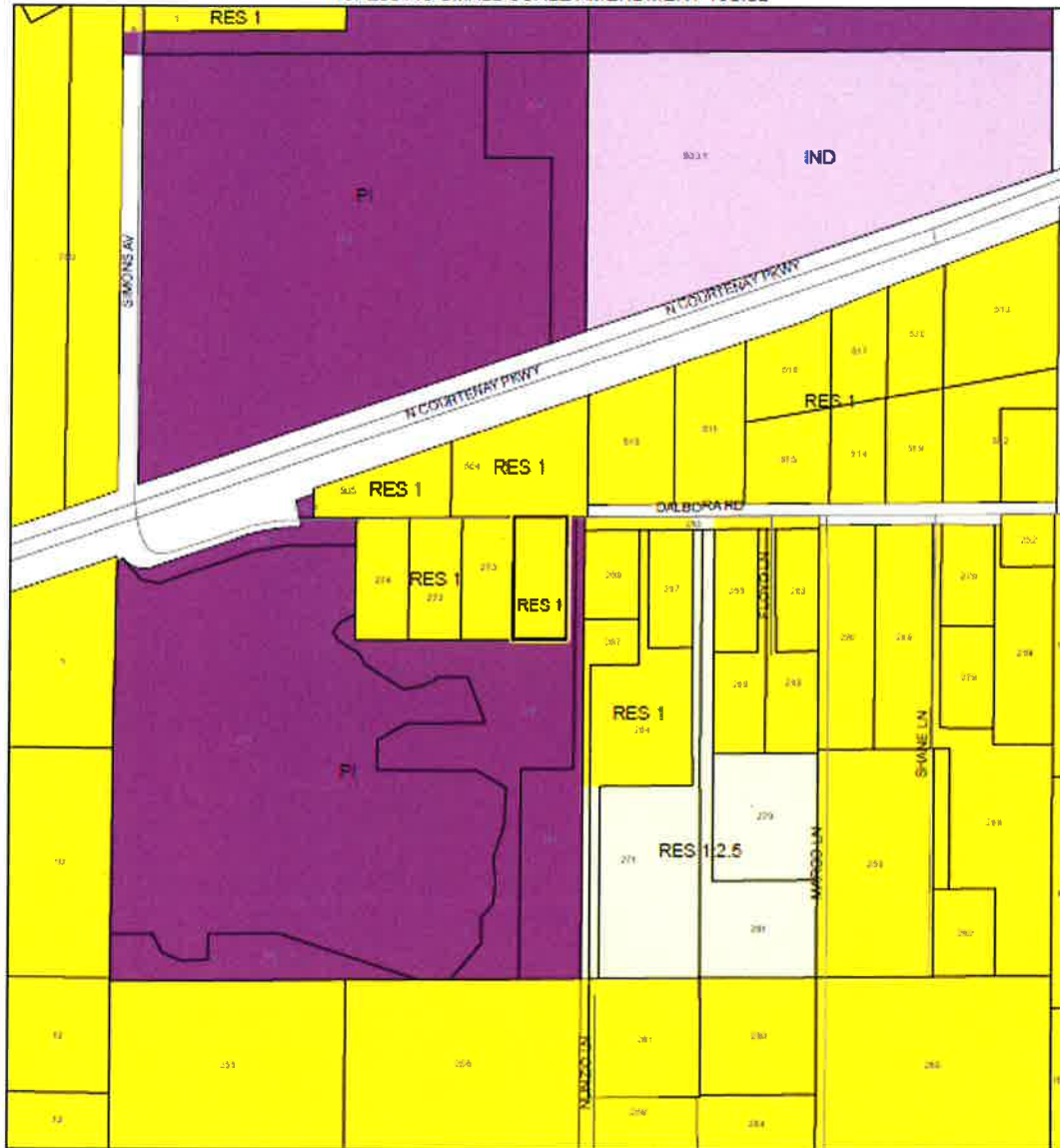
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE

18PZ00143 SMALL SCALE AMENDMENT 10S.02



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 12/11/2018

EXHIBIT B
FINDINGS OF FACT

Contents

1. Legal Description

AD#3346796, 1/24/2019

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the North Merritt Island Dependent Special District Board, Local Planning Agency, and the Board of County Commissioners will consider the following requests on THURSDAY, FEBRUARY 14, 2019; MONDAY, FEBRUARY 25, 2019; and THURSDAY, MARCH 7, 2019. DISTRICT 2 1. (18P200143) - FREDERICK SCOTT AND ALICE ADA LOUISE DENLINGER - (Joe Mayer) - requests a Small Scale Comprehensive Plan Amendment from PI (Planned Industrial) to RES 1 (Residential 1), on property described as Tax Parcel 292, as recorded in ORB 8059, Pages 1425 - 1426, of the Public Records of Brevard County, Florida, Section 24, Township 23, Range 36, (1.21 acres) Located on the south side of D'Albora Rd., approximately 0.21 miles east of N. Courtenay Pkwy. (1385 D'Albora Rd., Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 195.02: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 2. (18P200142) - FREDERICK SCOTT AND ALICE ADA LOUISE DENLINGER - (Joe Mayer) - requests a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential), on property described as Tax Parcel 292, as recorded in ORB 8059, Pages 1425 - 1426, of the Public Records of Brevard County, Florida, Section 24, Township 23, Range 36, (1.21 acres) Located on the south side of D'Albora Rd., approximately 0.21 miles east of N. Courtenay Pkwy. (1385 D'Albora Rd., Merritt Island) Public Hearing before the North Merritt Island Dependent Special District Board will be held at the Merritt Island Service Complex, 2575 N. Courtenay Pkwy., 2nd Floor, Merritt Island, Florida, on THURSDAY, FEBRUARY 14, 2019 at 6:00 P.M. Public hearing before the Planning and Zoning Board/Local Planning Agency will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on MONDAY, FEBRUARY 25, 2019, at 3:00 P.M. The final public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MARCH 7, 2019, at 5:00 P.M. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department. Per Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator II.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in

existing neighborhoods within the area which could foreseeably be affected by the proposed use;

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) *General standards of review.*

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
 - a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the

numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

Current Volume: Building permit related trips added to the latest MPO traffic counts.

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

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

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

Acceptable Level of Service (ALOS): Acceptable Level of Service currently adopted by the County.

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 19S.02 (18PZ00143)
Township 23, Range 36, Section 24

Property Information

Owner / Applicant: **Frederick Scott and Alice Ada Louise Denlinger**

Adopted Future Land Use Map Designation: Planned Industrial (PI)

Requested Future Land Use Map Designation: Residential 1 (Res 1)

Acreage: 1.21 acres Tax Account #: 3017216

Site Location: South side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway

Current Zoning: Planned Industrial Park (PIP)

Requested Zoning: Rural Residential (RR-1)

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant	AU	RES 1
South	Single-Family Residence	PIP	PI
East	Unapproved Flag Stem to SFR to the south	PIP	PI
West	Vacant	RR-1	RES 1

Background & Purpose

The applicant is seeking to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on a parcel totaling 1.21 acres. The subject parcel is located within Unincorporated Brevard County in North Merritt Island on the south side of D'Albora Road, just east of North Courtenay Parkway.

The subject property was split from the adjacent 6.77 acre flag lot parcel to the east and south which is zoned PIP and developed with a single-family residence. The adjacent parcel to the west is zoned RR-1 and is a vacant parcel. The adjacent parcel to the north is zoned Agricultural Residential (AU) is also vacant with no development.

The existing Planned Industrial (PI) Future Land Use designation has remained since the County adopted the Brevard County Comprehensive Plan to include a Future Land Use Map and a Residential Density Map in 1988. There has been a trend within this area that has changed the Future Land Use designation from Planned Industrial (PI) to Residential 1:2.5 (RES 1.25) and Residential 1 (RES 1) on surrounding parcels. In 2002,

approximately 3.06 acres were changed from a PI to a RES 1:2.5 Future Land Use designation. In 2003, approximately 3.615 acres of land located on the south side of D'Albora Road, approximately seven hundred feet (700') southeast of State Road 3 (SR 3), were changed from a Planned Industrial (PI) Future Land Use designation to a Residential 1 (RES 1) Future Land Use designation.

The property is located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. Along both D'Albora Road to the south and North Courtenay Parkway to the north, Residential Future Land designations are most prominent. To the south of this parcel, the Future Land Use designation is Planned Industrial but the parcel has been developed with a single-family residence, which is permissible within the Planned Industrial Park (PIP) Zoning classification. Directly to the north of this overall parcel across North Courtenay Parkway to the north is an approximately 26.32 acre parcel with a Planned Industrial Future Land Use designation that is undeveloped and the 17.45 acre parcel to the east of that has been developed with the Air Liquide industrial plant.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the Zoning classification from Planned Industrial Park (PIP) to Rural Residential (RR-1).

Environmental Resources

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

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Residential 1 (maximum of 1 unit per acre)

Policy 1.9

The Residential 1 (RES 1) land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 (RES 1) land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 (RES 1) land use designation; or

The subject parcel is located adjacent to RES 1 to the north and west and Planned Industrial (PI) to the east and south. The property to the south has been developed with a single-family residence, despite having an Industrial designation.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser density; or

The general area surrounding this parcel has RES 1 to the north and west and PI to the east and south. The area surrounding the subject property is all RES 1, except for the area comprised mostly of wetlands which retains the PI Future Land Use designation, but is developed with a single-family residence. The density reduces to RES 1:2.5 to the east, along D'Albora Road. The closest industrially developed parcel is across North Courtenay Parkway.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1 (RES 1).

This area south of D'Albora Road and North Courtenay Parkway is not adjacent to an incorporated area.

- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized by properties with the CHHA.

The 1.2 acre parcel does not qualify be developed as a Planned Unit Development (PUD) because it does not meet the minimum criteria of ten (10) acres or greater.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not generate traffic that would cause deficiency of adopted roadway levels of service. Today, based upon the 2017 traffic counts, the traffic capacity indicates that this section of North Courtenay Parkway from State Road 528 (SR 528) to Space Commerce Way is at 38.20% of the maximum acceptable volume (MAV). With this proposal to change the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) the MAV would increase to 38.22%.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Planned Industrial (PI) to Residential 1 (RES 1) on a 1.21 acre parcel. This area of Unincorporated Brevard County is comprised of mainly Industrial (IND), Planned Industrial (PI) and Residential 1 (RES 1). Some of the industrially developed land is developed with single-family residences and the closest industrially developed parcel is across North Courtenay Parkway.

A preliminary concurrency analysis indicates that the proposed change in FLU designation would not result in any impacts to level of service. The portion of D'Albora Road along the northerly portion of the subject parcel is a prescriptive right-of-way that Brevard County maintains, with no formal right-of-way dedication. The applicants should be aware that 33 feet of right-of-way should be dedicated when the subject parcel is developed, which is in-line with the right-of-way dedication/acquisition to the east of this parcel.

This request is accompanied by a companion proposal for a change of Zoning classification from Planned Industrial Park (PIP) to Rural Residential (RR-1).

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review
SUMMARY

Item #: 18PZ00143

Applicant: Frederick & Alice Denlinger

Future Land Use Request: PI to RES 1

NMI Hearing Date: 02/14/19; P&Z Hearing Date: 02/25/19; BCC Hearing Date: 03/07/19

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

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

Comments:

This review relates to the following property: Twp. 23, Rng. 36, Sec. 24;

Tax ID No. 3017216

The subject parcel contains mapped SJRWMD wetlands and hydric soils (Bradenton fine sand-limestone substratum, Copeland-Bradenton-Wabasso complex limestone substratum, and Riviera & Winder soils) as shown on the SJRWMD Florida Land Use & Cover Codes and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Sec. 65-3694(c)(1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Sec. 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and

62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any plan or permit submittal.

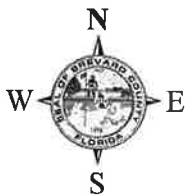
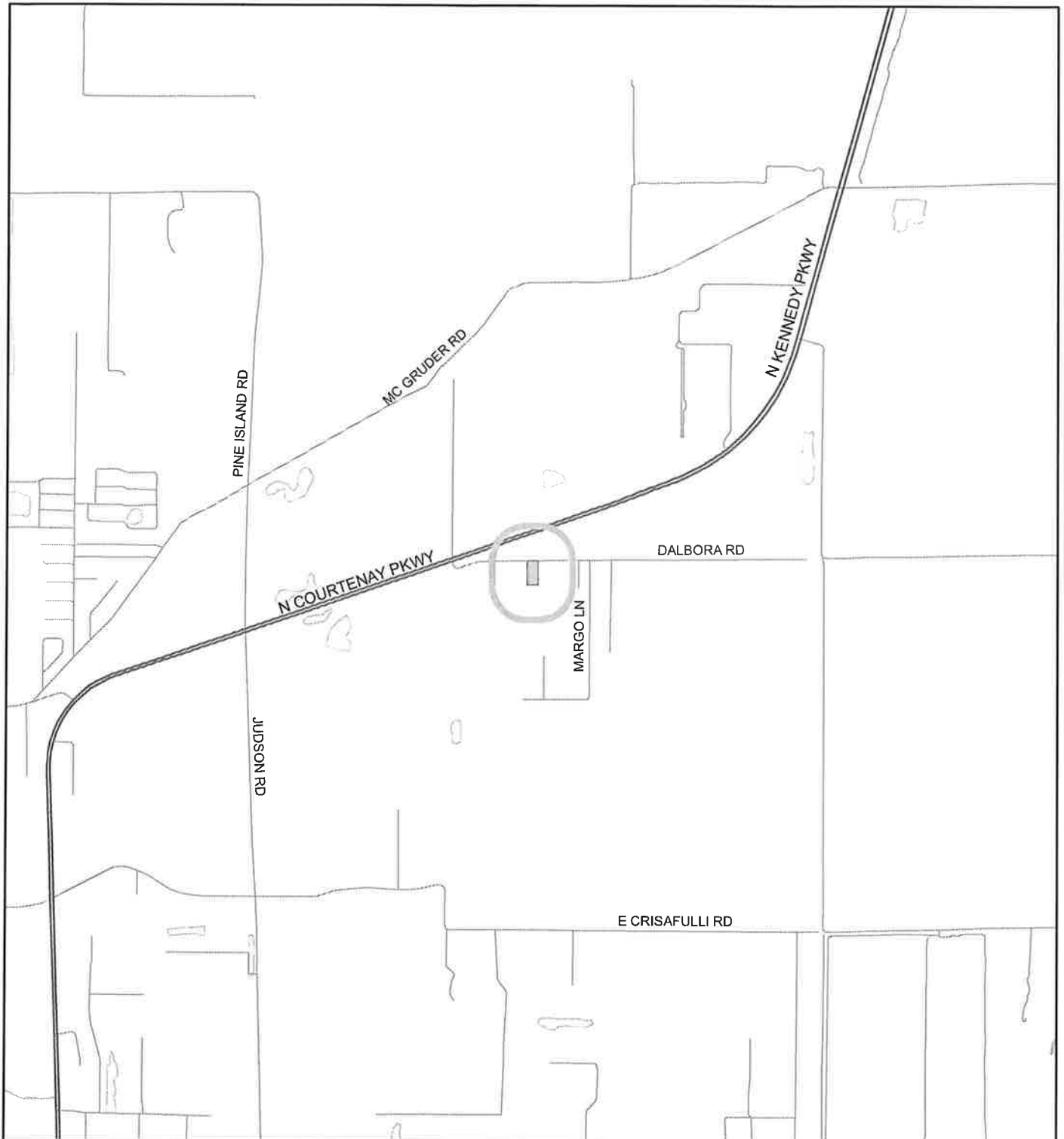
Portions of the property are mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA), and as shown on the attached FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

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

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



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

Buffer Distance: 500 feet

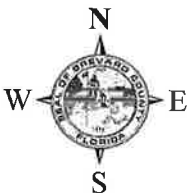
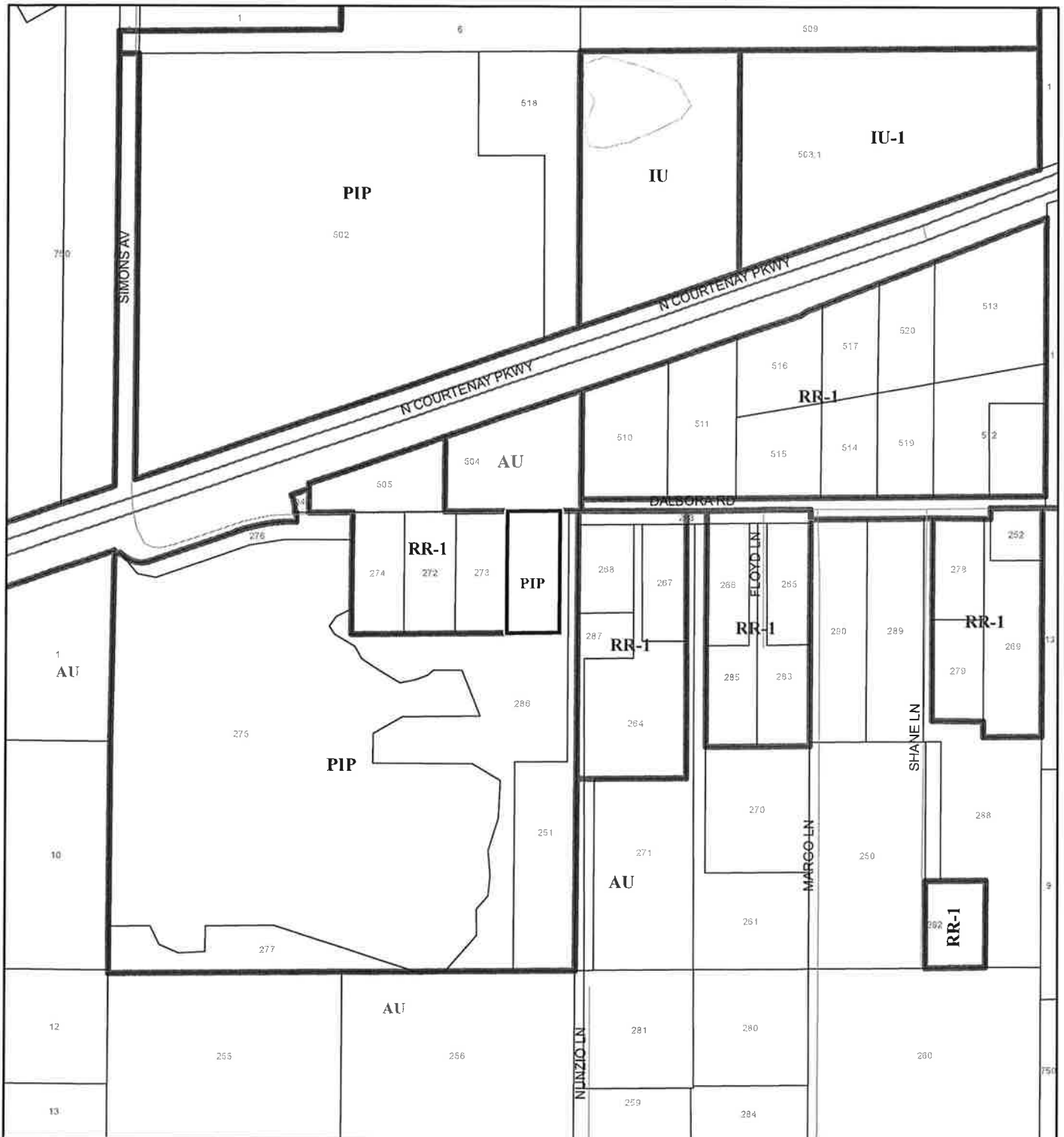
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/11/2018

Buffer
Subject Property

ZONING MAP




DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

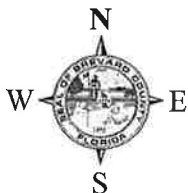
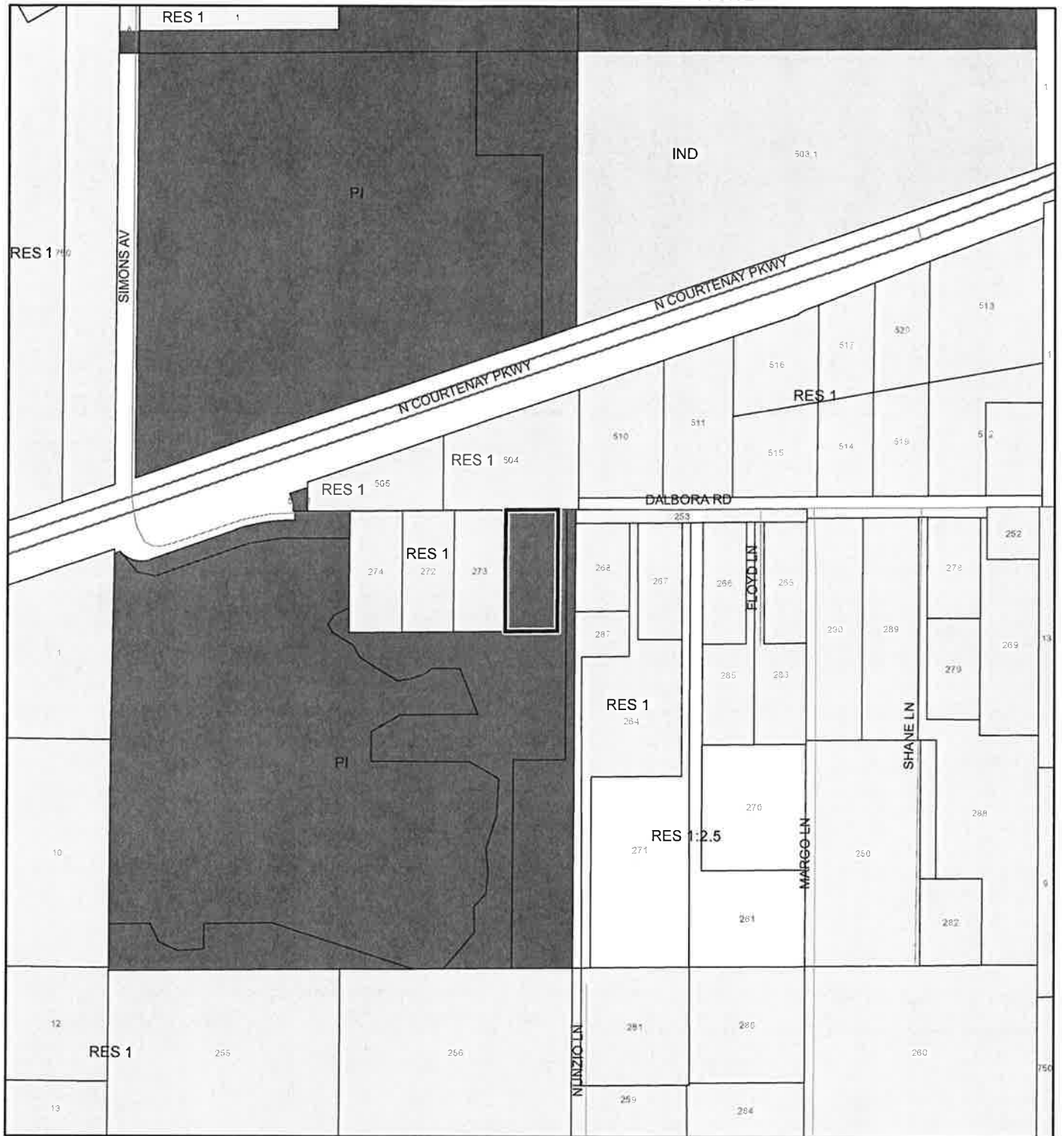
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/11/2018

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

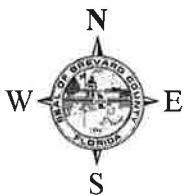
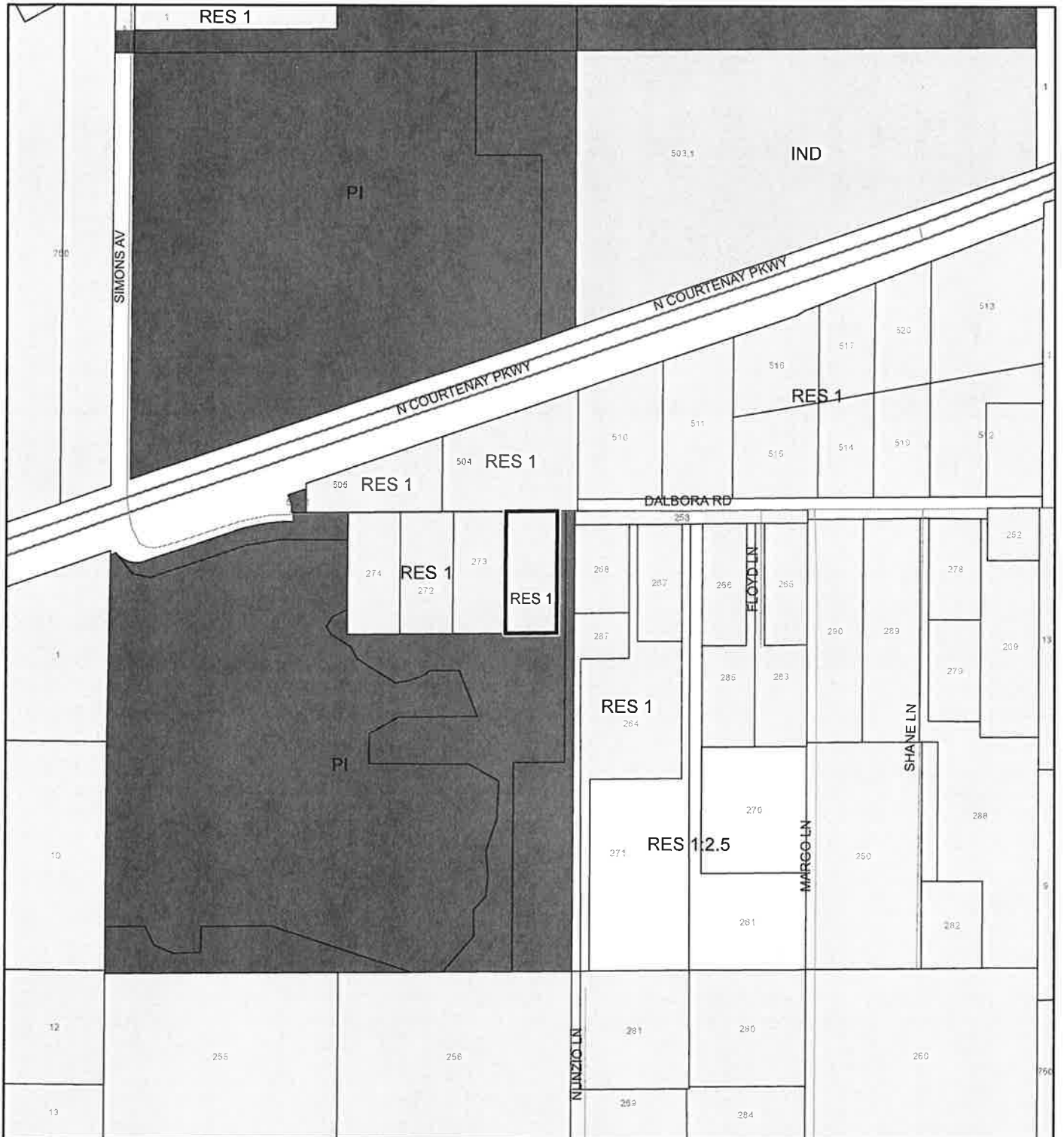
— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 12/11/2018

PROPOSED FUTURE LAND USE MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

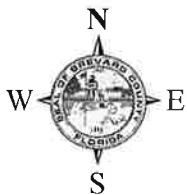
— Subject Property
□ Parcels

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Produced by BoCC - GIS Date: 12/11/2018

AERIAL MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2018

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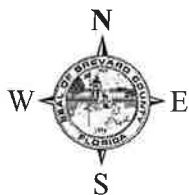
Produced by BoCC - GIS Date: 12/11/2018

— Subject Property
□ Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE

18PZ00143 SMALL SCALE AMENDMENT 19S.02



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: 12/11/2018

SJRWMD FLUCCS WETLANDS

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

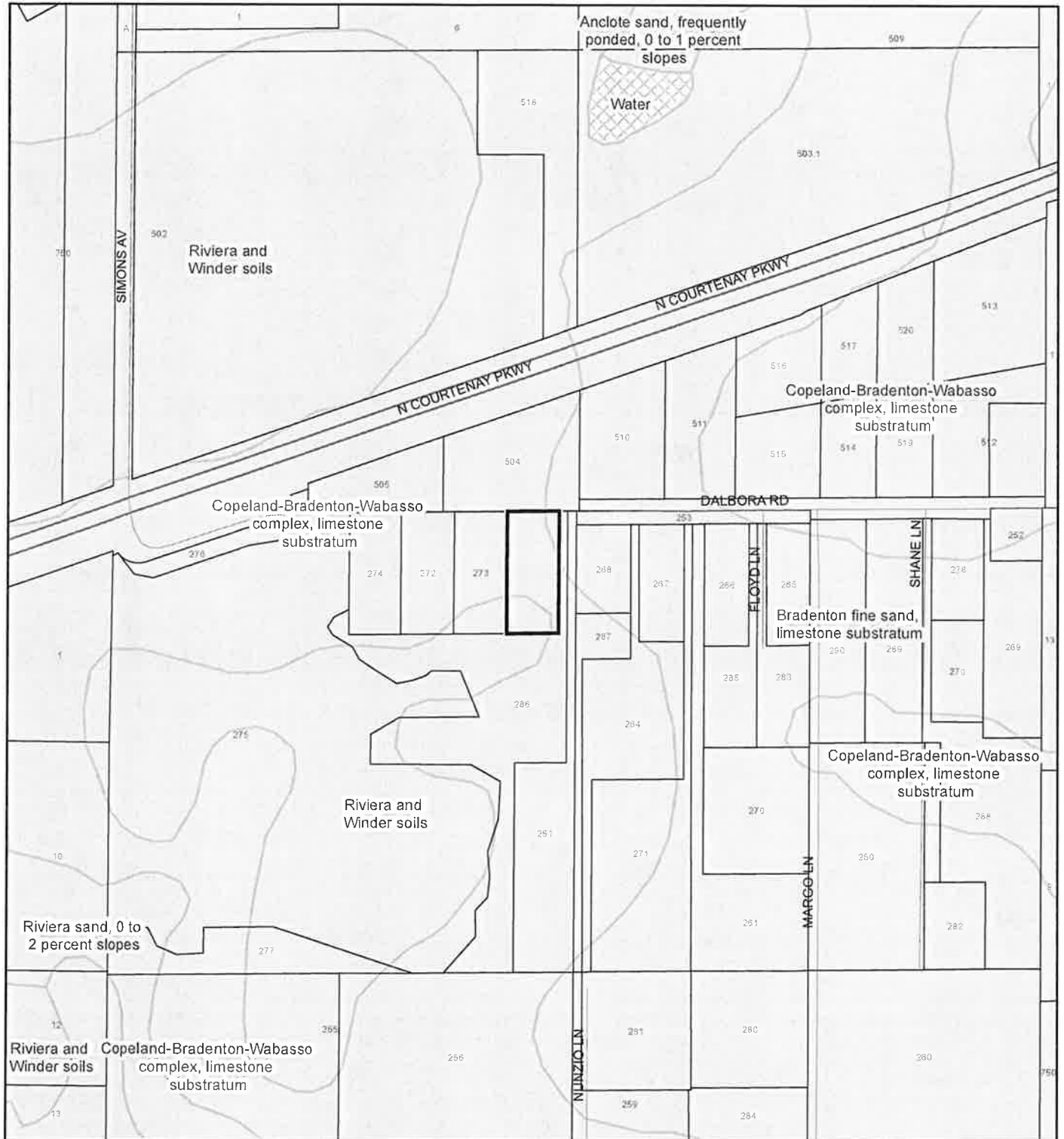
— Subject Property

□ Parcels

USDA SCSSS SOILS MAP

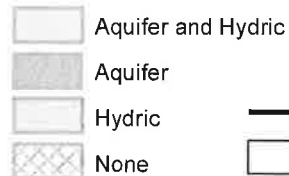
DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE

18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils



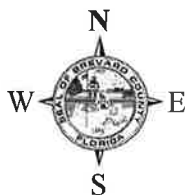
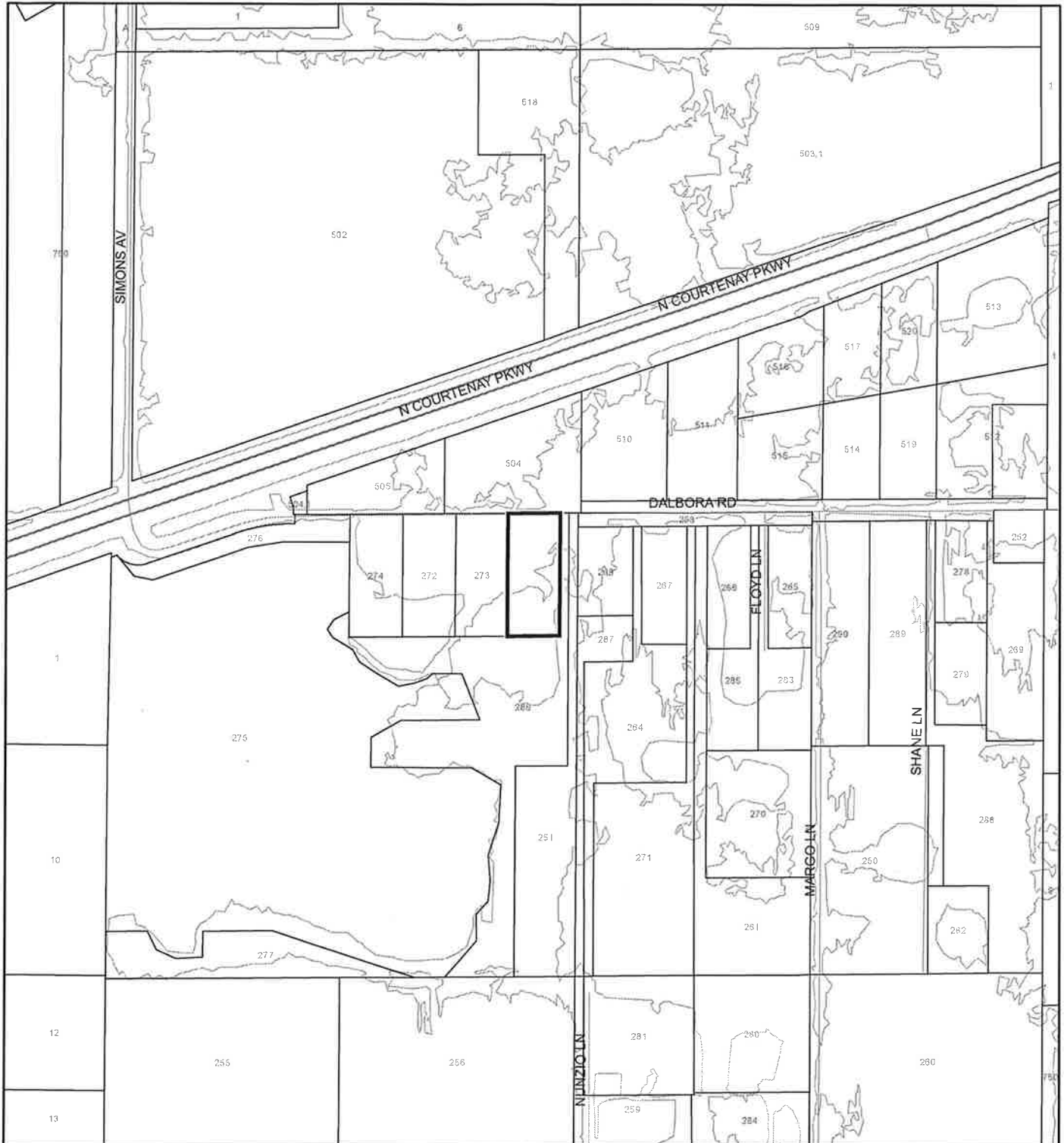
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

— Subject Property
 □ Parcels

Produced by BoCC - GIS Date: 12/11/2018

FEMA FLOOD ZONES MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

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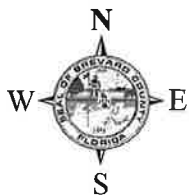
Produced by BoCC - GIS Date: 12/11/2018

FEMA Flood Zones

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

EAGLE NESTS MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE
18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/11/2018

— Subject Property

□ Parcels

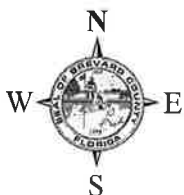
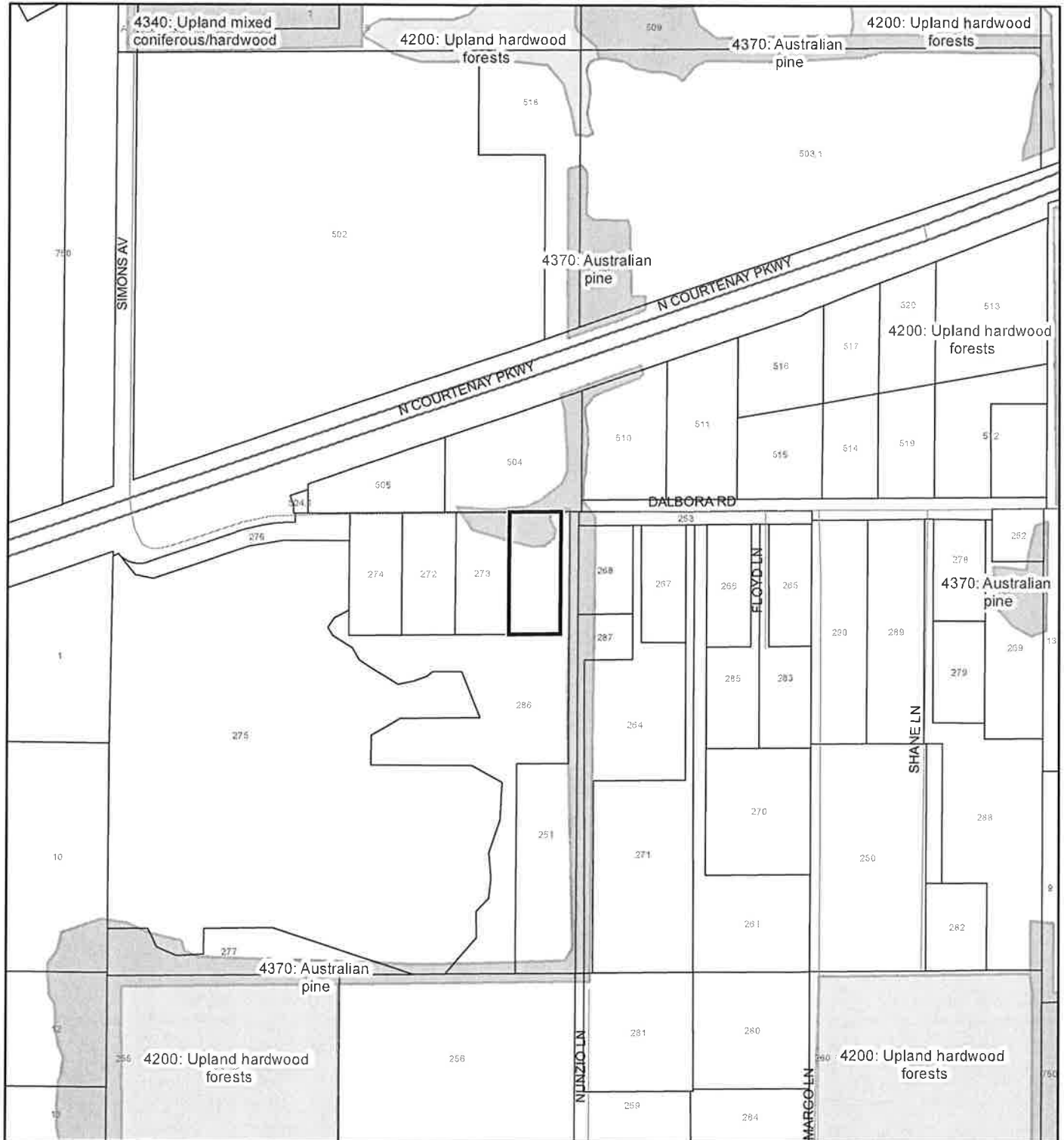


Eagle Nests
FWS 2010

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DENLINGER, FREDERICK SCOTT AND ALICE ADA LOUISE

18PZ00143 SMALL SCALE AMENDMENT 19S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/11/2018

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

From: S & K
To: Jones, Jennifer
Subject: 2/14/19 NMIDSDB meeting/Re: emailing a statement to a DSDB
Date: Tuesday, February 12, 2019 5:48:37 PM

Hi Jennifer -

That makes sense. That way no one on the NMIDSDB is aware of any opinions of the NMIHOA prior to the meeting.

You are aware that it is sometimes hard to get volunteers to attend and participate in these meetings. Such is the case for the upcoming Feb 14 meeting.

So let's put this to a litmus test.

For the Thurs Feb 14th NMIDSDB meeting, the NMIHOA would like the following statement read:

"The North Merritt Island Homeowners Association, P.O. Box 542372, Merritt Island, FL 32954-2372, would like to state that, regarding the Denlinger's rezoning request 18 PZ 00142 to change their property zoning from PIP to RR1 and their FLU from PI to Res 1, the NMIHOA has no objection. Thank you all for your consideration."

Would you be so kind as to read this during/at the end of the public comments portion of the meeting?

I and the NMIHOA sincerely thank you, again, for your help and your time. Kim S

On Tuesday, February 12, 2019, 7:31:28 AM EST, Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

Kim,

Yes, you can email me the HOA's position and I will make sure the NMIDSD board gets it. You would not need to attend the meeting.

Thank you,

Jennifer

From: S & K [mailto:t.square@prodigy.net]
Sent: Monday, February 11, 2019 10:10 PM
To: Jones, Jennifer
Subject: emailing a statement to a DSDB

Hi Jennifer -

If the NMIHOA wishes to state to the NMIDSDB that they acknowledge a rezoning request being brought before the NMIDSDB, and that they do not object to the request,

can they simply email that short statement to be read into the minutes by the chairperson or one of the board members at the NMIDSDB meeting?

This would only be when the NMIHOA does not object to a rezoning request and does not need someone to attend to state specific reasons why they would oppose a request.

Thank you for letting us know if this would be acceptable. Enjoy your week! Kim Smith

NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, February 14, 2019**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, Merritt Island.

Board members present were: Mary Hillberg, Chair; Jack Ratterman, Vice Chair; Gina Lindhorst; Chris Cook; Ted Balke; and Jim Carbonneau. Catherine Testa's presence was noted at 6:10 p.m. Ms. Testa abstained from voting on the agenda items.

Planning and Development staff present were: Erin Sterk, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator II.

Approval of November 8, 2018, Minutes

Motion by Jim Carbonneau, seconded by Jack Ratterman, to approve the minutes from November 8, 2018. The motion passed unanimously.

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer)

Request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island Area) (District 2) (18PZ00143)

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer)

Request a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island) (District 2) (18PZ00142)

Erin Sterk – I can go into the specifics of where this property stands today. One of things that's pretty interesting about how the Code has changed over time, which has left these folks in the position that they're in is they have PIP zoning, which previously allowed for a residential development in that zoning classification. On October 19, 2004, properties that had PIP that were split after that moment in time did not retain that residential development potential. In the past, you could have built a home if this lot had existed prior to that date, but it did not, so when it was subdivided from the greater parcel that's to the rear and right of it, it did not retain any development potential as far as residential. That is why they need to rezone today, to be able to propose to build one single-family house.

Joe Mayer – My name is Joe Mayer, I'm President and owner of Bussen-Mayer Engineering Group at 100 Parnell Street, in Merritt Island. I represent the purchasers of the lot tonight, the Denlinger's; both the purchasers and the sellers of the lot are here, they wanted to be here to let you know this is something that neither one of them realized was a problem when the Elliot's sold the lot to the Denlinger's. We're here to try to help them solve that problem this evening. It's a one-acre lot and they're requesting one residence; PIP is the existing zoning, and they want to go to RR-1 (Rural Residential). This area is predominantly RR-1, and changing PIP parcel to RR-1, in my mind as an engineer, is only going to further reduce the ability of somebody in the future – the Elliot's have no plans to do anything industrial with the remaining property, but they may sell someday in the future, and taking that frontage away is only going to further minimize the ability for somebody in the future to do industrial on this property, and we think that's a good thing for this area and for North Merritt Island. The Denlinger's are aware that we have to provide the – Erin, I want to say this for your sake – the 33-foot access strip across the front on D'Albora Road, and we're ready to be good neighbors on that, and we're aware that we have to do the advanced septic system. As opposed to what the

staff report says, we are not impacting wetlands or endangered species in any way. There are small wetlands toward the back of the lot, but there's plenty of room and we're not planning on touching that in any way, and certainly there's regulations and requirements that we would have to go through to do that. There are no impacts to drainage or any other levels of service, and actually it's a significant reduction to the potential that could be generated on this road if it were to remain PIP (Planned Industrial Park) and be coupled with the PIP behind. We think this is a very innocuous, simple request, and I'm happy to answer any questions you have.

Jim Carbonneau – The sellers, is there idea of them changing the rest of the PIP portion of the property to residential? My only comment is we seem to be nickel-and-diming this, and why don't we just go forward with changing the whole PIP?

Joe Mayer – I can tell you the sellers have a building on the property already; they use the property for their enjoyment, and they have no plans on changing anything with the remainder of the property. The only thing they were trying to do is sell that frontage lot to the Denlinger's, but as Erin has pointed out to me, and the staff report points out, they have issues and they're aware they're not going to be able to pull a building permit on their remainder property or anything like that until they address the zoning issue.

Jim Carbonneau – I've driven by the property a couple of times just to get my bearings, and I don't see it posted with a rezoning placard.

Joe Mayer – It was posted on a 4x4 post; I've turned in the affidavit, and I can show you.

Ted Balke – The post is there, but the sign is gone.

Joe Mayer – The sign is gone? It was posted on January 24th, but we did have some rains and I actually waited until after one of the rains. I personally signed the affidavit because I posted the sign.

Jim Carbonneau – Thank you. This is the piece with the raised mound on it?

Joe Mayer – Yes, sir.

Jim Carbonneau – It goes from 1365 D'Albora road, which has the cute little clown fish mailbox to the east, and then there's a long driveway that goes back to some property in the back, so this is the piece with the raised mound on the corner?

Joe Mayer – Yes, sir.

Jim Carbonneau – Thank you.

Ted Balke – What is the raised mound from? It looked like somebody was building there before.

Joe Mayer – They had an opportunity to get some dirt and so they got the dirt to build their pad.

Ted Balke – It looks like a slab that was poured.

Joe Mayer – No, there's no slab poured, it's just dirt.

Mary Hillberg – Because it shows flood zone at the rear, and that's where the wetland is, on the southern section, are the other homes abutting that letting the back not be built on? Are they planning on doing the same thing?

Joe Mayer – Yes, as part of the building permit process they have to develop a lot-grading plan; the lot naturally slopes to the back and to the pond to the west, and we will retain those drainage patterns so we won't be impacting any of our neighbors or any of our drainage.

Ted Balke – The corner on the northeast side is wet; there's standing water on it.

Mary Hillberg – Any more questions?

Chris Cook – To the east, that little strip, is that for future access to the property to the south?

Joe Mayer – Yes, it's the Elliot's remaining property.

Chris Cook – So they can access that from D'Albora Road?

Joe Mayer – Yes, sir, just like they do now.

Ted Balke – You've got buried cable up there, too.

Joe Mayer – Yes, sir.

Mary Hillberg – And this is the advanced septic?

Joe Mayer – Yes, we're aware that we have to put in the advanced system.

Ted Balke – Where is that going?

Joe Mayer – I don't know exactly, but it will be in accordance with code.

Ted Balke – I just thought if you pre-engineered it you picked the location.

Joe Mayer – I'm told by Mr. Denlinger that we do have a septic tank permit already, but I wasn't involved in that.

Mary Hillberg – If there are no further questions you can have a seat. Mr. Denlinger, would you like to speak?

Mr. Denlinger – No, we just all thought we had to sign in. Joe did all my speaking for me.

Mary Hillberg – Mr. Elliot?

Bill Elliot – Bill Elliott, 1355 D'Albora Road, and I live just two lots down from this lot. I sold the lot to them with the purpose of them building a home on it, a single-family residence. The mound that you speak of is the pad area for the lot, so the lot is already to grade for a house, with the exception of the drainage. It's basically ready to go, it already has water service, power service, it's a buildable lot. Unless you have any other questions, that's all I have to say.

Mary Hillberg – Any questions? Thank you. Wendy Elliott? No? Okay, it comes back to the board. Mr. Mayer, you have an opportunity to speak again. Okay, back to the board. What is everyone's pleasure? Any discussion or motion?

Erin Sterk – Forgive me, Catherine, I think it would be – and this is certainly up to you, Mary, but I think it would be in our best interest if you didn't vote.

Catherine Testa – Right, because I just got here. That's fine.

Chris Cook – Should this be entered into the record at all? (referring to a letter of no objection from the North Merritt Island Homeowners Association, which is on file with the Planning and Development Department)

Jennifer Jones – It has been.

Chris Cook – Okay.

Mary Hillberg – Yes, we have one letter on the record from the North Merritt Island Homeowners Association and it's in the record as a comment. If no one else has anything, do we have a motion?

Jack Ratterman – I make a motion that we approve the request.

Jim Carbonneau – I'll second.

Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.

Erin Sterk – We need a second action on the rezoning.

Jim Carbonneau – I'll make a motion to approve.

Jack Ratterman – I'll second.

Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.

Mary Hillberg – Does staff have anything else for us?

Erin Sterk – No, just a lot of high-end septic tanks going in lately.

Adjournment

Upon consensus, the meeting adjourned at 6:20 p.m.

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 25, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales; Mark Wadsworth; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, March 7, 2019, at 5:00 p.m. for Items 1 through 3, and March 12, 2019, at 5:00 p.m. for Item 4.

Excerpt from complete agenda

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer):

Request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island Area) (District 2) (18PZ00143)

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer):

Request a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island) (District 2) (18PZ00142)

Joe Mayer – Good afternoon, my name is Joe Mayer, I'm President and owner of Bussen-Mayer Engineering Group, 100 Parnell Street, and I'm here representing the Denlinger's. They have one single-family lot on 1.2 acres on D'Albora Road that they're proposing to rezone from Planned Industrial to Rural Residential 1, with the associated Small Scale Comprehensive Plan Amendment. I'd be happy to answer any questions you may have.

Henry Minneboo – That was also approved by North Merritt Island.

Joe Mayer – That's correct, we got a unanimous approval from North Merritt Island.

Henry Minneboo – Are we totally sure of that?

Joe Mayer – I was there, it's not a typo.

No public comment.

Rochelle Lawandales – I move approval of the Future Land Use from Planned Industrial to Residential 1.

Mark Wadsworth – Second.

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

Rochelle Lawandales – I'll make a motion to approve the rezoning request from Planned Industrial Park to Rural Residential 1.

Mark Wadsworth – I'll second.

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