



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

12/1/2022

Subject:

Humane Society of South Brevard, Inc. (Michael Allen) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC. (22SS00011) (Tax Account 2606030) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation from NC and CC to all CC on a 0.87-acre parcel in order to establish a consistent Future Land Use and Zoning classification across the entire property. A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and BU-1 (General Retail Commercial) to all BU-1 (22Z00048).

The developed character of the surrounding area is commercial and single-family residential. Commercial use is primarily located on Otter Creek Lane adjacent to N. Highway 1. Vacant land (pending zoning action 22Z00047 to allow an ALF and ILF facility) is located south of the subject site on the east side of Old Dixie Highway. Residential uses, comprised of single-family homes on lots approximately one-quarter acres to over five acres in size, are located west of Old Dixie Highway; however, these parcels are designated for Neighborhood Commercial Future Land Use. To the east, across N. Highway 1, is a public boat ramp.

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

On November 14, 2022, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy to Planning and Development.

Resolution 22Z00048

On motion by Commissioner Feltner, seconded by Commissioner Tobia, the following resolution was adopted by a unanimous vote:

WHEREAS, Humane Society of South Brevard, Inc., has requested a change of zoning classification from GU (General Use) and BU-1 (General Retail Commercial), to all BU-1, on property described as Lot 16.02, Indian River Villa, as recorded in ORB 3283, Pages 3507 - 3508, of the Public Records of Brevard County, Florida. Section 19, Township 26, Range 37. (0.86 acres) Located on the southeast corner of Otter Creek Lane and Old Dixie Highway. (2600 Otter Creek Lane, Melbourne); 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 GU and BU-1 to all BU-1 be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of December 1, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on December 1, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – November 14, 2022

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.**



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

December 2, 2022

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-35, which was filed in this office on December 2, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

Deborah Thomas

From: County Ordinances <CountyOrdinances@dos.myflorida.com>
Sent: Friday, December 2, 2022 12:27 PM
To: Deborah Thomas; County Ordinances
Cc: Kimberly Powell
Subject: RE: ORDINANCE 2022-35
Attachments: Brevard20221202_Ordinance2022_35_Ack.pdf

Good afternoon,

Please find attached the acknowledgment letter for Brevard County Ordinance No. 2022-35, which was filed in this office on December 2, 2022.

Best,

County Ordinances
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida

From: Deborah Thomas <deborah.thomas@brevardclerk.us>
Sent: Friday, December 2, 2022 12:10 PM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Cc: Kimberly Powell <Kimberly.Powell@brevardclerk.us>
Subject: ORDINANCE 2022-25

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good afternoon:

Attached, please find Ordinance No. 2022-35 to be filed with the State.

Thank you.

Deborah Thomas
Administrative Assistant
Clerk to the Board
(321)637-2001
(321)264-6972 (Fax)
Deborah.thomas@brevardclerk.us



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

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

December 2, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Jeffrey Ball

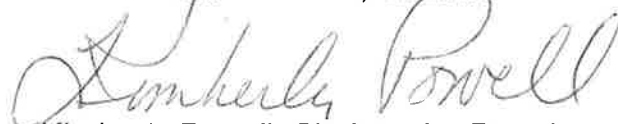
RE: Item H.4., Humane Society of South Brevard, Inc. requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC

The Board of County Commissioners, in regular session on December 1, 2022, conducted the public hearing and adopted Ordinance No. 22-35, setting forth the seventeenth Small Scale Plan Amendment of 2022, 22S.14, to the Future Land Use Map of the Comprehensive Plan; and amending Section 62-501 entitled contents of the plan to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC to all CC. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/pp

Encl. (1)

cc: Jennifer Jones, Zoning
County Attorney

ORDINANCE NO. 22-35

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SEVENTEENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.14, 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 2022 as Plan Amendment 22S.14; 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 22S.14; 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 SECRETARY OF STATE ON DECEMBER 2, 2022.

WHEREAS, on November 14, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.14, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 1, 2022, 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 22S.14; and

WHEREAS, Plan Amendment 22S.14 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.14 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 22S.14 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 22S.14, 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 Economic Opportunity, 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 1 day of DECEMBER, 2022.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


By: _____
Rita Pritchett, Chair

As approved by the Board on Dec. , 1, 2022.

EXHIBIT A
22S.14 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

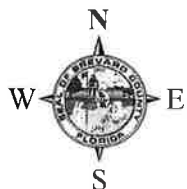
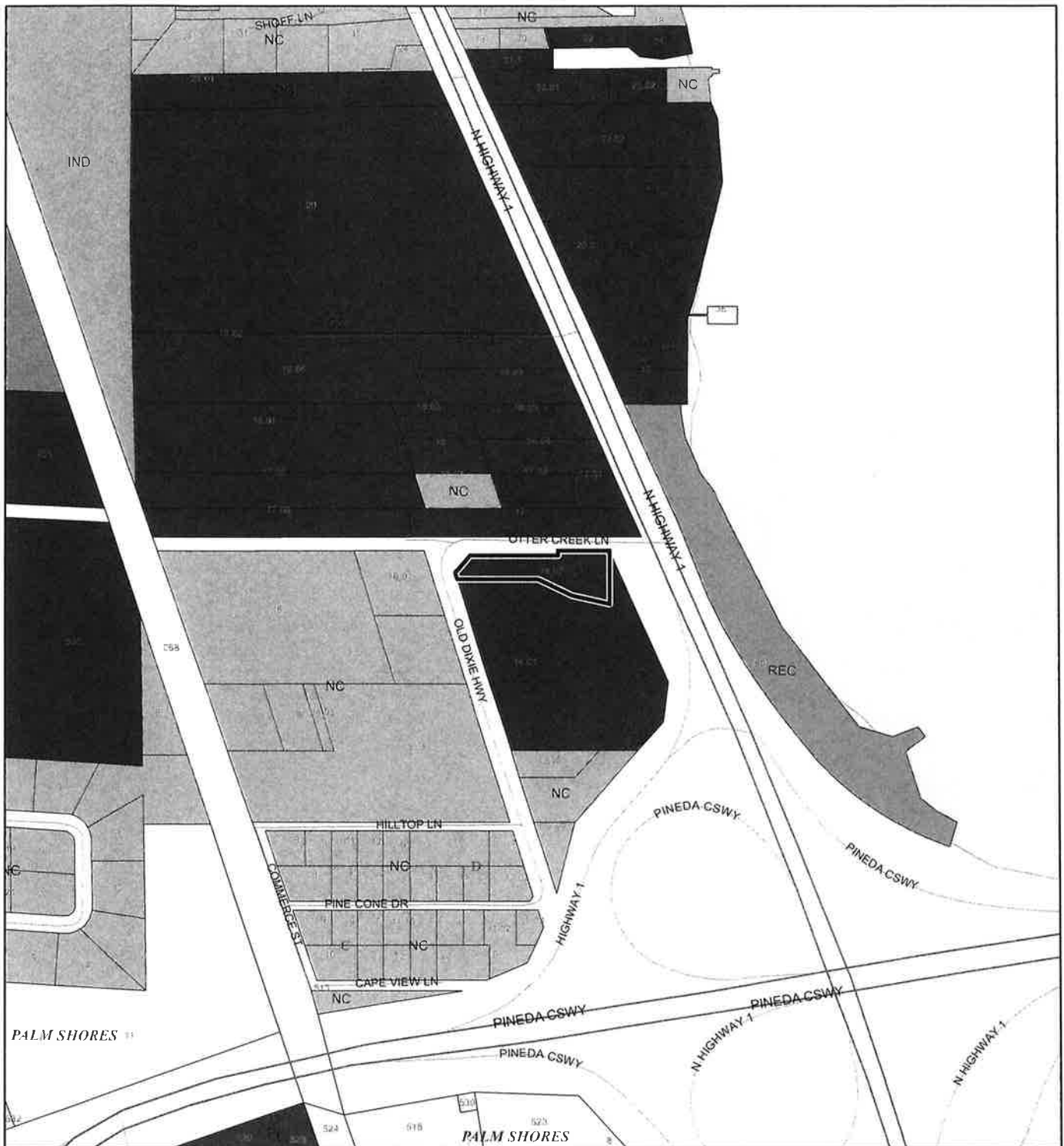
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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: 9/9/2022

EXHIBIT B

Contents

1. Legal Description

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, NOVEMBER 14, 2022, and THURSDAY, DECEMBER 1, 2022, DISTRICT 1 1. (22200050) DWAYNE WHITE (Brook Kershner) requests a change of zoning classification from AU (Agricultural Residential) and RU-1-9 (Single-Family Residential) to SR (Suburban Residential), on property described as Tax Parcel 520.1, as recorded in ORB 7955, Pages 2499 - 2500, of the Public Records of Brevard County, Florida. Section 31, Township 20, Range 35. (1.14 acres) Located on the north side of Lionel Rd., approx. 785 ft. east of U.S. Highway 1. (3460 Lionel Rd., Mims) 2. (22200049) EDITA REALTY (James McKnight) requests a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-10 (Medium Density Multi-Family Residential), on property described as Lot 4, Block 33, North Port St. John Unit Three, according to the plat thereof, as recorded in Plat Book 23, Pages 50 - 52, inclusive, of the Public Records of Brevard County, Florida; AND Lot 5, Block 33, North Port St. John Unit Three, according to the plat thereof, as recorded in Plat Book 23, Pages 50 - 52, inclusive, of the Public Records of Brevard County, Florida. Section 13, Township 23, Range 35. (0.40 acres) Located on the north and northeast corner of Avon St., approx. 200 ft. east of Osceola Ave. (950 & 960 Avon St., Port St. John) DISTRICT 4 3. (22200047) PROTEA SENIOR LIVING MELBOURNE, LLC (Michael Allen) requests a change of zoning classification from RU-1-9 (Single-Family Residential), RU-1-13 (Single-Family Residential), and IN(H) (Institutional Use, High-Intensity), with an existing BDP (Binding Development Plan), to IN(L) (Institutional Use, Low-Intensity), with removal of existing BDP, and adding a new BDP, on property described as Lots 12.05, 13, 13.05, and 14.01, as recorded in ORB 9544, Pages 1679 - 1682, of the Public Records of Brevard County, Florida. Section 19, Township 26, Range 37. (6.35 +/- acres) Located on the east side of Old Dixie Highway, approx. 90 ft. south of Otter Creek Lane. (Lots 12.05, 13, and 13.05 - No assigned address; in the Palin Shores area; Lot 14.01 = 5925 Old Dixie Hwy., Melbourne) 4. (225500011) HUMANE SOCIETY OF SOUTH BREVARD, INC. (Michael Allen) requests a Small Scale Comprehensive Plan Amendment (225.14), to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC, on property described as Lot 16.02, Indian River Villa, as recorded in ORB 3283, Pages 3507 - 3508, of the Public Records of Brevard County, Florida. Section 19, Township 26, Range 37. (0.86 acres) Located on the southeast corner of Otter Creek Lane and Old Dixie Highway. (2600 Otter Creek Lane, Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.14: 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. 5. (22200048) HUMANE SOCIETY OF SOUTH BREVARD, INC. (Michael Allen) requests a change of zoning classification from GU (General Use) and BU-1 (Retail, Warehousing, and Wholesale Commercial) to all BU-1, on property described as Lot 16.02, Indian River Villa, as recorded in ORB 3283, Pages 3507 - 3508, of the Public Records of Brevard County, Florida. Section 19, Township 26, Range 37. (0.86 acres) Located on the southeast corner of Otter Creek Lane and Old Dixie Highway. (2600 Otter Creek Lane, Melbourne) 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, Bldg. C, Viera, Florida on MONDAY, NOVEMBER 14, 2022, at 3:00 p.m. A 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, DECEMBER 1, 2022, 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, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding 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. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. 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 needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 14, 2022**, 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); Brian Rodgers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Liz Alward (D4); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Bruce Moia (D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Humane Society of South Brevard, Inc. (Michael Allen)

A Small Scale Comprehensive Plan Amendment (22S.14), to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC. The property is 0.86 acres, located on the southeast corner of Otter Creek Lane and Old Dixie Highway. (2600 Otter Creek Lane, Melbourne) (22SS00011) (Tax Account 2606030) (District 4)

Humane Society of South Brevard, Inc. (Michael Allen)

A change of zoning classification from GU (General Use) and BU-1 (Retail, Warehousing, and Wholesale Commercial) to all BU-1. The property is 0.86 acres, located on the southeast corner of Otter Creek Lane and Old Dixie Highway. (2600 Otter Creek Lane, Melbourne) (22Z00048) (Tax Account 2606030) (District 4)

Michael Allen, Allen Engineering, 106 Dixie Lane, Cocoa Beach, stated the reason for the land use change and rezoning request for the western portion of the subject property is to get it in conformance with the balance of the property, as well as the property to the south that the board just voted on, Protea Senior Living Melbourne. He said the requests could assist in clearing up the traffic questions the board heard with the prior agenda item.

Public comment.

Mark Leslie, 2665 Hilltop Lane, Melbourne, stated the request is to change the Future Land Use from Neighborhood Commercial (NC) to Community Commercial (CC), but on the previous item there are three NC parcels attached to the CC parcels that were not changed, so there are still three NC parcels on the Protea Senior Living proposed site. He asked if there is NC on the northern end of the other parcel, does it mean the project is in such limited in scope as defined in code, compared to community commercial.

Jeffrey Ball stated an ALF is a different use that is in between a commercial and residential use. The code allows for an ALF and ILF to be situated in an NC land use designation; however, for the Humane Society request, BU-1 zoning is not allowed in the NC land use designation, and that is the reason the applicant is asking for the CC land use, because without it, BU-1 would not be a consistent or compatible zoning classification for that property because of the commercial uses.

Mr. Leslie asked if that means the Protea Senior Living property is going to be combined NC and CC. Mr. Ball replied yes, there was not a request to change the land use on that property because regardless of the land use, IN(L) is an allowable use in both NC and CC land use designations. Mr. Leslie asked what is the intensity criteria between IN(L) and IN(H). Mr. Ball replied there are uses that are allowed in only IN(L) versus IN(H), such as a private school.

Ron Bartcher asked if the Humane Society is making a change to its use. Mr. Allen replied the Humane Society is not currently making a change. Mr. Bartcher stated he was wondering if the Humane Society would be expanding its facility to accommodate more animals, because there is a need for that.

Mr. Allen stated if connection is needed to Otter Creek Lane for Protea, then it saves a step in coming back to the board. They are just trying to obtain flexibility.

Bruce Moia stated the current zoning of GU is incompatible, and it makes sense to make it consistent.

Mr. Ball noted the Protea Senior Living rezoning was approved with a BDP limiting access to Old Dixie Highway, so that would preclude them from getting access to Otter Creek Lane.

Motion by Liz Alward, seconded by Bruce Moia, to recommend approval of the Small Scale Comprehensive Plan Amendment (22S.14), to change the Future Land Use designation from NC and CC to all CC. The motion passed unanimously.

Motion by Liz Alward, seconded by Bruce Moia, to recommend approval of a change of classification from GU and BU-1 to all BU-1. The motion passed unanimously.

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 22S.14 (22SS00011)
Township 26, Range 37, Section 19*

Property Information

Owner / Applicant: Humane Society of South Brevard, Inc.

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC) and Community Commercial (CC)

Requested Future Land Use Map Designation: all Community Commercial (CC)

Acreage: 0.87 (per survey)

Tax Account #: 2606030

Site Location: Southeast corner of Otter Creek Lane and Old Dixie Highway

Commission District: 4

Current Zoning: General Use (GU) and General Retail Commercial (BU-1)

Requested Zoning: all General Retail Commercial (BU-1) (22Z00048)

Background & Purpose

The applicant is seeking to amend the Future Land Use designation from Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC) on a 0.87-acre parcel in order to establish a consistent Future Land Use and Zoning classification across the entire property. Currently, the western portion of subject property (approximately 0.4-acre) is designated as NC FLU with GU zoning, and the eastern portion (approximately 0.47-acre) is CC FLU and zoned BU-1. The eastern portion of the subject property is currently developed as a retail store for a charitable/non-profit organization (Humane Society of South Brevard, Inc.).

A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and BU-1 (General Retail Commercial) to all BU-1 (General Retail Commercial) (**22Z00048**).

The existing GU zoning classification may be considered consistent with the existing NC Future Land Use designation, and the existing BU-1 zoning classification may be considered consistent with the existing CC Future Land Use designation.

The proposed BU-1 zoning classification may not be considered consistent with the existing NC Future Land Use designation; however, the proposed BU-1 zoning classification may be considered consistent with the requested CC Future Land Use designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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.

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

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

Criteria:

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

The applicant has not proposed a specific commercial use. Until a specific use is identified, the impact on Old Dixie Highway cannot be determined. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- 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 Community Commercial (CC) and Neighborhood Commercial (NC) along Otter Creek Lane, a local roadway which connects to N. Highway 1, an urban principal arterial. There are three (3) FLU

designations within 500 feet of the subject site: CC, NC, and REC. The predominant FLU designation along Otter Creek Lane is CC that transitions to include NC at the intersection of Old Dixie Highway. Recreational (REC) Future Land Use is located on the east side of N. Highway 1 along the Indian River Lagoon immediately north of the Pineda Causeway and N. Highway 1 interchange.

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

One (1) single-family residence was approved for construction on a 0.92-acre lot to the southwest of the subject site at 5980 Old Dixie Highway (20BC11993) in the preceding three (3) years.

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

While there have not been any development approvals immediately adjacent to the subject parcel within the past three (3) years that have not been constructed, there is, however, one (1) zoning action pending. 22Z00047 is a request to change the zoning from RU-1-13, RU-1-9 and IN(H) with a BDP to all IN(L) with removal and replacement of a new BDP on 6.35 acres immediately to the south of the subject parcel for the purpose of constructing an assisted living facility (ALF).

Ingress and egress for the subject property can only be obtained from Otter Creek Lane. Operational improvements will be addressed during the site plan review process. The combined ALF (22Z00047) and commercial uses could generate between 586 and 626 vehicles per day (vpd). Combined, both projects meet our roadway capacity criterion and will require a Transportation Impact Analysis (TIA).

One additional zoning action in the general area includes: 21Z00003, a request to rezone from BU-1 to BU-2 for the development of a warehouse located approximately 2,940 feet north of the subject property on N. Highway 1. This request was approved April 15, 2021 and is currently being Site Planned.

FLUE 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 developed character of the surrounding area is commercial and single-family residential. Commercial use is primarily located on Otter Creek Lane adjacent to N. Highway 1, an urban principal arterial roadway. Vacant land (pending zoning action 22Z00047) is located south of the subject site on the east side of Old Dixie Highway. Residential uses, comprised of single-family homes on lots approximately one-quarter acres to over five acres in size, are located west of Old Dixie Highway; however, these parcels are designated for Neighborhood Commercial Future Land Use. To the east, across N. Highway 1, is a public boat ramp.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject property has frontage on Otter Creek Lane, a local roadway which connects to N. Highway 1, an urban principal arterial operating at 83.97% of Maximum Acceptable Volume. A detailed analysis will be conducted when a use is proposed.

B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

There are NC and CC future land use map designations adjacent to the subject property.

C. Existing commercial development trend in the area;

Existing commercial development in the immediate area includes boat sales and service to the north. Additional commercial uses are located along N. Highway 1, a commercial corridor.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identifies.

E. Availability of required infrastructure at/above adopted levels of service;

A preliminary concurrency analysis did indicate that the maximum development potential from the proposed Future Land Use designation could cause a deficiency in the transportation adopted level of service.

A detailed analysis will be conducted when a use is proposed at the time of Site Plan.

The subject site is within the City of Cocoa's service area for potable water. There is no centralized sanitary sewer service available. The closest Brevard County sewer line is approximately 366 feet to the northeast on east side of N. Highway 1.

F. Spacing from other commercial activities;

The closest Community Commercial facilities are located immediately to the north of the subject site with frontage on N. Highway 1 and immediately south of the subject site on Old Dixie Highway. Additional commercial activities can be found along the US Highway 1 corridor.

G. Size of proposed commercial designation compared with current need for commercial lands;

The 0.87-acre subject property is designated as NC on the west portion and CC on the east portion of the parcel. The request for CC across the entire parcel represents an increase of approximately 0.4-acres of CC.

H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The provisions of this Criterion will be addressed at the site plan stage.

I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

J. Impacts upon strip commercial development.

The subject property is currently developed and could be considered redevelopment and not an expansion of strip development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;

- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has not proposed a specific commercial use.

**Locational and Development Criteria for Community Commercial Uses
FLUE Policy 2.8**

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

Otter Creek Lane is not classified as an arterial or collector. The subject property is immediately north of an arterial/arterial interchange (Pineda Causeway and N. Highway 1).

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The Community Commercial properties immediately adjacent to the north and south of the subject property total less than 10 acres. The total of contiguous Community Commercial north of the Pineda Causeway and N. Highway 1 interchange is 51 acres. This request, if approved, would represent an increase of 0.4 acres of CC.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

N. Highway 1, a major arterial roadway, is a commercial corridor serving the community and the surrounding region. As such, this area presents an historical strip development pattern and does not lend itself to cluster commercial analysis.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit

Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

This criterion will be addressed at the site plan review stage of development.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The overall subject site has the potential for a 37,897 sq. ft. building. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The requested zoning classification is BU-1 and does not permit recreational vehicle parks.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial boat sales and service	BU-2; BU-1	CC
South	Vacant	IN(H)	CC
East	Public boat ramp (across N. Highway 1)	GML	REC
West	Single-family Residence	SR	NC

To the north, across Otter Creek Lane, is a 1.15-acre parcel designated as CC FLU and developed as boat sales and service shop. This parcel has direct access to N. Highway 1.

To the south is a vacant 5.33-acre parcel designated as CC FLU. There is a pending zoning action (22Z00047) associated with this parcel. 22Z00047 is a request to change the zoning from RU-1-13, RU-1-9 and IN(H) with a BDP to all IN(L) with removal and replacement of a new BDP on 6.35 acres for the purpose of constructing an assisted living facility.

To the east, across N. Highway 1, is 5.31-acre parcel owned by Brevard County that is designated as REC and developed as a public boat ramp.

To the west is a 0.83-acre parcel designated as NC FLU and developed as single-family residence (built in 1957).

Preliminary Concurrency

The closest concurrency management segment to the subject property is US 1, from Post to Pineda, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 83.97% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 34.75%. The corridor is anticipated to operate at 118.72% of capacity daily. Specific concurrency issues and operational improvements will be addressed at the time of site plan review when a specific use is identified.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permittable uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

According to the City of Cocoa, the parcel is serviced by City for potable water. The closest Brevard County sewer line is approximately 366 feet to the northeast on the east side of N. Highway 1.

Environmental Constraints

- Wetlands
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains wetlands as depicted on applicant's submittal. The wetland delineation will require agency verification.

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

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

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

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item #22SS00011**

Applicant: Michael S. Allen for Melanie Kowalski-Humane Society of South Brevard

FLU Request: NC and CC to all CC

Note: Applicant wants to rezone entire parcel to be BU-1, thus entire parcel needs to be designated CC, as BU-1 is not consistent with NC.

P&Z Hearing Date: 11/14/22; **BCC Hearing Date:** 12/01/22

Tax ID No: 2606030

- 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:

- Wetlands
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains wetlands as depicted on applicant's submittal. The wetland delineation will require agency verification.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Neither Old Dixie Highway nor Otter Creek Lane are MQRs in this location. An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table.

Section 62-3694(c)(3)c has allowances for wetland impacts for commercial land development activities on properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

The entire parcel is mapped within the Indian River Lagoon 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.

Land Use Comments:

Wetlands

The subject property contains hydric soils (Pompano sand, 0 to 2 percent slopes), an indicator that wetlands may be present on the property. The applicant provided a wetlands delineation depicting portions of a larger wetland extending from the parcel to the south and totaling 0.022 acres within the subject property. The wetland delineation will require agency verification.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Neither Old Dixie Highway in this location, nor Otter Creek Lane, are MQRs. An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table.

Section 62-3694(c)(3)c has allowances for wetland impacts for commercial land development activities on properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Wetlands proposed for impact shall be assessed using methodologies established in the Countywide Wetlands Study, prepared BKI, Inc. Consulting Ecologists (September 30, 2013), to determine if they meet the criteria of High Functioning Wetlands or

Landscape Level Wetlands. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or of overriding public benefit.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Paola fine sand, 0 to 8 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The subject parcel (Tax ID No. 2606030) is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then 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.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

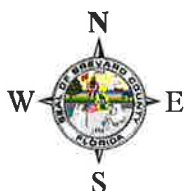
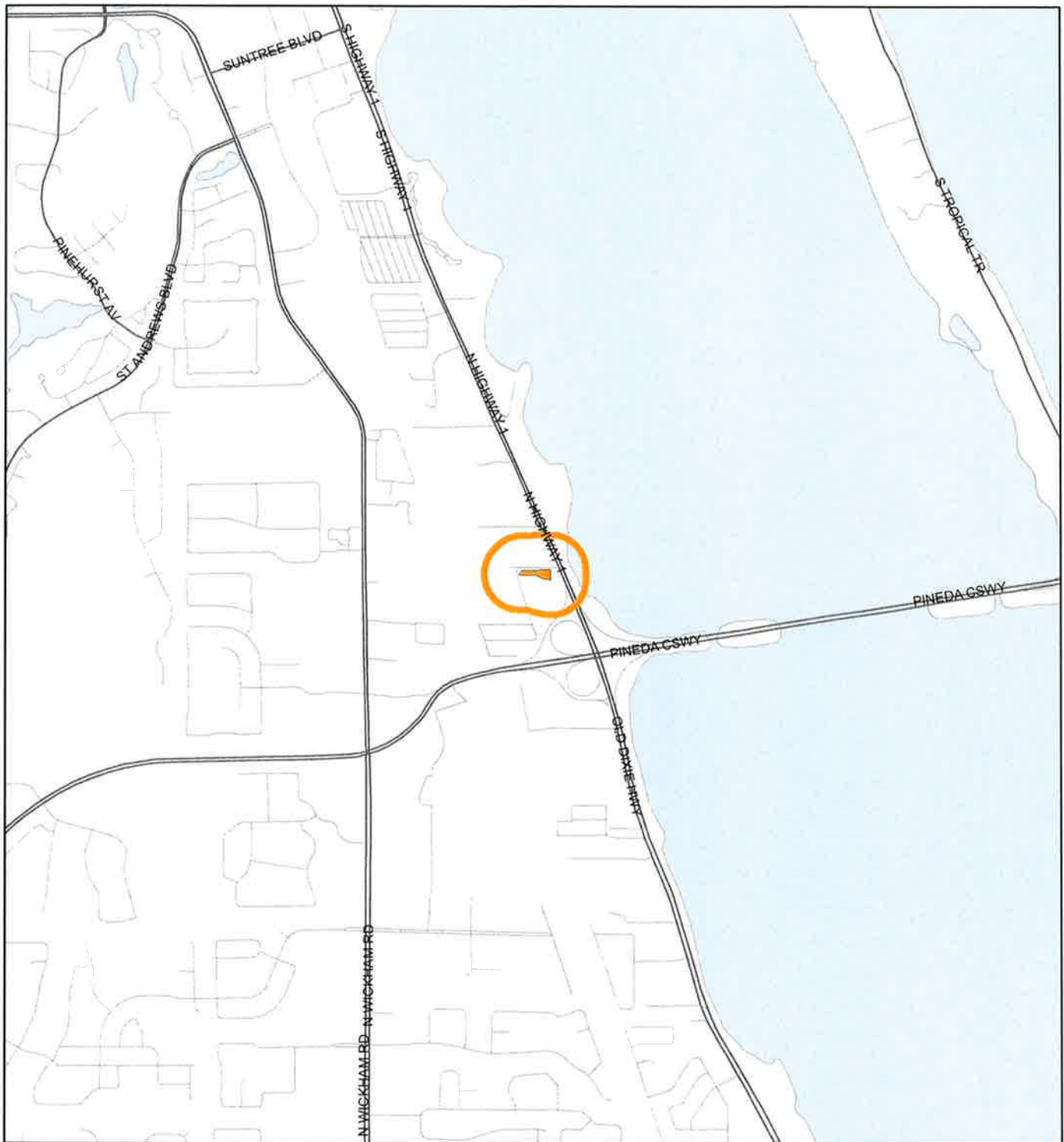
Protected Species

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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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

Buffer Distance: 500 feet

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

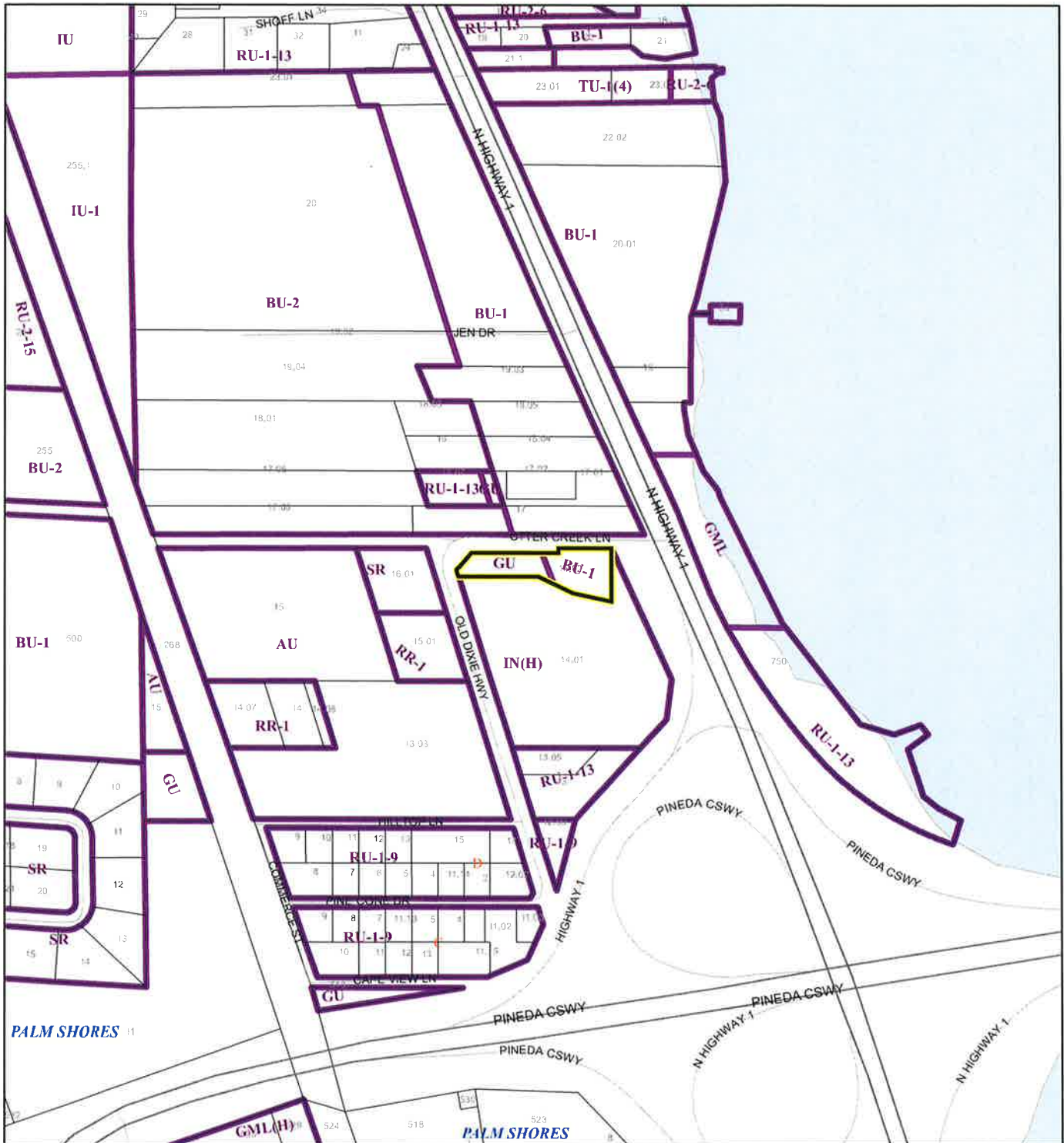
Produced by BoCC - GIS Date: 9/8/2022

- Buffer
- Subject Property

ZONING MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



1:4,800 or 1 inch = 400 feet

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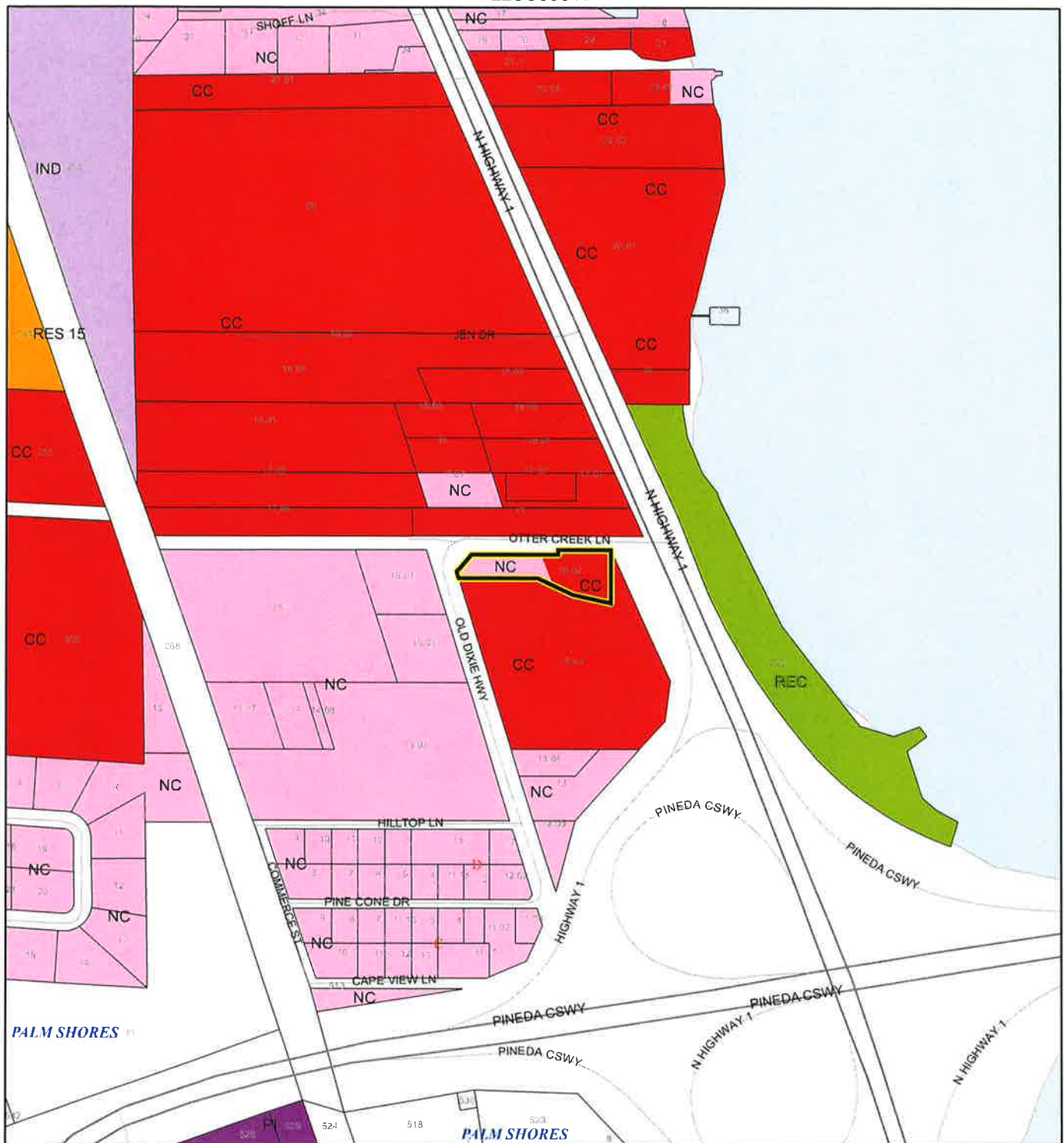
Produced by BoCC - GIS Date: 9/8/2022

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

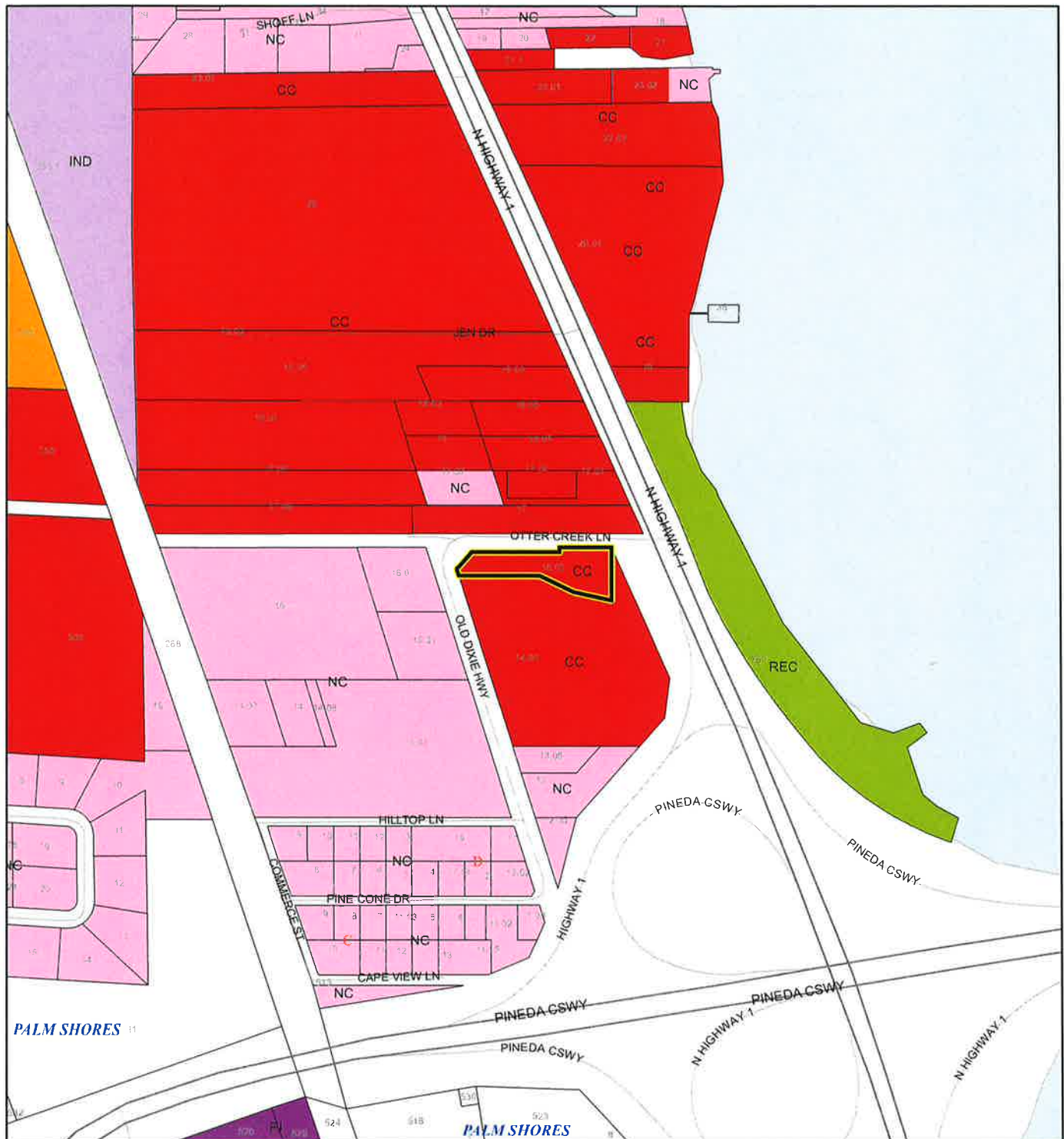
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PROPOSED FUTURE LAND USE MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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AERIAL MAP
HUMANE SOCIETY OF SOUTH BREVARD
22SS00011



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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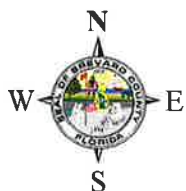
— Subject Property

□ Parcels

NWI WETLANDS MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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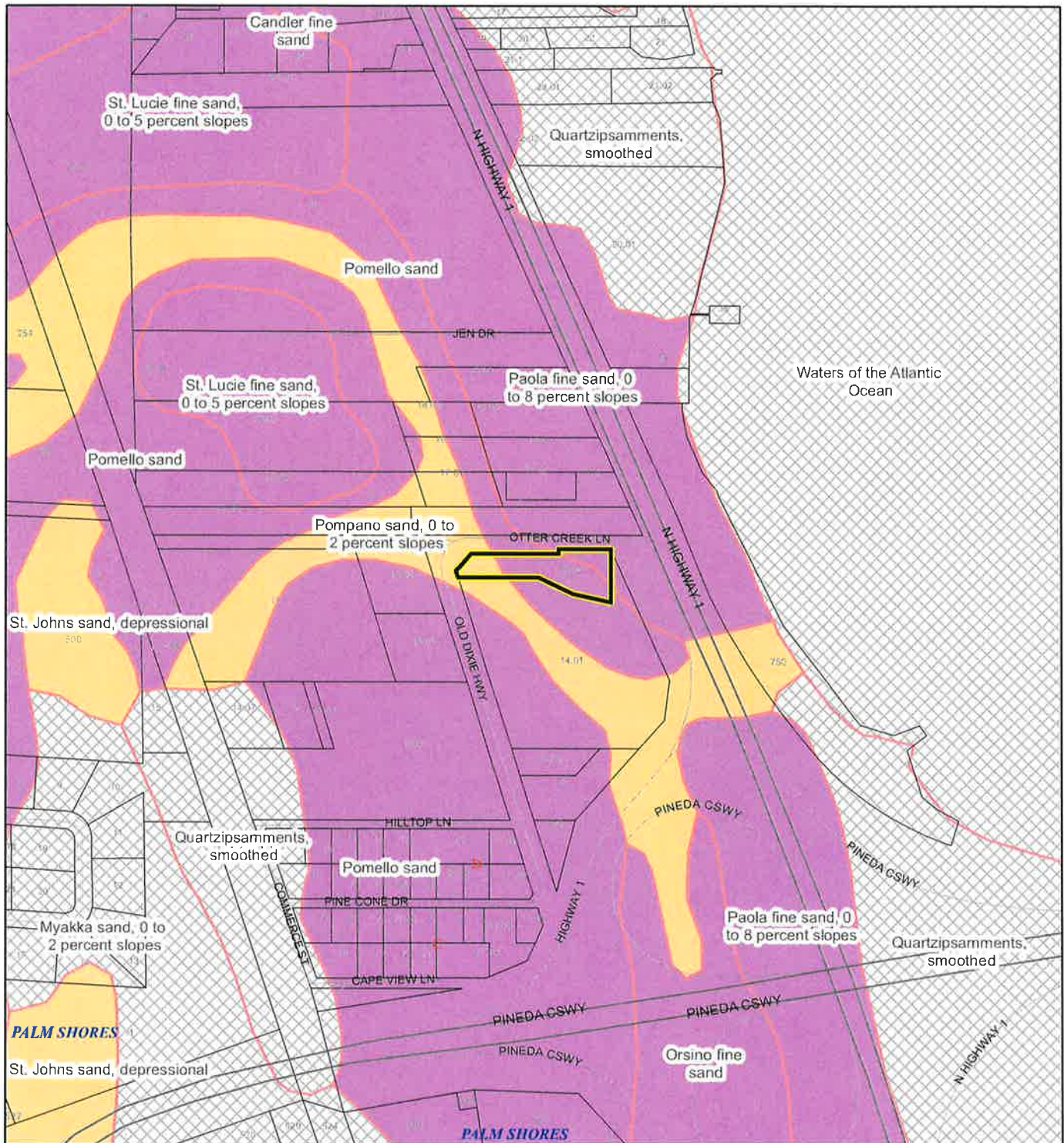
National Wetlands Inventory (NWI)

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

USDA SCSSS SOILS MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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Produced by BoCC - GIS Date: 9/8/2022

USDA SCSSS Soils

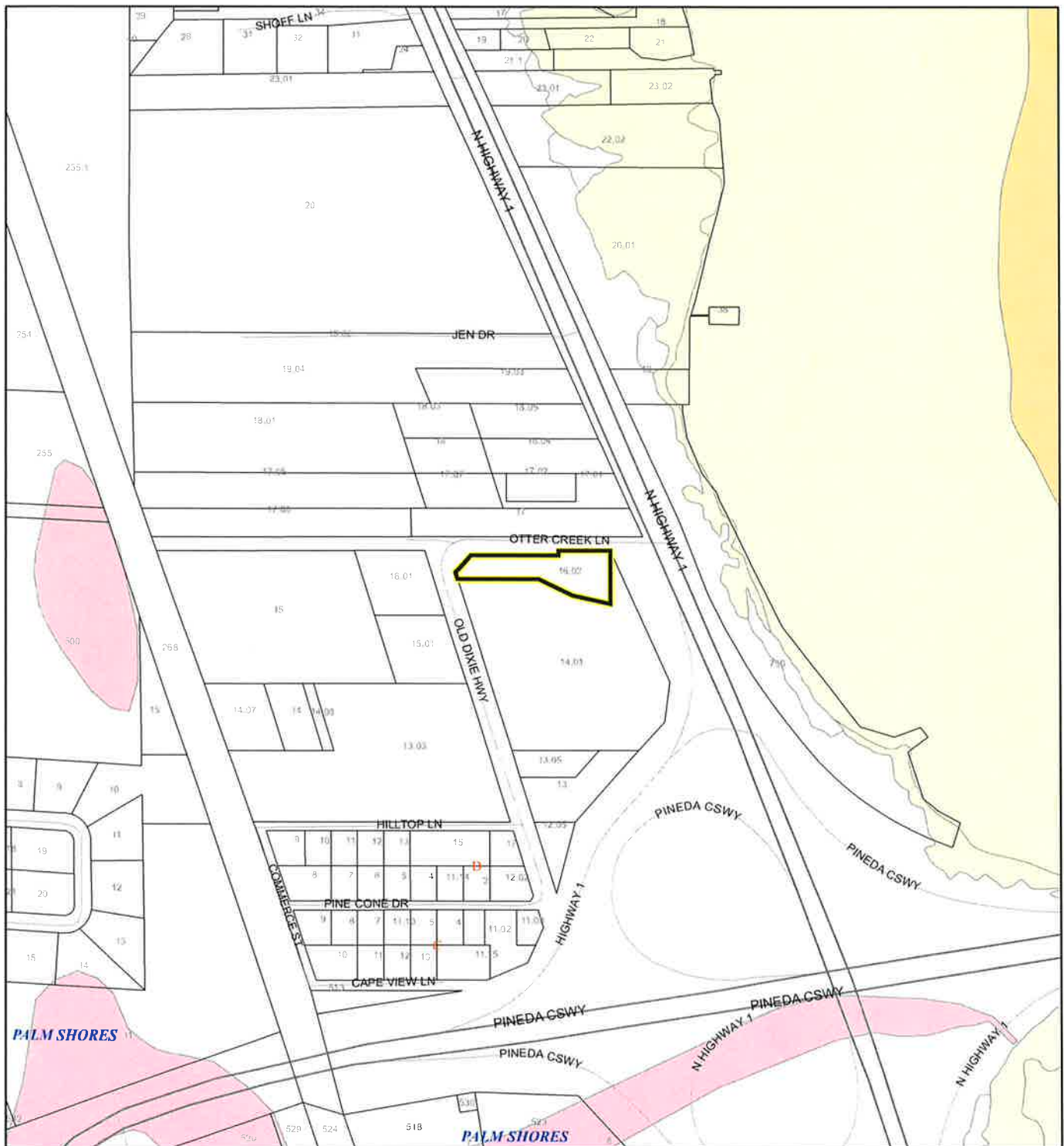
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011












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FEMA Flood Zones

 A  AE  AH	 AO  Open Water  VE	 X
 Subject Property	 Parcels	

COASTAL HIGH HAZARD AREA MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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— Subject Property

□ Parcels

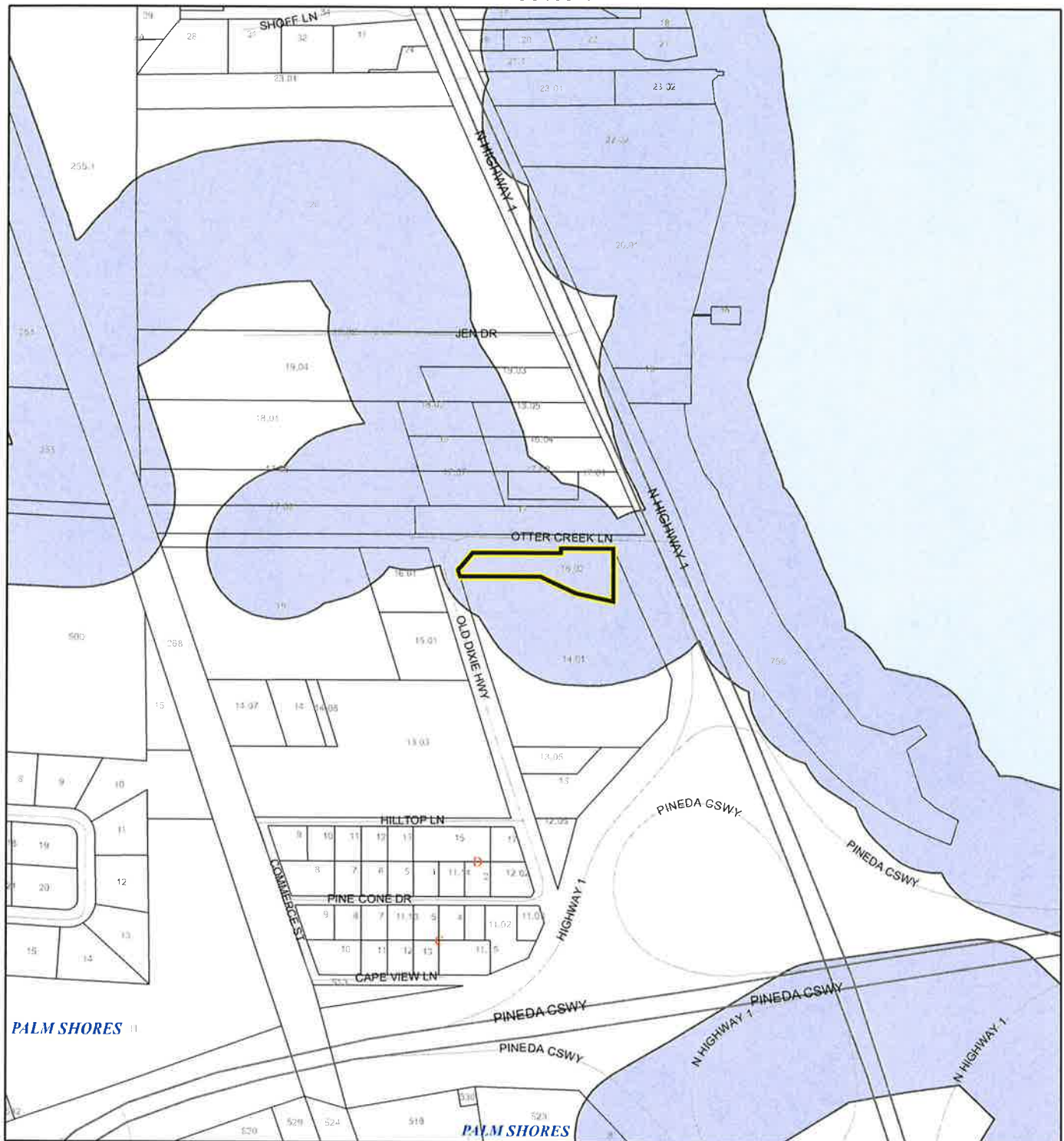
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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— Subject Property

□ Parcels

Septic Overlay

40 Meters

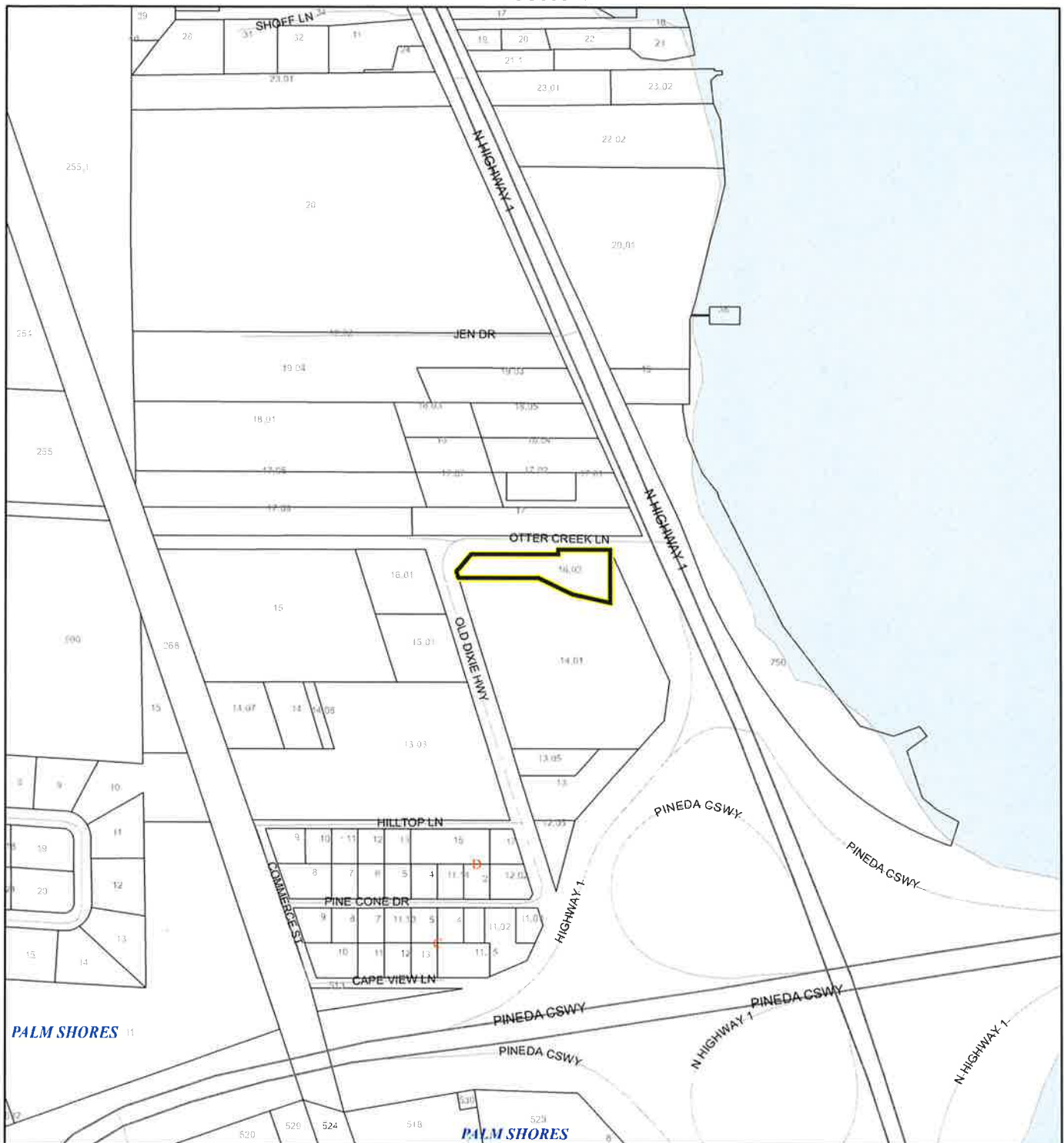
60 Meters

All Distances

EAGLE NESTS MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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Produced by BoCC - GIS Date: 9/8/2022

 Subject Property

 Parcels

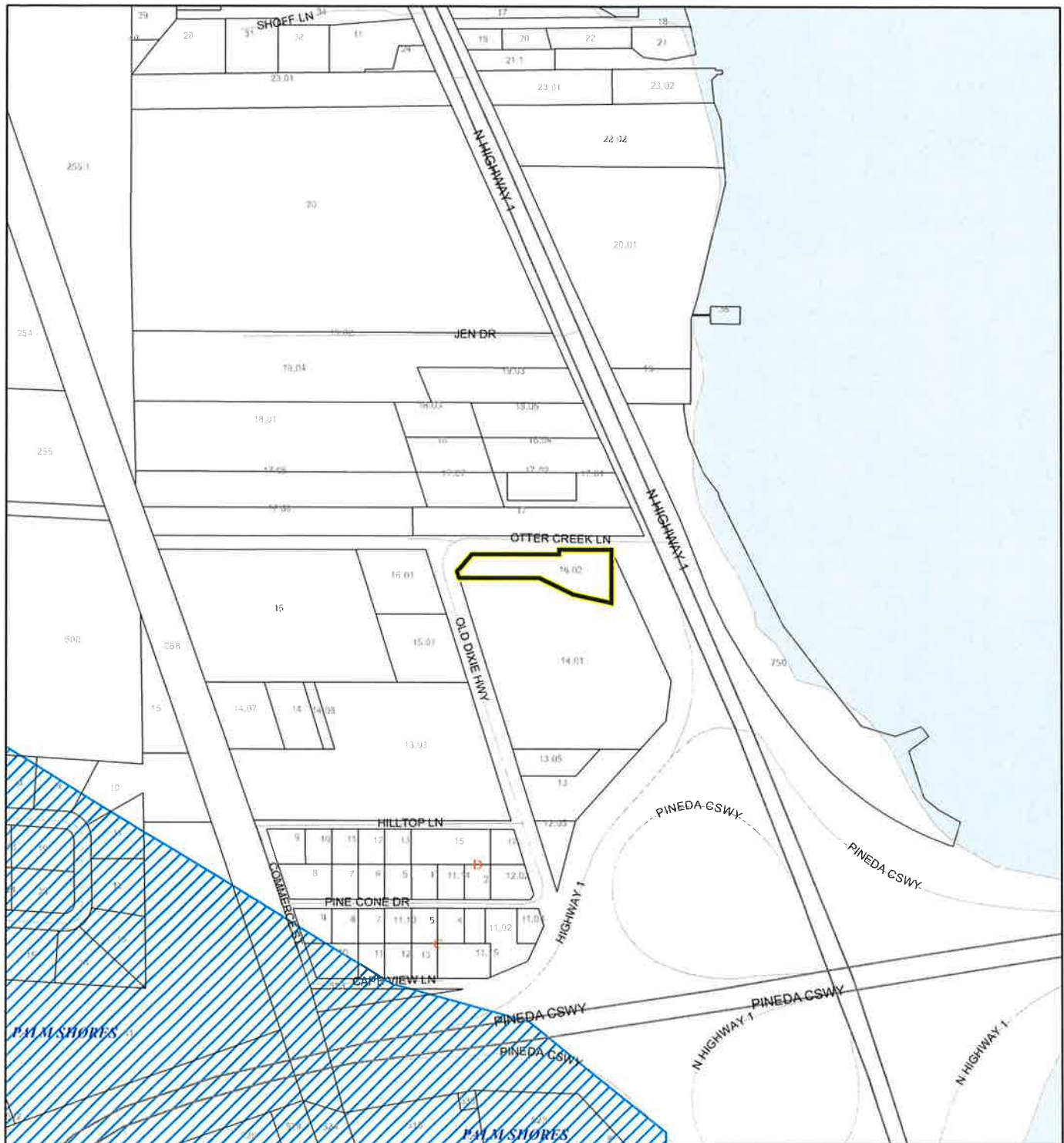


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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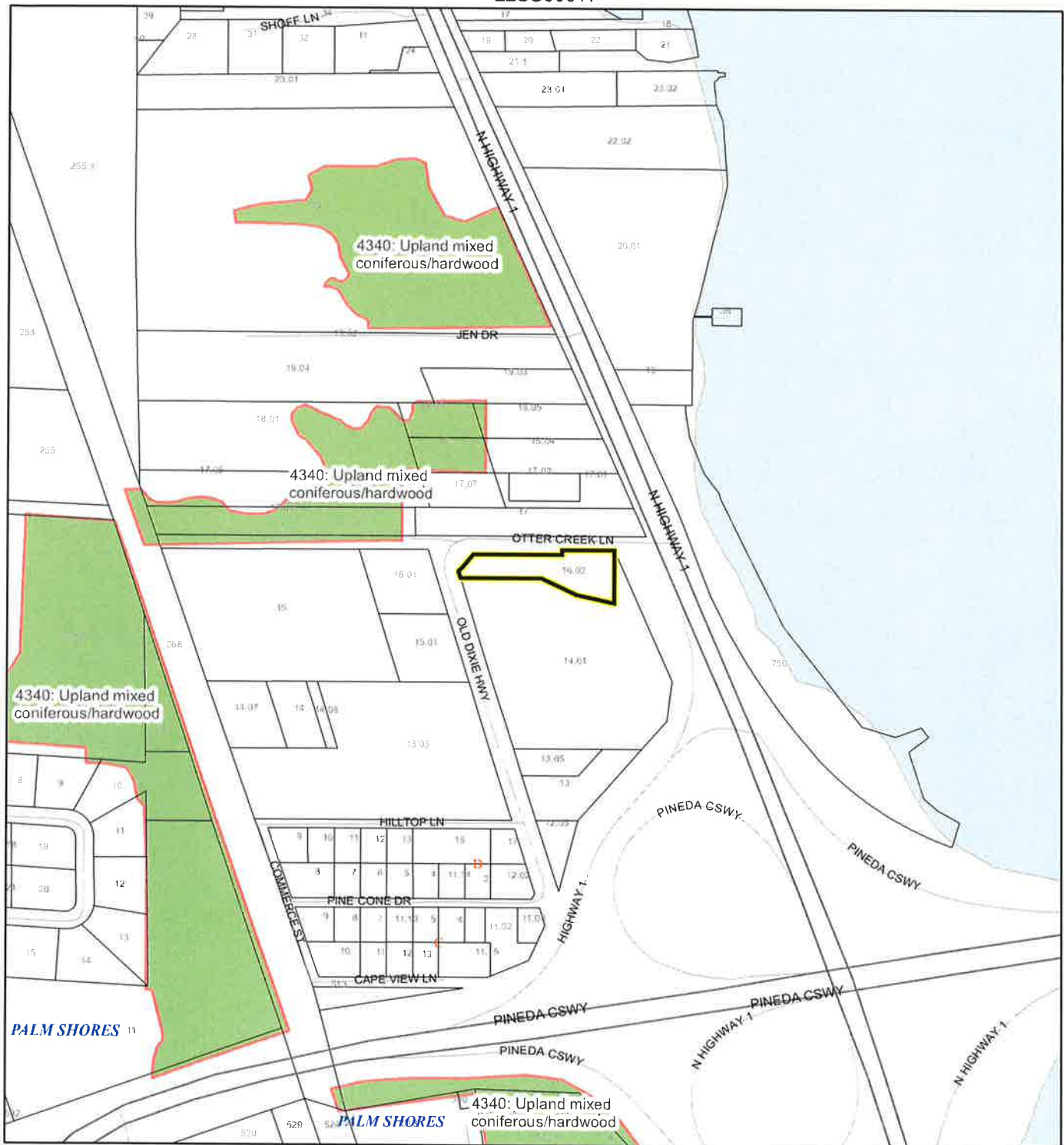
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- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

HUMANE SOCIETY OF SOUTH BREVARD

22SS00011



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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