



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

2/6/2025

Subject:

Tiffany and Henry Lequear request a change of zoning classification from RR-1 to AGR. (24Z00058) (Tax Account 3008694) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AGR (Agricultural).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RR-1 (Rural Residential) to AGR (Agricultural) to allow a zoning consistent with the RES 1:2.5 Future Land Use Map (FLUM) designation for the development of a deer farm on 5.78 acres. Currently, the parcel is undeveloped. The subject property is located approximately 2700 ft. West of Fleming Grant Rd. on the West end of Wilden Rd., a county-maintained road located in the rural area. The property is further located at the end of an approved access easement off Wilden Rd.

The proposed AGR classification permits single-family or mobile home residences and agricultural pursuits on 5 acre lots, with a minimum width of 200 feet and depth of 300 feet. The minimum house size in AGR is 750 square feet. Agricultural pursuits including the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands. Other pursuits include raising and grazing of animals, dude ranches and pet kennels, etc.

North of the subject property is a 637 acre parcel of vacant land owned by St. Johns River Water Management with Government Managed Lands (GML(P)) zoning and Public Conservation (PUB-CONS) FLU. South of the subject property is a 5.0 acre parcel, vacant land with GU zoning and Residential 1:2.5 (RES 1:2.5) FLU. East of the subject property is a 2.97 acre parcel of land developed as a fish farm with RR-1 zoning and RES 1:2.5 FLU. West of the subject property is a 10 acre parcel of vacant land owned by St. Johns River Water Management with GML(P) zoning and PUB-CONS FLU.

The Board should consider whether the proposed zoning request is consistent and compatible with the surrounding area.

On January 13, 2025, the Planning and Zoning Board heard the request and unanimously recommended approval. During the discussion that took place at this meeting, the applicant stated that the deer farm may be used in order to raise deer to promote certain genetic qualities, which would then be sold. As this was information not previously known to staff, an addendum to Staff Comments was created (see "Addendum 1" attached).

Clerk to the Board Instructions:

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

Resolution 24Z00058

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

WHEREAS, Tiffany & Henry Lequear request a change in zoning classification from RR-1 (Rural Residential) to AGR (Agricultural), on property described as Tax Parcel 2, as recorded in ORB 10021, Pages 531 – 532 of the Public Records of Brevard County, Florida. **Section 12, Township 30, Range 38.** (5.78 acres) Located approx. 2,701 ft. west of Fleming Grant Rd. and at the west end of Wilden Rd. (No assigned address. In the Micco area.); 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 RR-1 to AGR, 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 February 06, 2025.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rob Feltner, Chair 
Brevard County Commission
As approved by the Board on February 06, 2025.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – January 13, 2025

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00058

Henry and Tiffany Lequear

RR-1 (Rural Residential) to AGR (Agricultural)

Tax Account Number's: 3008694
Parcel I.D: 30G-36-12-HJ-* -2
Location: 2700 ft. West of Fleming Grant Rd., at the West end of
Wilden Rd. (District 3)
Acreage: 5.78 acres

Planning & Zoning Board: 01/13/2025

Board of County Commissioners: 02/06/2025

Consistency with Land Use Regulations

- Current zoning cannot be considered under the current Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the proposed Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1	AGR
Potential*	0 Single-family homes	Deer Farm
Can be Considered under the Future Land Use Map	No RES 1:2.5	YES RES 1:2.5

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RR-1 (Rural Residential) to AGR (Agricultural) to allow a zoning consistent with the RES 1:2.5 Future Land Use Map (FLUM) designation for the development of a deer farm on 5.78 acres. The deer farm is intended for personal use and not as a commercial business. Currently, the parcel is undeveloped. The subject property is located approximately 2700 ft. West of Fleming Grant Rd. on the West end of Wilden Rd., a county-maintained road located in the rural area. The property is further located at the end of an approved access easement off Wilden Rd.

On May 22, 1958, Brevard County adopted the zoning code, and the subject parcel was established with the zoning classification of GU, General Use. Based on the best available date, the lot was created on February 10, 1944 as part of A.A Berry's Plat of Certain Lands, all in the George Fleming Grant.

On August 11, 1983, zoning action Z-6428 denied the rezoning request from GU to RRM-1.

On May 10, 1984, under zoning action Z-6708, the property was rezoned from GU to RR-1.

On April 2, 2002, the Board of County Commissioners approved a request to waive the allowable two accesses for an easement. They granted easement access from the subject property through 4 additional properties.

On September 29, 2006, under administrative action A-2346, the property had an administrative approval granted for easement access for one single-family residence.

At this time, there are no active code enforcement cases associated with the subject parcel.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant Land	GML(P)	PUB-CONS
South	Vacant Land	GU	RES 1:2.5
East	Fish Farm	RR-1	RES 1:2.5
West	Vacant Land	GML(P)	RES PUB-CONS

North of the subject property is a 637 acre parcel of vacant land owned by St. Johns River Water Management with Government Managed Lands (GML(P)) zoning and Public Conservation (PUB-CONS) FLU.

South of the subject property is a 5.0 acre parcel, vacant land with GU zoning and Residential 1:2.5 (RES 1:2.5) FLU.

East of the subject property is a 2.97 acre parcel of land developed as a fish farm with RR-1 zoning and RES 1:2.5 FLU.

West of the subject property is a 10 acre parcel of vacant land owned by St. Johns River Water Management with GML(P) zoning and PUB-CONS FLU.

The RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. The keeping of horses and agricultural pursuits are accessory to a principal residence within the zoning classification.

The proposed AGR classification permits single-family or mobile home residences and agricultural pursuits on 5 acre lots, with a minimum width of 200 feet and depth of 300 feet. The minimum house size in AGR is 750 square feet. Agricultural pursuits including the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands. Other pursuits include raising and grazing of animals, dude ranches and pet kennels, etc. A permitted use with conditions is fish camps.

The proposed AGR zoning allows for the use called 'agritourism'. F.S.570.86(1) defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

Within a 500 foot radius, the abutting three properties to the West of the subject property have agricultural exemptions per the Brevard County Property Appraiser. Those properties are used for a fish farm. For those properties to receive the agricultural exemption, they were determined to be bona fide agricultural. As such, the local zoning requirements are superseded by the State of Florida.

Future Land Use

The subject property is currently designated as Residential 1:2.5 (RES 1:2.5) FLUM designation. The current RR-1 zoning is not consistent with the existing RES 1:2.5 FLUM designation. The proposed AGR zoning is consistent with the existing RES 1:2.5 FLUM designation.

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

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

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

Criteria:

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

enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;
The proposed would need to meet the Brevard County Code Performance Standards defined by Sec. 62-2251 through Sec. 62-2257

AGR permits the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands.

The residential uses are located approximately 1,000 ft. East of the subject property. Impacts such as noise, light and other potential nuisance factors associated with AGR activities should be considered.

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

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

1. historical land use patterns;

The historical land use patterns and the developed character of the surrounding area can be characterized as a rural area of character with vacant land, single-family residences on larger lots greater than 1.5 acres and agricultural pursuits. In the area is 647 acres of public conservation land.

Also in the area is a commercial fish farm that was incorporated in 2011. Residential development occurred as early as 1935.

There are two FLU designations within a 0.5 mile which are Residential 1:2.5 (RES 1:2.5) and Public Conservation (PUB-CONS). The predominant FLU designation is PUB-CONS.

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

There have been two developments within 0.5 miles during the preceding three years. Located southeast of the subject property, the developments were both single-family homes built in 2021 and 2023.

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

There has been no development approved and not constructed or zoning actions within the last three years.

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

No material violation of relevant policies has been identified.

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

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.

There are multiple zoning classifications within a 0.5 mile radius of the subject property. Zoning classifications RR-1, GML (P), Agricultural Residential (AU), AGR and General Use (GU). The predominant zoning is GML(P).

There is one parcel zoned AGR within the 0.5 mile radius. The parcel is located to the East of the subject property approximately 0.10 miles and is developed as a fish farm.

- 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.

Staff analysis indicates the subject property is not located in an established residential neighborhood. However, it can be considered a residential area with 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.

The request is intended for personal 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.

The applicant is not requesting a rezoning for commercial, industrial, or other non-residential uses. The property abutting to the North and West is public conservation land. Abutting to the East is agricultural pursuits used as a fish farm, then the area transitions to residential uses.

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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Hydric Soils

The entire subject parcel contains mapped hydric soils (EauGallie sand); indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt.

A portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Based on the above reference, the development potential of the subject property may be limited. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Fleming Grant Rd. from Kiwi Dr. to Micco Rd., which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, an Acceptable Level of Service (ALOS) of D, and currently operates at 11.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.11%. The corridor is anticipated to operate at 11.87% of capacity daily. The addition of one pole barn and deer farm will have a minimal impact on level of service. This is only a preliminary

review and is subject to change. This concurrency is based on if the applicant were to build a single-family residence in the future. Currently, it is proposed for a deer farm with an accessory pole barn to store equipment.

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

There is no County or City sewer or water utilities in the area. The property would need to provide its own service for well water and septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
 - Floodplain Protection
 - Indian River Lagoon Nitrogen Reduction Septic Overlay
 - Protected and Specimen Trees
 - Potential Code Enforcement
- Refer to the complete NRM report on the following page.

For Board Consideration

The Board should consider whether the proposed zoning request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00058**

Applicant: Henry Lequear (Owner: Henry & Tiffany Lequear)
Zoning Request: RR-1 to AGR
Note: for pole barn and deer farm
Zoning Hearing: 01/13/2025; BCC Hearing: 02/06/2025
Tax ID No.: 3008694

- 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:

- Hydric Soils
- Floodplain Protection
- Indian River Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Potential Code Enforcement

Land Use Comments:

Hydric Soils

A majority of the subject parcel contains mapped hydric soils (EauGallie sand); indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** 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. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as

agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification.

Per Section 62 3694(c)(1), 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. **For residential parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 62-3694(c)(6).** 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 plan or permit submittal.**

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. 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."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) may exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. 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. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Potential Code Enforcement

Information available to NRM indicates that unpermitted land clearing and alteration activities may have occurred on this parcel between 2020 and 2023. The confirmation of unpermitted land clearing and/or alteration activities may result in code enforcement

action.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 13**, 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 Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Logan Luse (D4); Ron Bartcher (D1); Melissa Jackson (D5); and Robert Brothers (D5).

Staff members present were Tad Calkins, Director (Planning and Development); Billy Prasad, Deputy Director (Planning and Development); Alex Esseeesse, Deputy County Attorney; Trina Gilliam, Interim Zoning Manager; and Alice Randall, Operations Support Specialist.

Item H.5. Tiffany and Henry Lequear request a change of zoning classification from RR-1 to AGR. (24Z00058) (Tax Account 3008694) (District 3)

Trina Gilliam read the application into the record.

Henry Lequear stated short term he wants to put a pole barn up and long term start a deer farm.

No public comment.

Ron Bartcher inquired as to what kind of deer are you raising.

Mr. Lequear responded white tail.

Ron Bartcher asked are you raising them for pets or meat?

Mr. Lequear responded for genetics. Bigger horns.

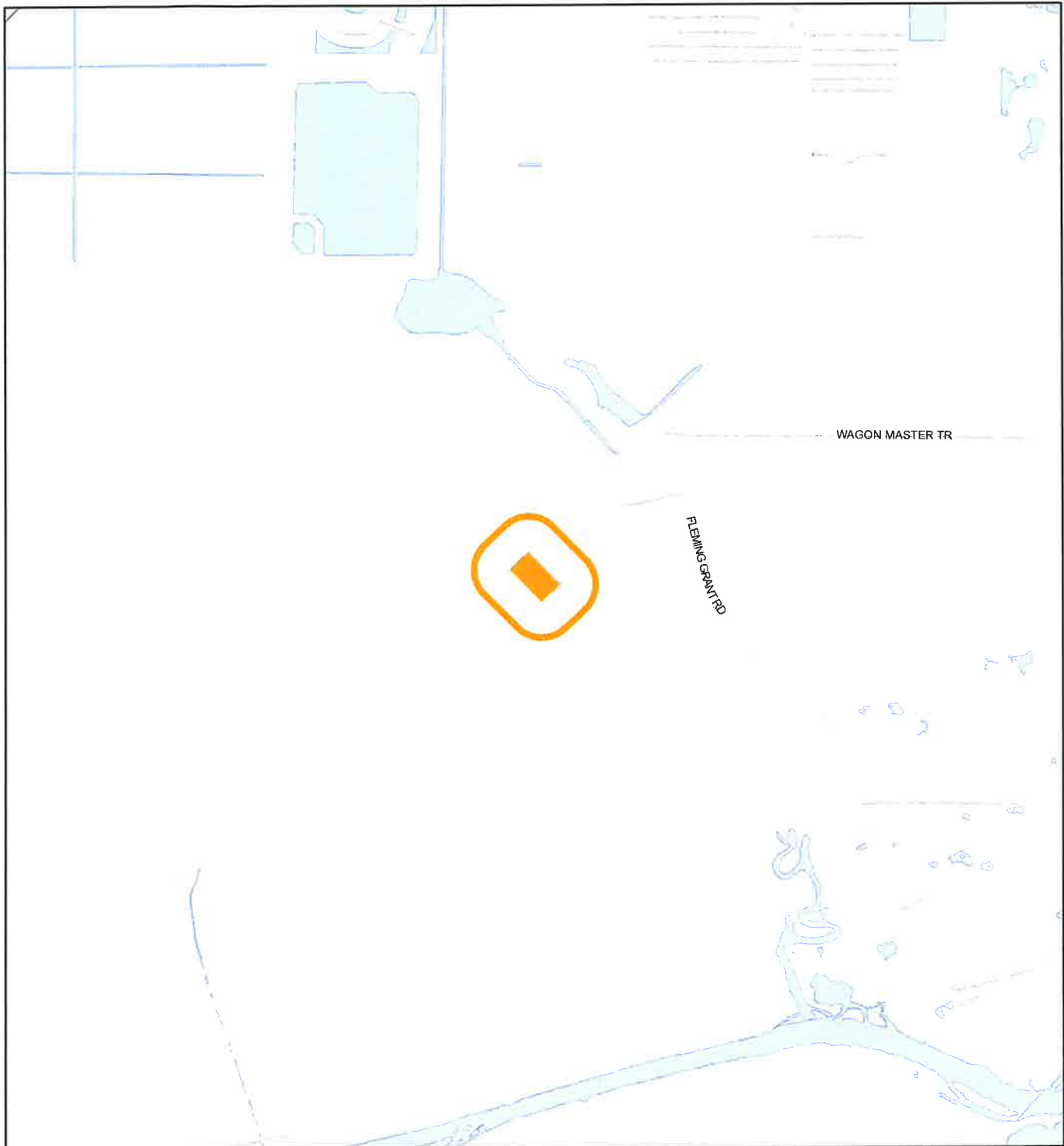
Mark Wadsworth asked him to go into a little bit more detail, but not elaborate. But when you say genetics are you selling the sperm, are you shipping it out?

Mr. Lequear responded with could be, yes.

Motion to recommend approval of Item H.5. by Logan Luse, seconded by Erika Orriss. Motion passed unanimously.

LOCATION MAP

Lequear, Henry & Tiffany
24Z00058



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

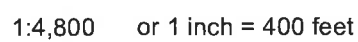
Buffer Distance: 500 feet

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: 10/3/2024

Buffer
Subject Property

Lequear, Henry & Tiffany
24Z00058

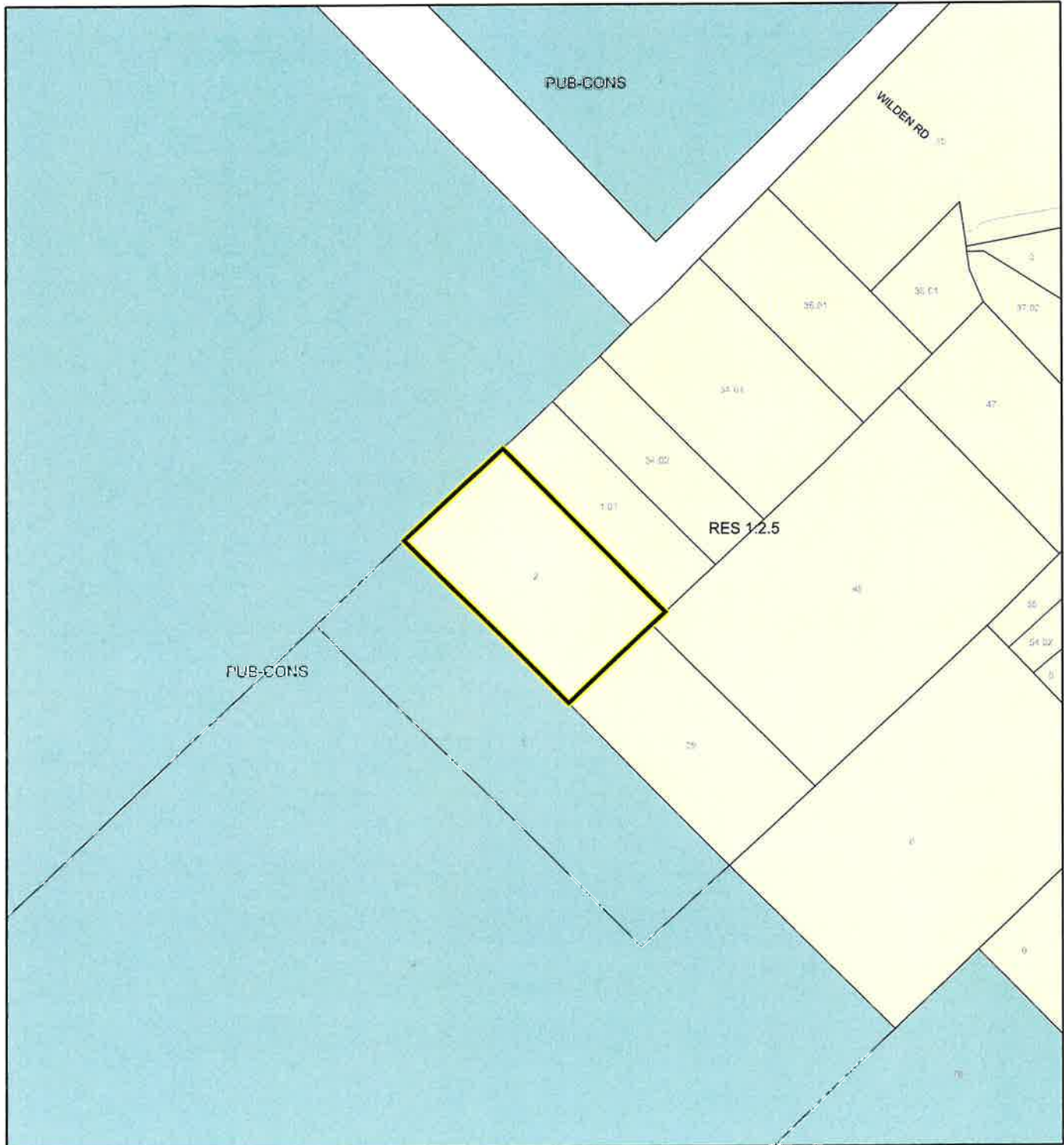


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- 281

FUTURE LAND USE MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

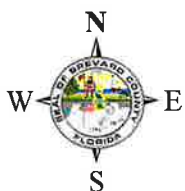
 Subject Property
 Parcels

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AERIAL MAP

Lequear, Henry & Tiffany
24Z00058





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2024

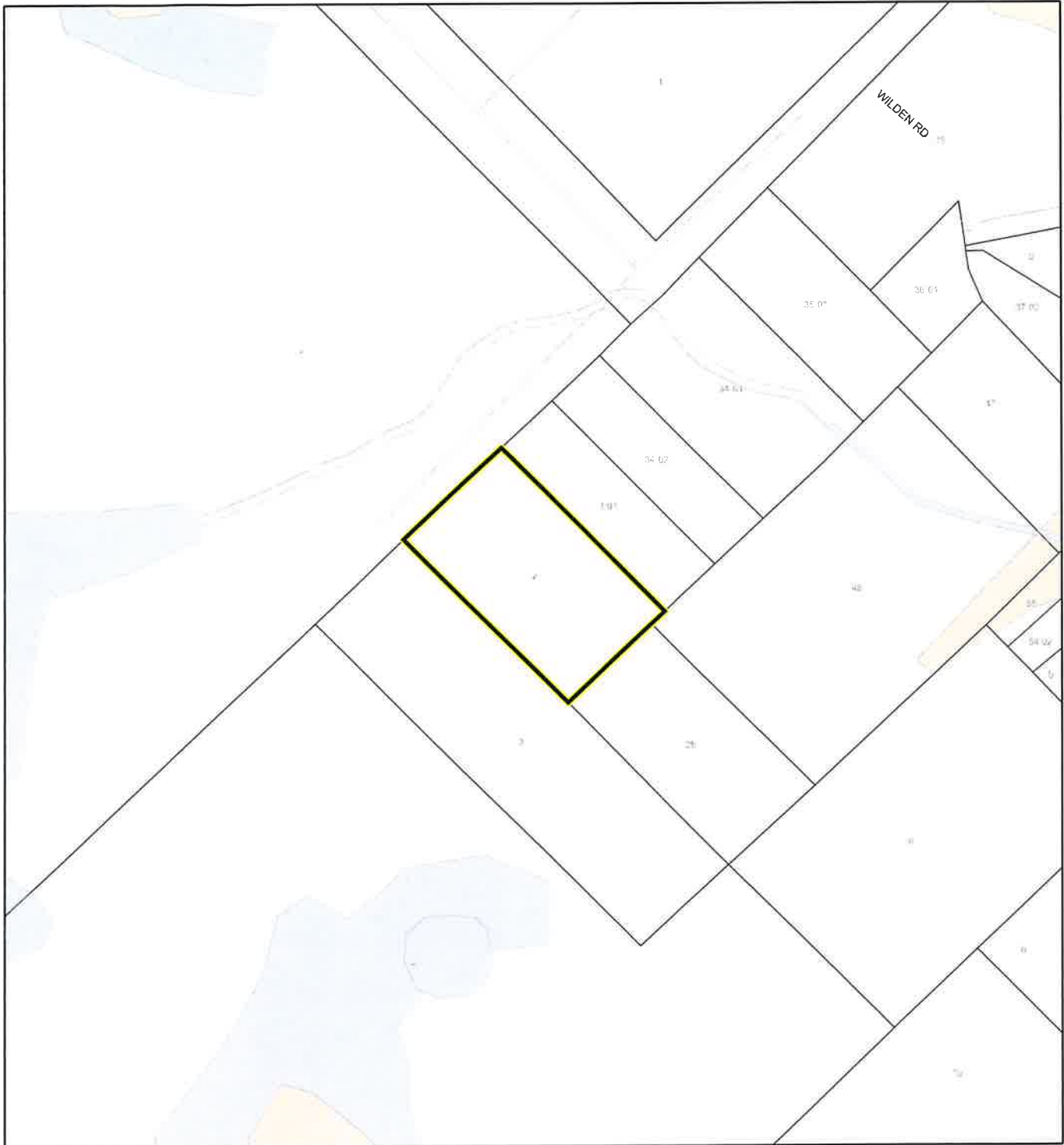
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 Subject Property
 Parcels

NWI WETLANDS MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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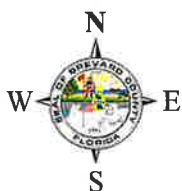
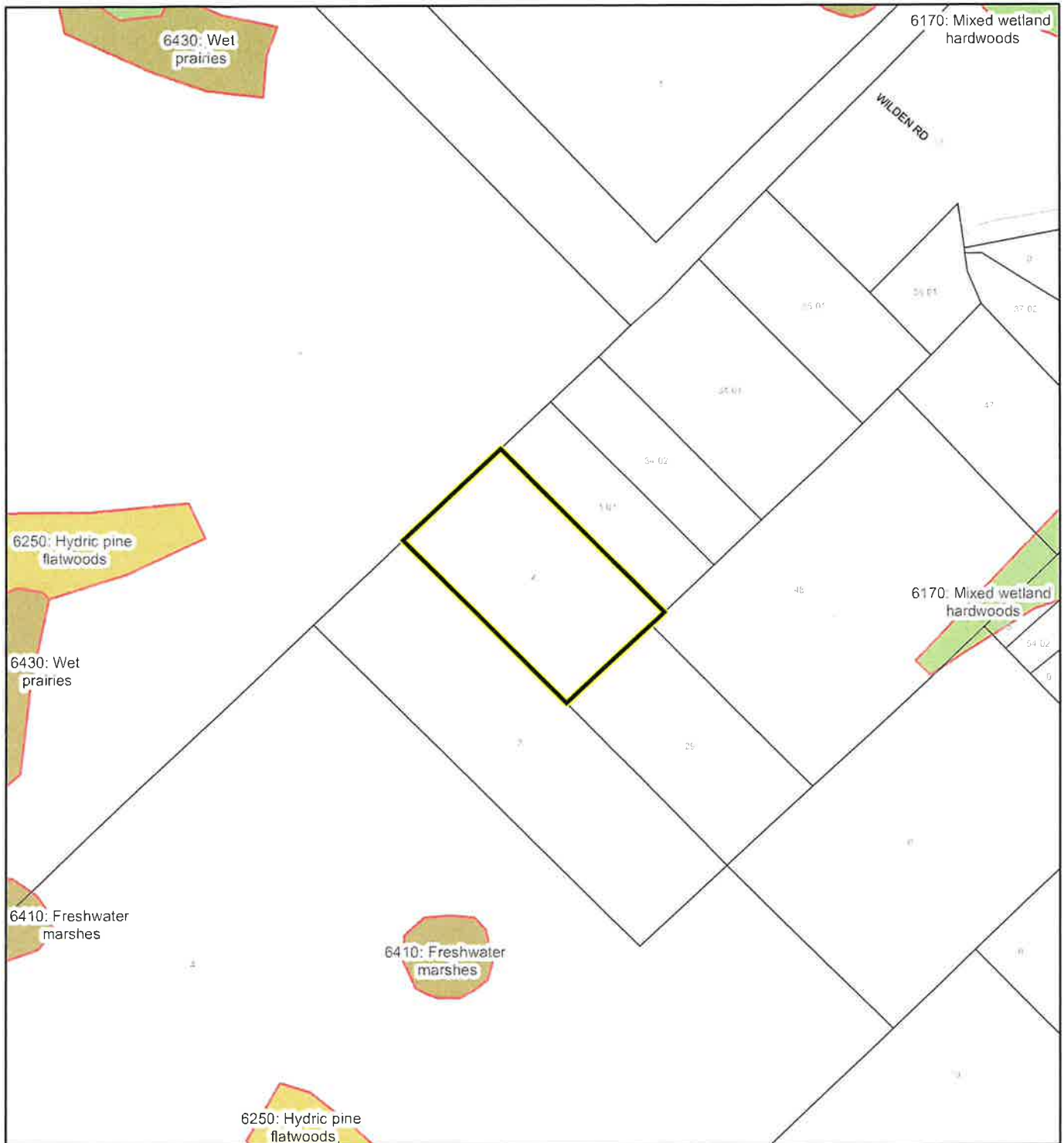
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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

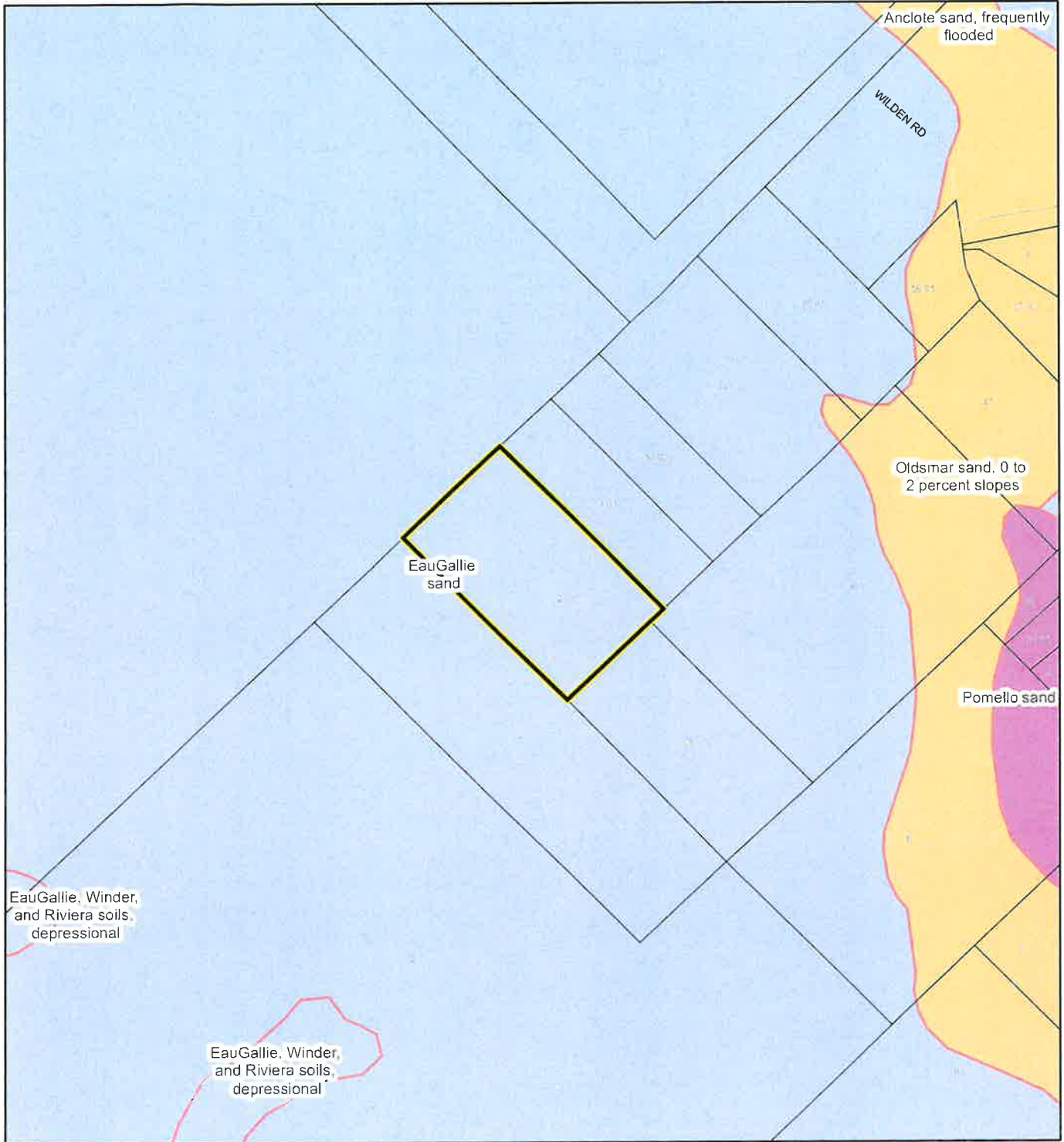
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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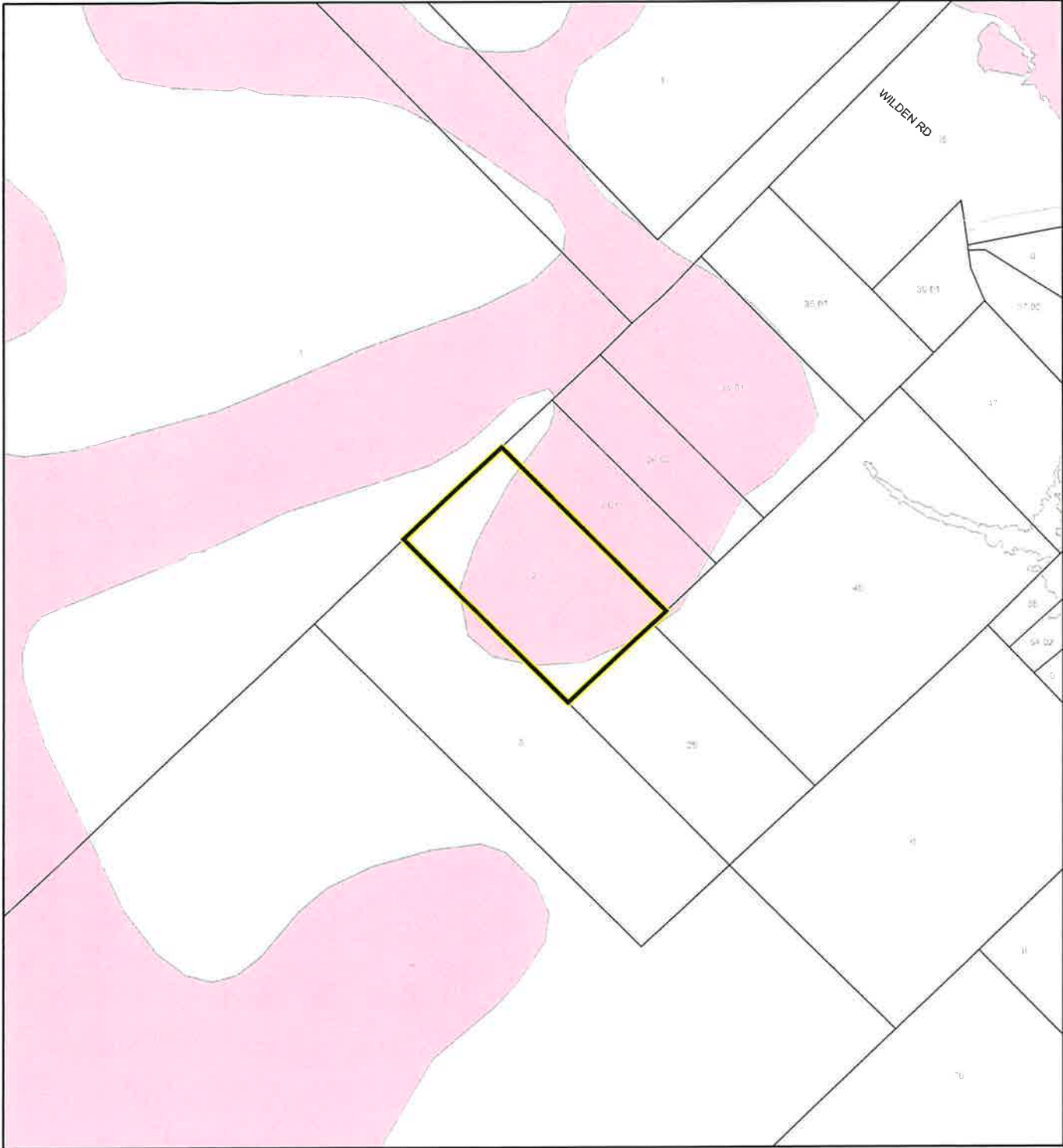
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

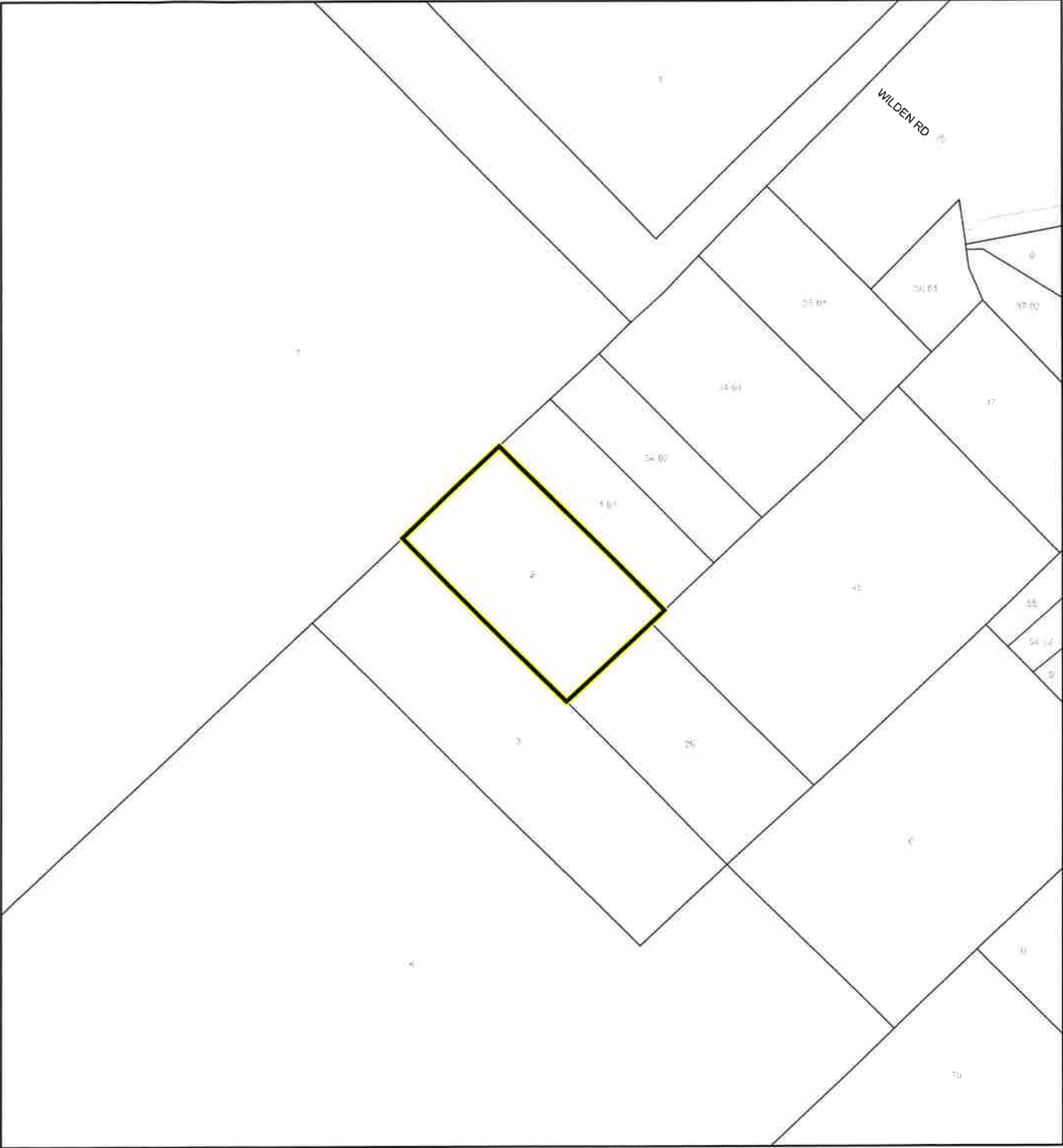
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FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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- Subject Property
- Parcels
- Coastal High Hazard Area
- SurgeZoneCat1

Lequear, Henry & Tiffany
24Z00058





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 Subject Property

 Parcels

Septic Overlay

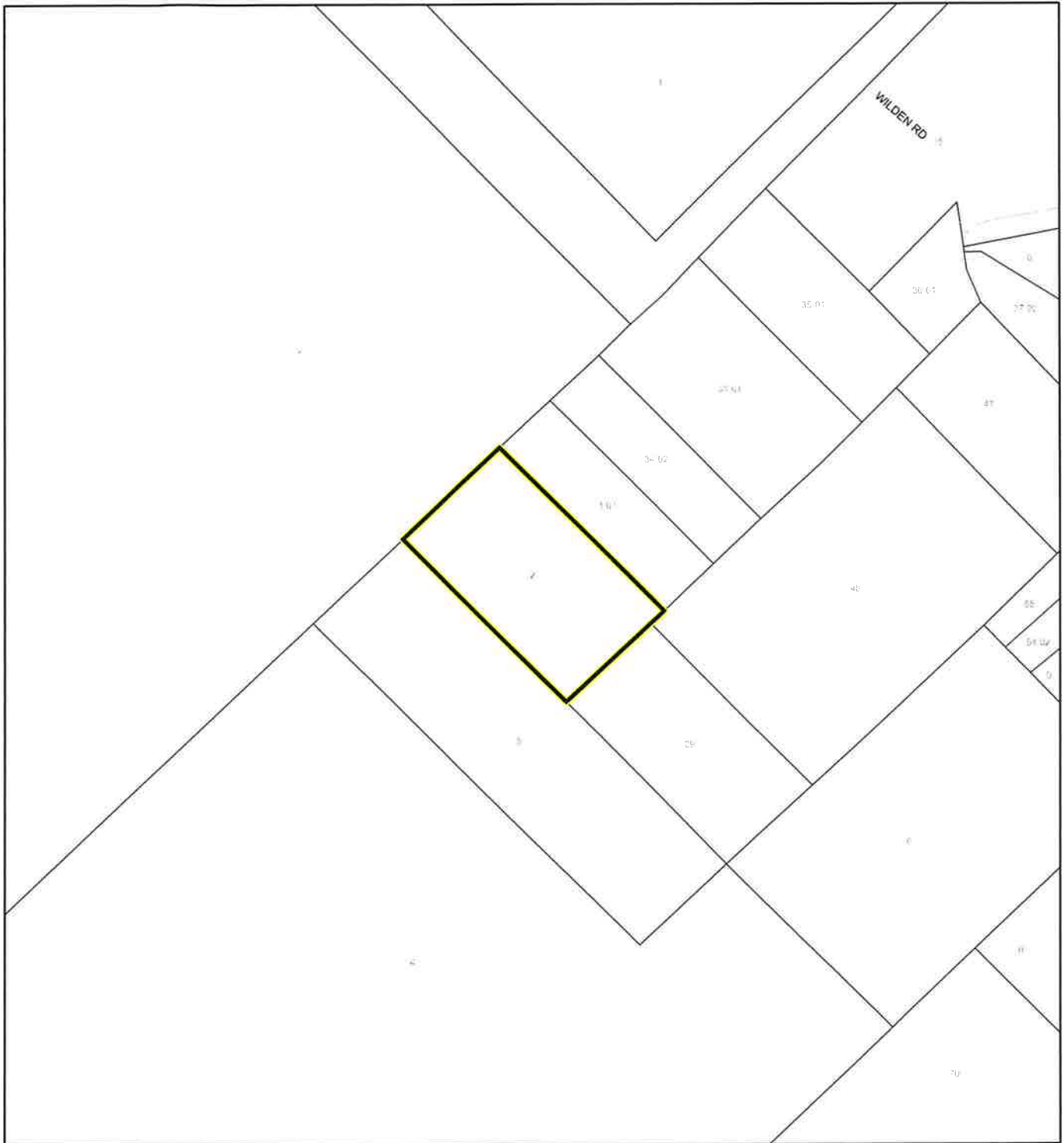
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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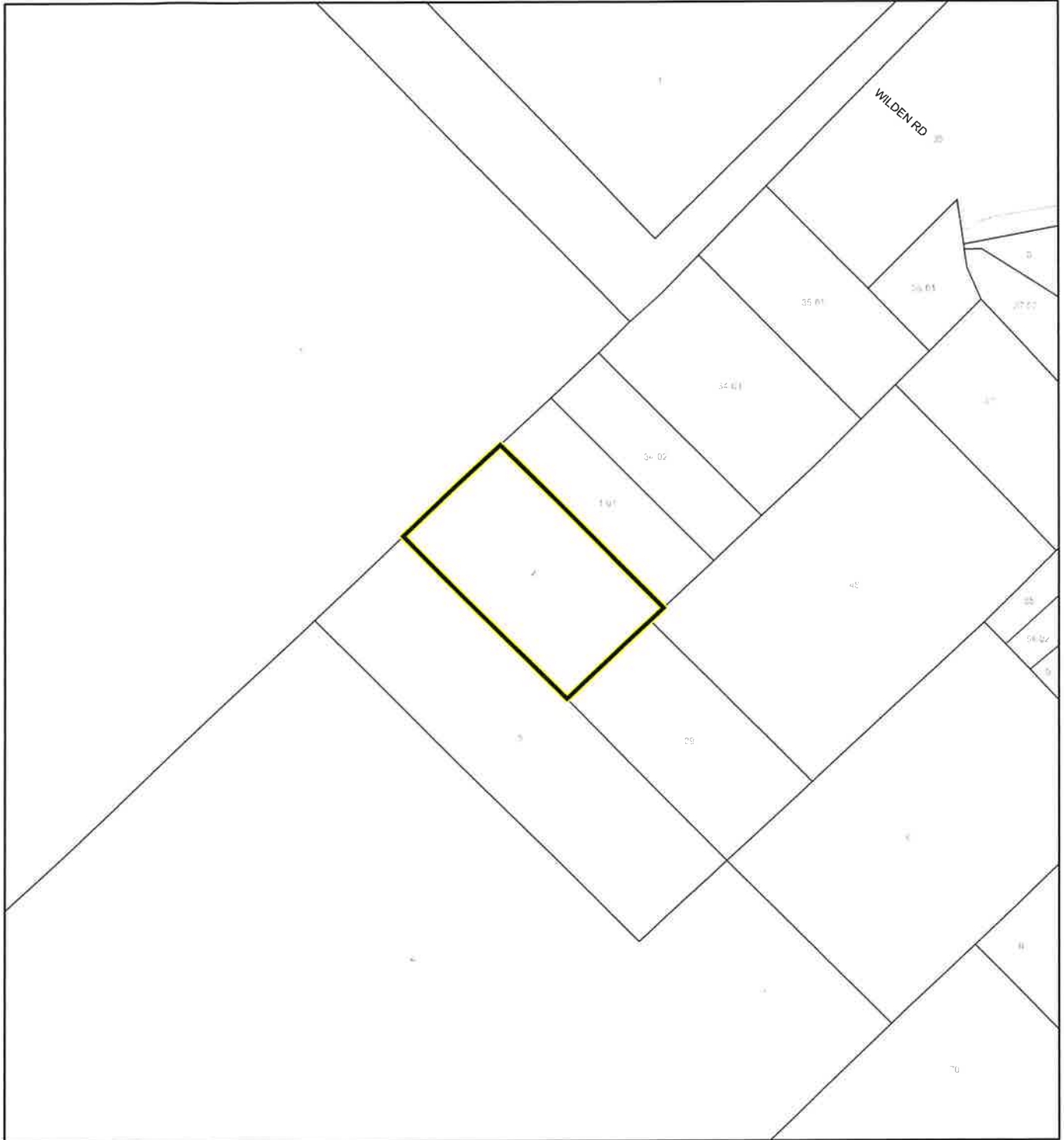
 Subject Property

 Parcels

 Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP




Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

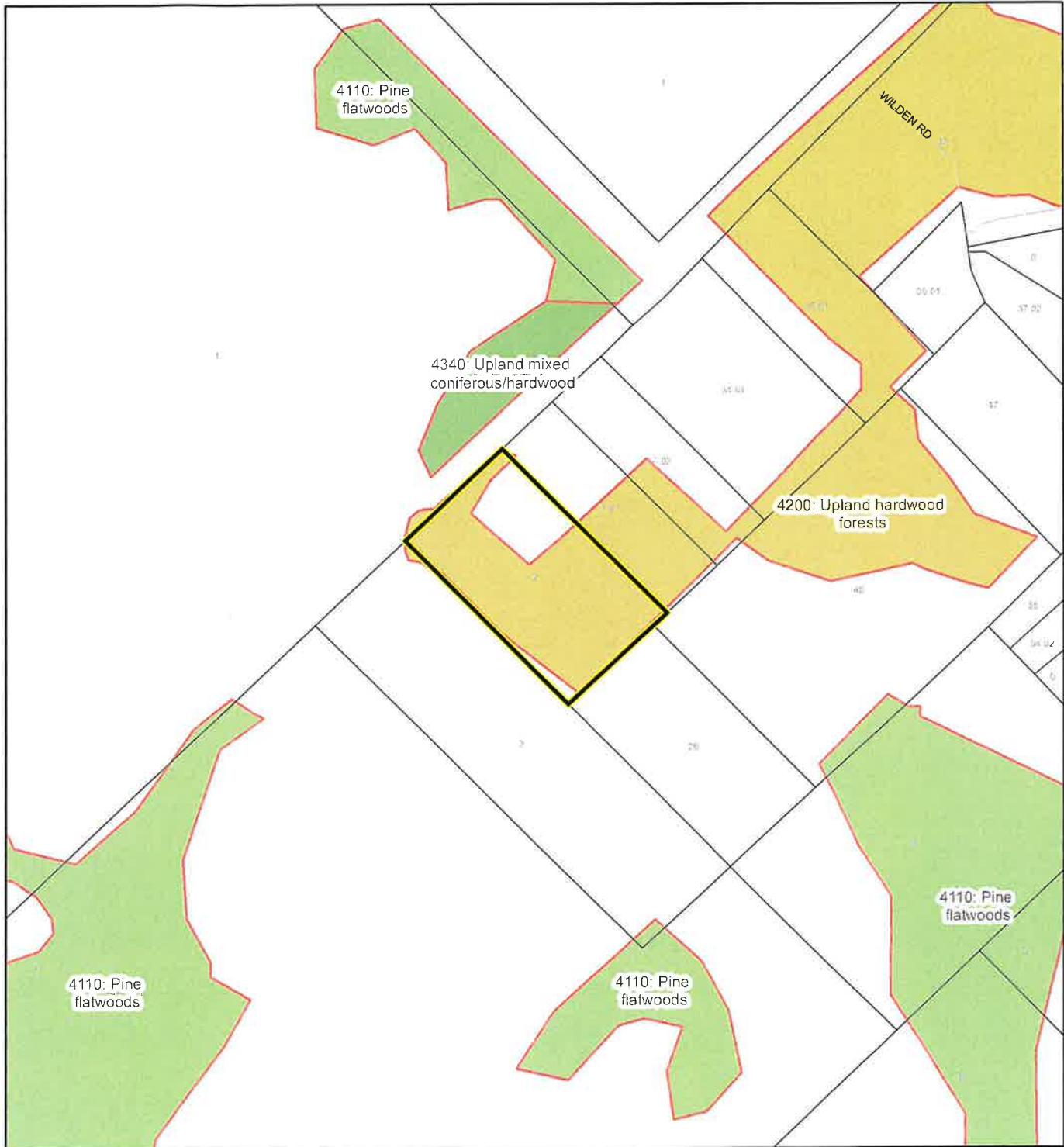
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Produced by BoCC - GIS Date: 10/3/2024

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Lequear, Henry & Tiffany
24Z00058



1:4,800 or 1 inch = 400 feet

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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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way

Building A, Room

114 Viera,

Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

Addendum #1 To Staff Comments 24Z00058 (Henry and Tiffany Lequear) to change the zoning classification from RR-1 (Rural Residential) to AGR (Agricultural)

Application 24Z00058 before the Board is a request to change the zoning classification change from RR-1 (Rural Residential) to AGR (Agricultural).

During the Planning and Zoning advisory meeting on January 13, 2025, the applicant noted the deer on the proposed deer farm would be raised for their genetics (bigger horns) with the possibility of selling their genetics. This is differs from the understanding that Staff had when it noted the Staff Comments, which stated that the farm would be for personal use and not a commercial use.

To clarify, the development potential of the subject property includes agricultural pursuits, including the packing and processing of commodities raised on the premises.

Meeting

Item: H.5

Motion By: Adkinson

2nd By: Goodson

Commissioner	District	Yes	No
Delaney	1	✓	
Vice Chair Goodson	2	✓	
Adkinson	3	✓	
Altman	5	✓	
Chair Feltner	4	✓	

Comm

Comm

Comm