Withdrawn

AGENDA REPORT
February 7, 2019

Nestle Larracas and Tony Andrade De La Torre request a change of zoning from RR-1 to BU-1-A. (18PZ00133) (District 3)

SUBJECT:
Public Hearing, Re: Nestle Larracas and Tony Andrade De La Torre request a change of zoning classification from RR-1 (Rural Residential) to BU-1-A (Restricted Neighborhood Commercial). The property is 0.18 acres, located on the west side of Highway A1A, approximately 83 feet north of Cardinal Drive. (5970 Highway A1A, Melbourne Beach) (18PZ00133) (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 the request for a change of zoning classification from RR-1 to BU-1-A.

SUMMARY EXPLANATION and BACKGROUND:
The applicant is seeking a change of zoning classification from RR-1 to BU-1-A on a 0.18 acre parcel of land and has stated that they intend to develop the property with mixed-use commercial and residential uses to include a cookie and bakery business on the first floor and a residential component on the second floor.
The Board should note the residential component for mixed use on this parcel will require the Future Land Use to be changed to Residential 6 (RES 6) to meet the residential density requirement for 0.18 acres. The applicants are requesting Residential 6 via an application 18PZ00134 for a companion Small Scale Comprehensive Plan Amendment (Item H.11). While the current Residential 1 Future Land Use could be considered consistent with BU-1-A zoning classification, if the Board considered the proposed development a "Transitional Use" this combination of RES 1 Future Land Use and BU-1-A Zoning classification would only allow for commercial development and not the mixed-use development the applicant has requested. The applicant has chosen not to pursue this option because it does not allow for residential component; therefore, staff has not evaluated the transitional use option. Should the Board wish to consider the "Transitional Use" option, staff would need to perform the analysis and bring the application back before the Planning & Zoning Board.

The applicant has indicated intent only to use the bakery to produce retail goods. Wholesaling of bakery items is not permissible within the BU-1-A or even BU-1 zoning classifications and would require BU-2. The applicant has been advised of these limitations of use.

The Board should consider whether the proposal is consistent and compatible with the existing mixture for zoning classifications (RU-1-9, RU-1-13, BU-1-A, & TU-1(7)) in the area. In 1993, in implementing the recommendations of a Small Area Study in the south beaches, the County implemented broad brush land use changes to reduce density to 1 unit per acre on 3,500 acres in this area. The parcels in the area along this portion of SR A1A established the BU-1-A zoning classification prior to the density controlled by the Comprehensive Plan allowing for development at 1 unit per acre. These parcels' zoning classification shall not be considered inconsistent with the Comprehensive Plan, which would allow for commercial development on parcels smaller than 1 acre in this area to be pursued as a pre-existing use without rezoning.

On January 7, 2019, the Planning and Zoning Board unanimously approved the request with a Binding Development Plan limited to one structure on the property, and that the commercial use be limited to a bakery.

ATTACHMENTS:

Description

- **Administrative Policies**
- **Staff Comments**
- **GIS Maps**
- **Public Comment**
- **Public Comment - Petitions**
- **FYI Submitted by Applicants**
- **P&Z/LPA Minutes - January**

Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Thursday, February 7, 2019 8:42 AM
To: Abbate, Frank B; Adams, Joanne L; Bentley, Eden; Brewer, Jad; Calkins, Tad; Craddock, Amy; Cummings, Cathleen; Daughtry, Sandy; Denninghoff, John P; Foll, Nadia; Furru, Christine; Grivas-Pereno, Bessie; Hemenway, Logan; Isnardi, Kristine; Jim Barfield; Lane, Karen; Lewis, Sally A; Liz Alward; Lober, Bryan; Luebker, Vic; Mascellino, Carol; McCullough-Wham, Lee Ann; Newell, Marcia; Prasad, Billy; Commissioner Rita Pritchett; Ragain, Rebecca; Ritchie, George C; Roth, Joy; Skambraks, Anda C; Commissioner Curt Smith; Sterk, Erin; Stern, Danielle; Tice, Molly; Commissioner John Tobia; Toro, Deanna; Valliere, Christine V; Valliere, Jennifer; Van, Fritz; Walker, Don; Woodard, Patrick; Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: H.11. & H.12. Withdrawal
Attachments: 18PZ00034 & 18PZ00033 Withdrawal.pdf

The applicants for Items H.11. and H.12. have withdrawn their requests on tonight's BCC Zoning agenda.
Please see the attached email.

From: Sterk, Erin
To: Jones, Jennifer; Calkins, Tad
Subject: Fwd: 18PZ00034 & 18PZ00033 Withdrawal Confirmation
Date: Thursday, February 7, 2019 8:24:12 AM

Jennifer,

Please add this email to the file.

Also, please touch base with Tad to see how he would like to notify the Commission and interested parties.

Thanks,
Erin

Begin forwarded message:

> **From:** Lian L <nrlarracas@gmail.com>
> **Date:** February 6, 2019 at 6:48:20 PM EST
> **To:** "Sterk, Erin" <Erin.Sterk@brevardfl.gov>
> **Cc:** "Calkins, Tad" <tad.calkins@brevardfl.gov>, D3.Commissioner@brevardfl.gov
> **Subject: Re: 18PZ00034 & 18PZ00033 Withdrawal Confirmation**
>
> Hi Erin,
> This is sad news since we have gained much supporters from small business owners and even locals in the area.
> However, in light of the fact that we are prohibited from requesting the variance to build our live/work type of structure, we will withdraw our application for (18PZ00134) and Rezoning (18PZ00133) per your recommendation.
> If you find any other supporting documents that will allow us to build what we want, please let us know.
>
> Blessings,
>
> Lian and Tony
>
> On Wed, Feb 6, 2019 at 6:29 PM Sterk, Erin <Erin.Sterk@brevardfl.gov> wrote:
>
> > Tony,
> >
> > Thank you for taking our call earlier this evening. The Comprehensive Plan policy that we understand prohibits the Board from approving the residential density increase in the south beaches area is included below. This is found in the Coastal Management Element at the following link: https://www.brevardfl.gov/docs/default-

source/planning-and-development/chapter-10-coastal-management-element.pdf?sfvrsn=2

Coastal Residential Densities

Objective 7

Limit densities within the coastal high hazard zone and direct development outside of this area.

Policy 7.1

Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

It is our understanding that you intend to withdraw your application for both the Comp Plan Amendment (18PZ00134) and Rezoning (18PZ00133) in light of this new information, as our office has offered to refund the fees paid for both requests and the prior Variance request.

Thank you for your candor in receiving this last minute information.

Please confirm this the direction you have provided,

Erin Sterk

Planning & Zoning Manager

Brevard County

(321) 633-2070 ext. 52640

electronic mail to this entity. Instead, contact this office by phone or in writing."

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.

B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.

C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.

D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

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

Criteria:

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

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

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

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

1. historical land use patterns;

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

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

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

Administrative Policy 4

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

Criteria:

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

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

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

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

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

Criteria:

A. Whether adopted levels of service will be compromised;

B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;

D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;

E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;

F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;

G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

(1) The character of the land use of the property surrounding the property being considered.

(2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

(3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

(4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.

(5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) *General standards of review.*

(1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.

a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the

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

b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

c. Noise levels for a conditional use are governed by section 62-2271.

d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.

e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.

f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.

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

FACTORS TO CONSIDER FOR A REZONING REQUEST
Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

REZONING REVIEW WORKSHEET

18PZ00133

Commission District # 3
Hearing Dates: **P&Z 01/07/19** **BCC 02/07/19**

Owner Name: **NESTLE LARRACAS ANDRADE DE LA TORRE AND TONY DE LA TORRE**

Request: **RR-1 to BU-1-A**

Subject Property:

Parcel ID# 29-38-14-GZ-8-1
Tax Acct.# 2954056
Location: West side of Highway A1A, approx. 83 feet north of Cardinal Drive
Address: 5970 Hwy A1A, Melbourne Beach
Acreage: 0.18

Consistency with Land Use Regulations

NO	**Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255**
NO	**Proposal can be considered under the Future Land Use Designation. Sec. 62-1255**
YES	**Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)**

	CURRENT	PROPOSED
Zoning	RR-1	BU-1-A
Potential*	1 Single Family Unit	1,568 sq. ft. & 1 SFR
Can be Considered under FLU MAP	YES, Residential 1	NO, Mixed Use Commercial & Residential will require Residential 6**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.**Requires Small Scale Amendment from RES 1 to RES 6.

	ADT	PM PEAK		
Trips from Existing Zoning	10	1	Segment Number	335A
Trips from Proposed Zoning	1,133	42	Segment Name	Highway A1A Indina River County to Heron Rd
Maximum Acceptable Volume (MAV)	24,200	2,178	Acceptable LOS	C
Current Volume	3,790	341	Directional Split	0.51
Volume With Proposed Development	4,923	383	ITE CODE	
Current Volume / MAV	15.66%	15.66%	210/933	
Volume / MAV with Proposal	20.34%	17.59%		
Current LOS	C	C		
OS With Propos	C	C		
Findings	☑ Non-Deficiency		☐ Deficiency	

Background & Purpose of Request

The applicant is seeking a change of Zoning classification from Rural Residential (RR-1) to Restricted Neighborhood Retail Commercial (BU-1-A) for the purpose of constructing a commercial building with a residential dwelling unit referred to as mixed use (commercial and residential use) per Section 62-2106. The applicants want to open a cookie and bakery business on the first floor and retain the right to develop a residential dwelling unit above the bakery.

Mixed use development as proposed would be subject to compliance with the following code provisions.
Section 62-2106. Mixed use commercial and residential use.

(a) *A portion of a commercial building or site located in a general retail commercial zoning classification (BU-1), a restricted neighborhood retail commercial zoning classification (BU-1-A), or a retail warehousing and wholesale business zoning classification (BU-2), as applicable, may be used for residential purposes. The total residential floor area of each residence shall adhere to the minimum floor area requirements of the RU-2-10 zoning classification. The density of the residential component shall be governed by the Future Land Use Element of the Comprehensive Plan, as described in Policy 2.13.*

(b) *The commercial portion of the property shall occupy at least a portion of the first floor of the structure and must be designed and permanently maintained for commercial use. Both commercial and residential uses may occupy the same structures on the property, or a detached single-family or multifamily dwelling may be constructed as the residential component of a mixed use facility pursuant to the criteria of this section.*

The applicants state the parcel to the south of this parcel is zoned BU-1-A and has been developed as mixed use with a beauty salon on the first floor and residential dwelling unit on the second floor. This parcel was developed with a single family residential with septic building permit **No. K0092295**. On 01/05/2000, the building permit was issued for the building on this parcel. On 05/25/2000, a Certificate of Occupancy (C.O.) was issued for the building. On 6/20/2000, the Brevard County Property Appraiser's parcel notes list this new building as being half single family residence and half beauty salon. 12/04/2000, the Brevard County Property Appraiser's parcel notes list beauty salon is on 1st floor, single family residence on 2nd. The Building Department is not required to retain building permits for single family residential longer than 10 years and there are no plans in our records available to demonstrate how this mixed use building was approved. The RES 1 Future Land Use designation would have prohibited a dwelling unit on a parcel less than one acre in size.

RR-1
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.

BU-1-A
The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

October 08, 1964: the subject parcel was rezoned under action # (**Z-1544**) from Single Family Residential (RU-1) to Neighborhood Retail Business (BU-1) currently known as BU-1-A per Ordinance No. **73-13**.

November 01, 2001: the subject parcel was rezoned under action # (**Z-10634**) from BU-1-A to RR-1.

A companion application, **18PZ00134** was submitted accompanying this request for Future Land Use (FLU) designation change from Residential 1 (RES 1) to Residential 6 (Res 6). This change to the FLU is to be consistent with the BU-1-A zoning with residential mixed use to meet the density requirement of the residential component as described in Policy 2.13 of the Future Land Use Element of the Comprehensive Plan. The parcel

is 0.18 acres in size and requires a Future land Use of Residential 6 (six units per acre density) to be compatible with the residential density requirement for mixed use.

Land Use Compatibility

The subject property currently retains the Residential 1 (RES 1) Future Land Use (FLU) designation, but the applicants are requesting Residential 6 via an application **18PZ00134** for a companion Small Scale Comprehensive Plan Amendment.

FLUE 2.1 outlines the role of the Comprehensive Plan in the designation of commercial land.

Per Section 62-2106 Mixed Use Commercial and Residential Use: The density of the residential component shall be governed by the Future Land Use Element of the Comprehensive Plan, as described in **Policy 2.13**.

In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development, as described in **Policy 1.2 Criteria C.** This parcel does not have access to centralized potable water or sewer.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

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

Applicable Land Use Policies

The adjacent parcel to the south is zoned BU-1-A and has a mixed use of commercial and residential. The adjacent parcel to the north is zoned Single-Family Residential (RU-1-9). The RU-1-9 classification permits single-family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The adjacent parcel to the west is zoned Single-Family Residential (RU-1-13). RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

October 08, 1964 the abutting lots along Highway A1A of The Melbourne Shores Subdivision and Melbourne Shores 2nd Addition, were rezoned (**Z-1544**) to Neighborhood Retail Business (BU-1) currently known as BU-1-A per Ordinance No. 73-13. This zoning change was done to have a commercial strip of lots to serve this community along Highway A1A. After the creation of the Comprehensive Plan, parcels FLU designations were reduced to Res 1 across the entirety of the southern beaches on February 17, 1993. Over the years, some of these commercial lots that abut Highway A1A have been rezoned back to a residential zoning classification. The remaining commercially zoned lots are developed with a mixture of single-family residential houses and commercial buildings and uses for the community.

The half–mile radius around this site has not seen any zoning changes within the last 14 years.

For Board Consideration

The applicant is seeking a change of Zoning classification from RR-1 to BU-1-A on a 0.18 acre parcel of land in order to develop a Commercial building with mixed use commercial and residential use with a cookie and bakery business on the first floor and a residential component on the second floor.

The Board should note the residential component for mixed use on this parcel will require the Future Land Use to be changed to Residential 6 to meet the residential density requirement for 0.18 acres. The applicants are requesting Residential 6 via an application 18PZ00134 for a companion Small Scale Comprehensive Plan Amendment. There are two additional ways BU-1-A could be considered, but each option identified below leaves the property with only commercial and not residential development potential that the applicant has chosen not pursue.

1. "Transitional use" consistent with existing RES 1 FLU designation.
2. Neighborhood Commercial (NC) FLU designation.

The applicants do not want to lose the residential development potential, so neither of these possible outcomes are desirable by them.

The Board should consider whether the proposal is consistent and compatible with mixed-use salon and residence to the south, the adjacent residentially zoned vacant land to the west and the adjacent single family zoning with an existing residence to the north.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review
SUMMARY

Item #: 18PZ00133	**Applicant: Tony & Nestle Andrade De La Torre**
Zoning Request: RR-1 to BU-1-A	
P&Z Hearing Date: 1/07/19	**BCC Hearing Date: 2/07/19**

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

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

Comments:
This review relates to the following property: Twp. 29, Rng. 38, Sec. 14; Tax ID No. 2954056

The subject parcel contains mapped aquifer recharge soils (Palm Beach sand) 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.

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, the subject property has a large mapped Florida Scrub Jay polygon over the site as shown on the Scrub Jay Occupancy Map. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Due to recent changes in septic ordinance, if property does not connect to sewer, use of an alternative septic system designed to specifically provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

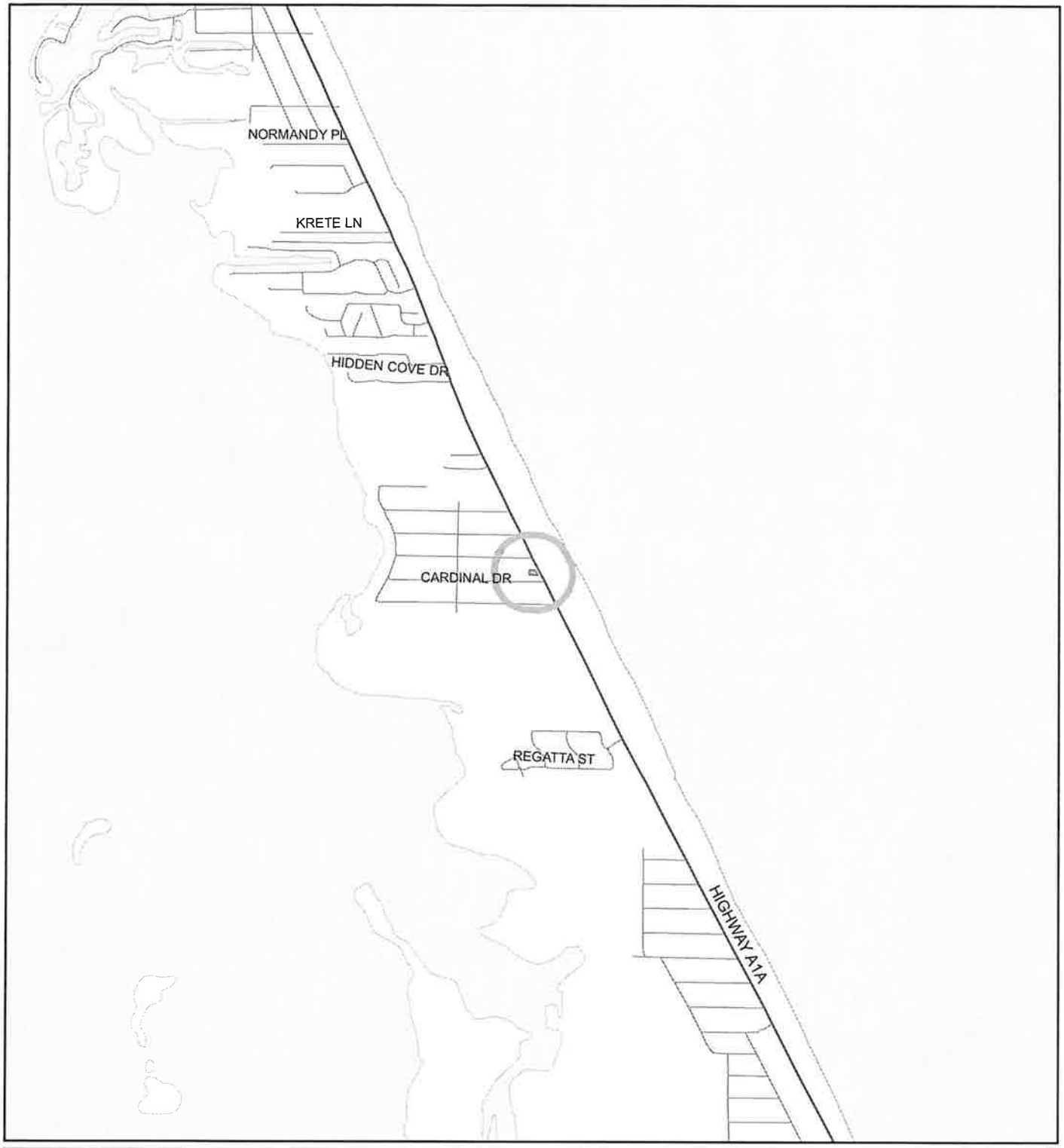
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds,

increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

LOCATION MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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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: 11/8/2018

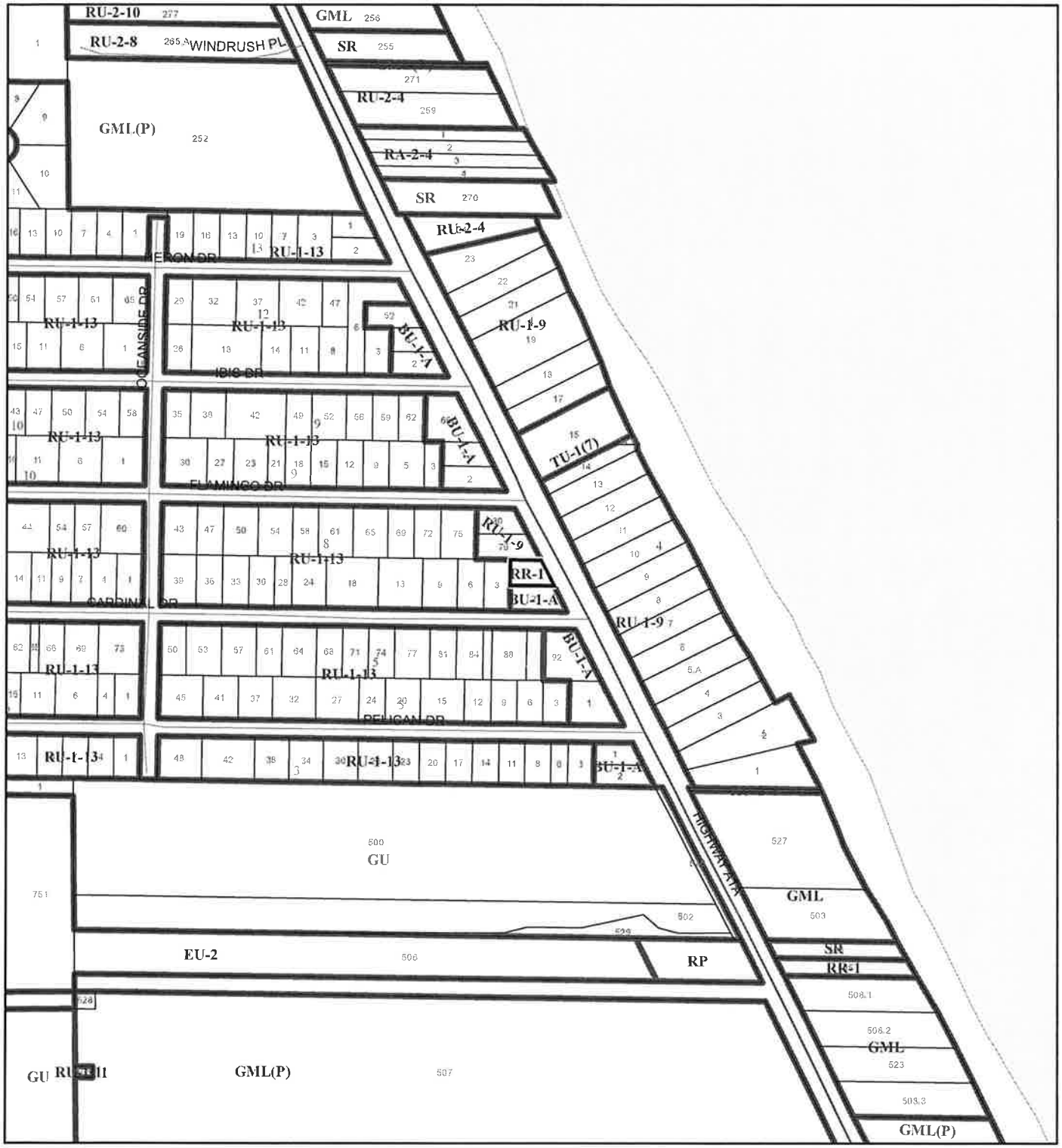
Buffer

Subject Property

ZONING MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/8/2018

Subject Property

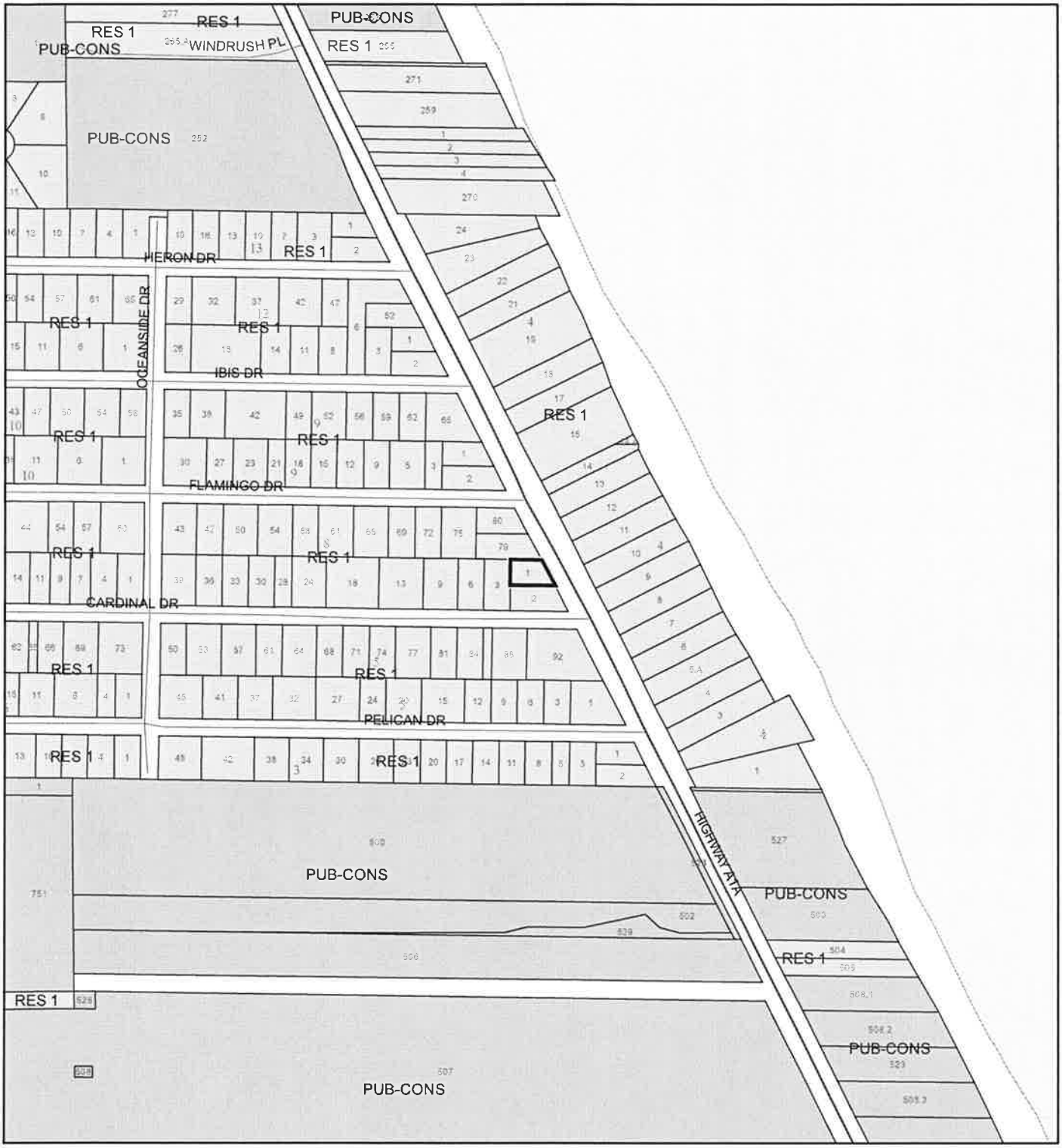
Parcels

Zoning

FUTURE LAND USE MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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AERIAL MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133

N

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1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2018

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Produced by BoCC - GIS Date: 11/8/2018

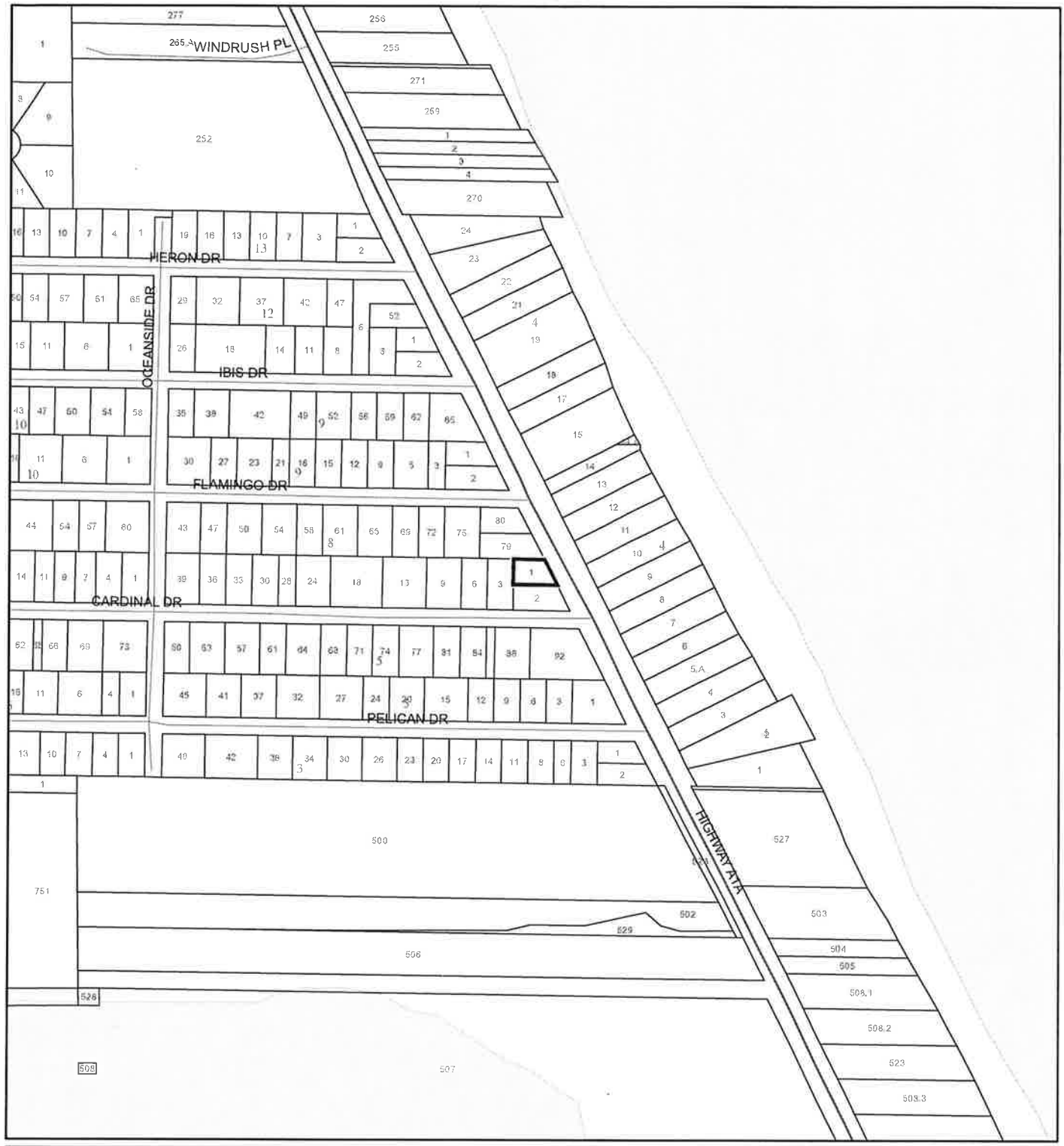
Subject Property

Parcels

NWI WETLANDS MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

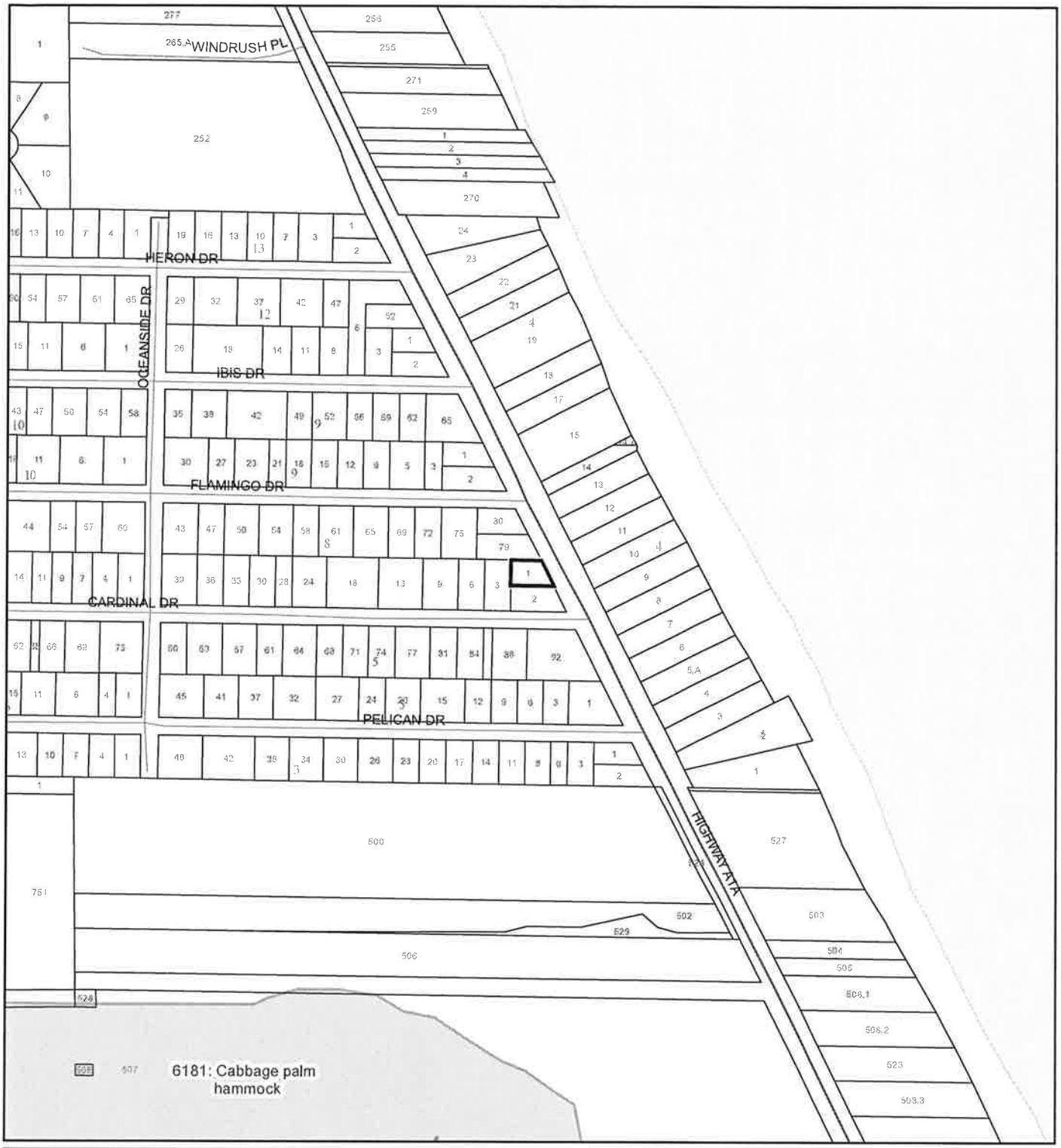
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

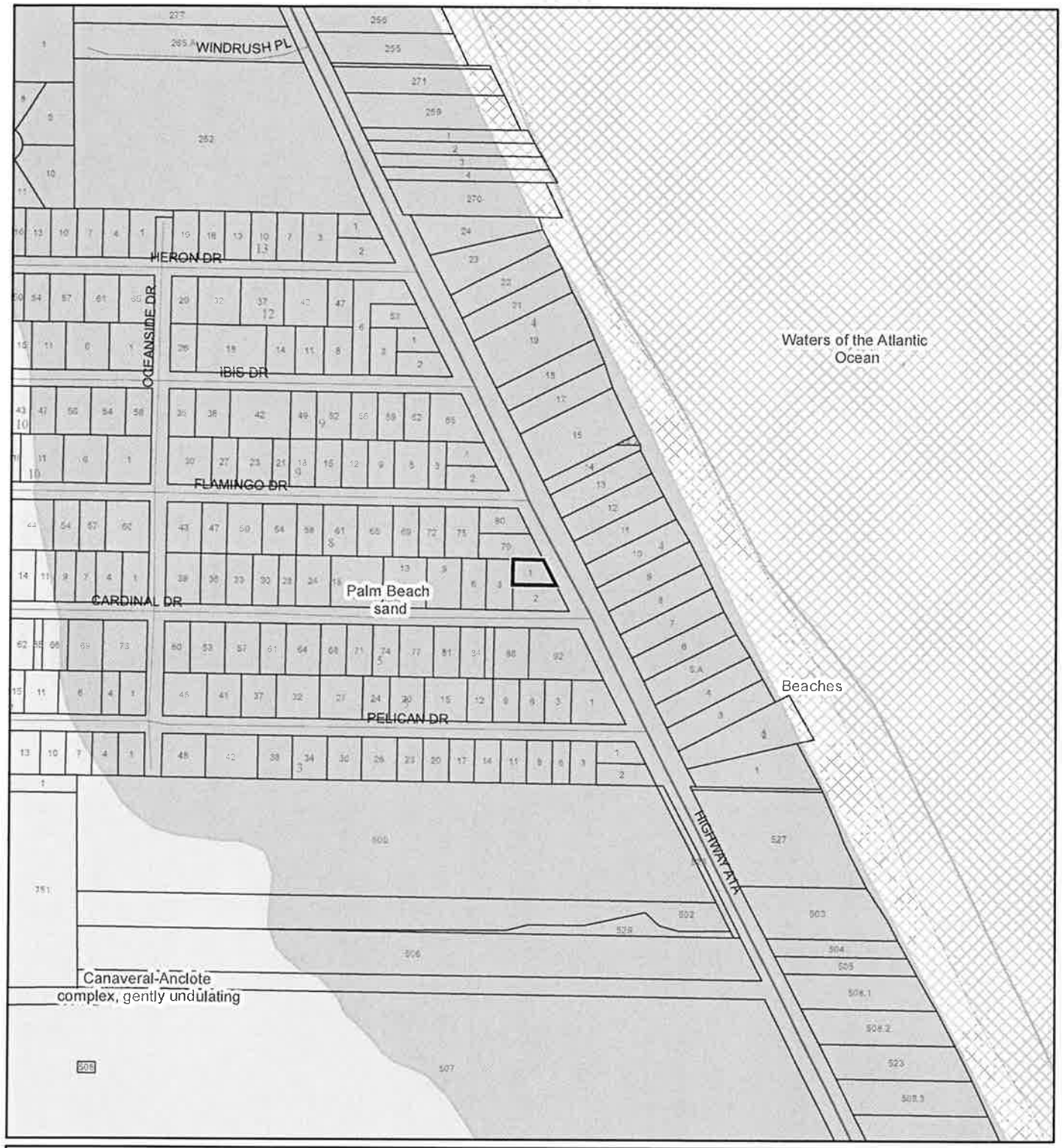
SJRWMD FLUCCS WETLANDS

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

USDA SCSSS SOILS MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

USDA SCSSS Soils

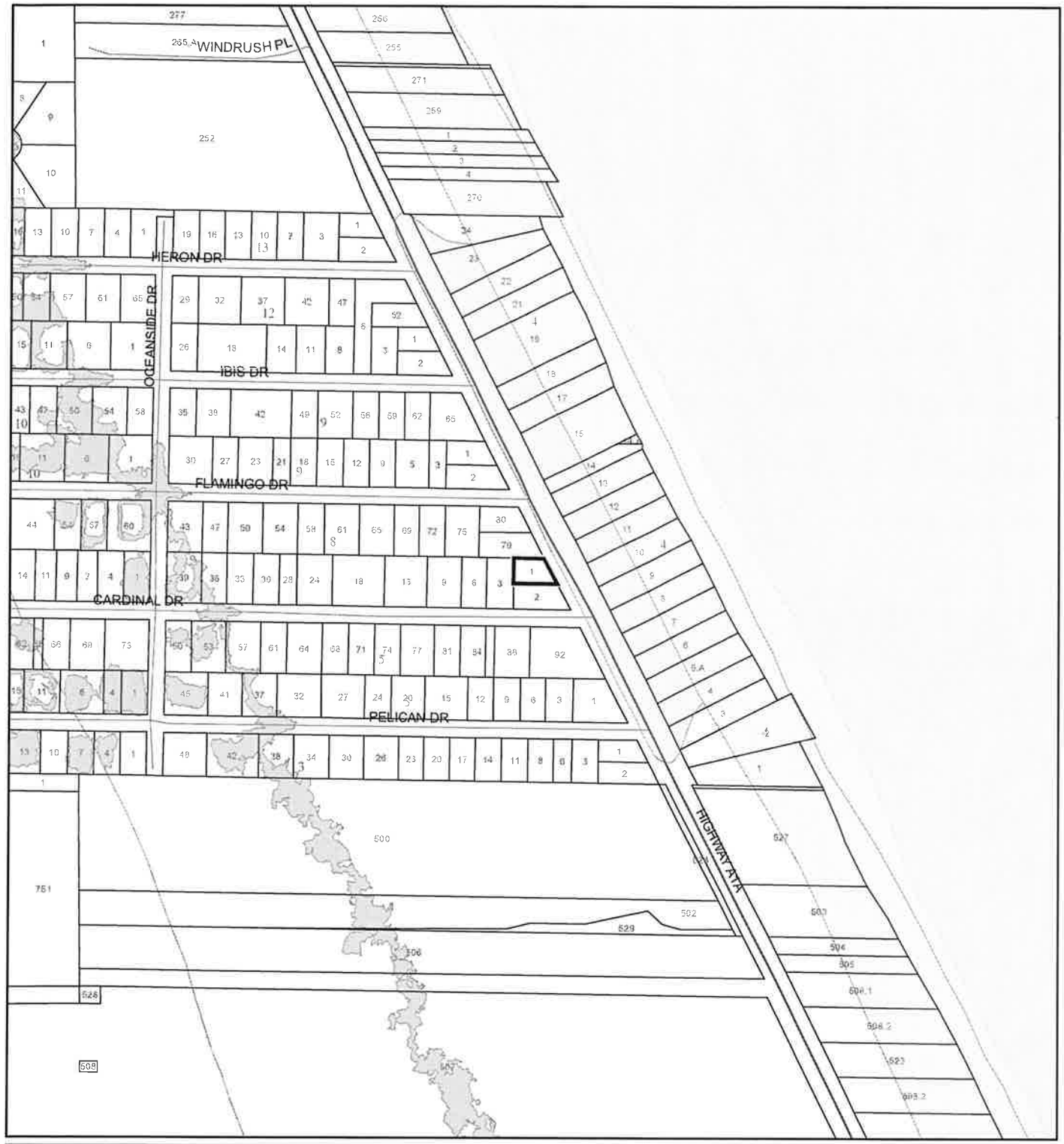
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

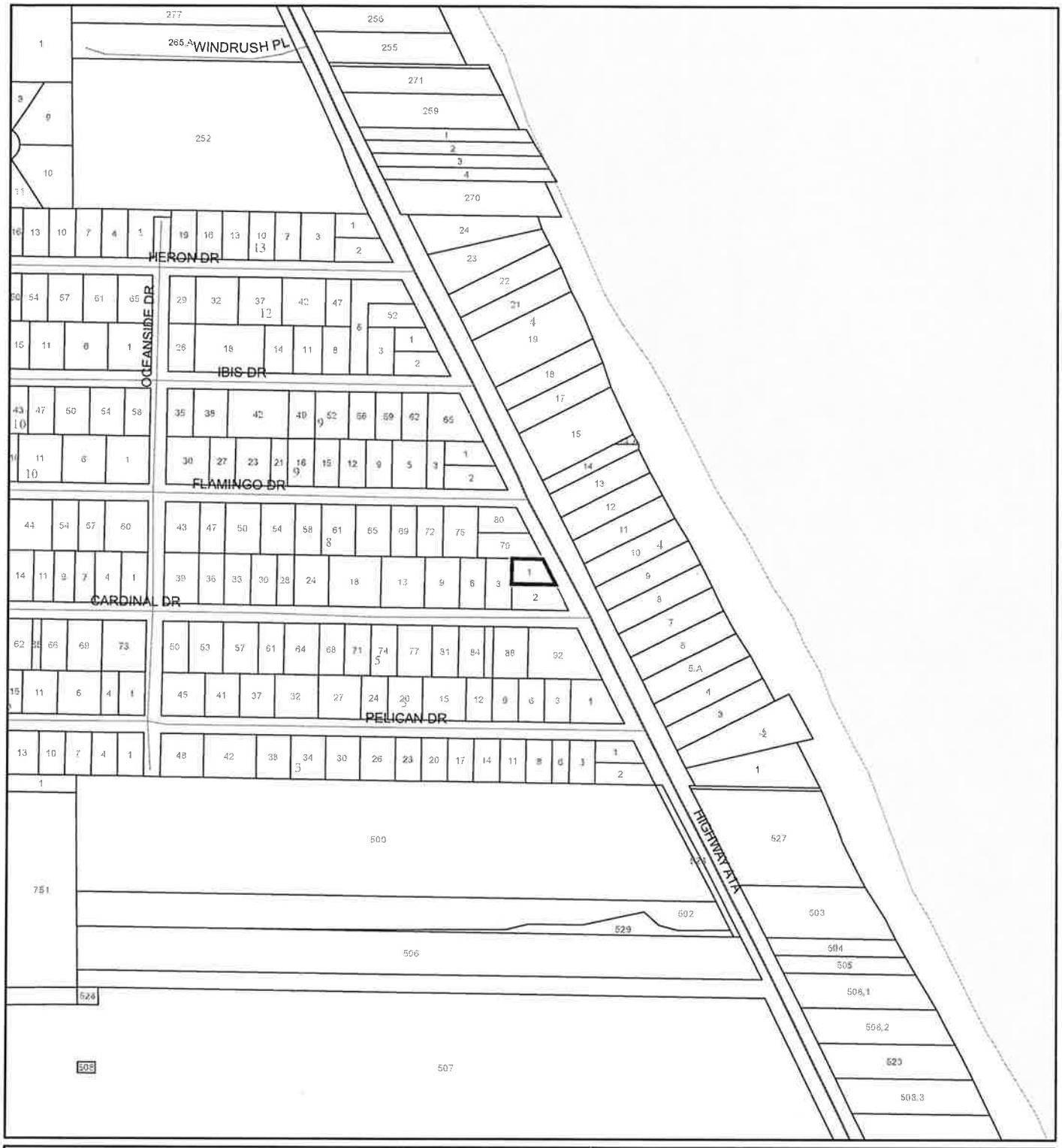
FEMA Flood Zones

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

EAGLE NESTS MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/8/2018

Subject Property

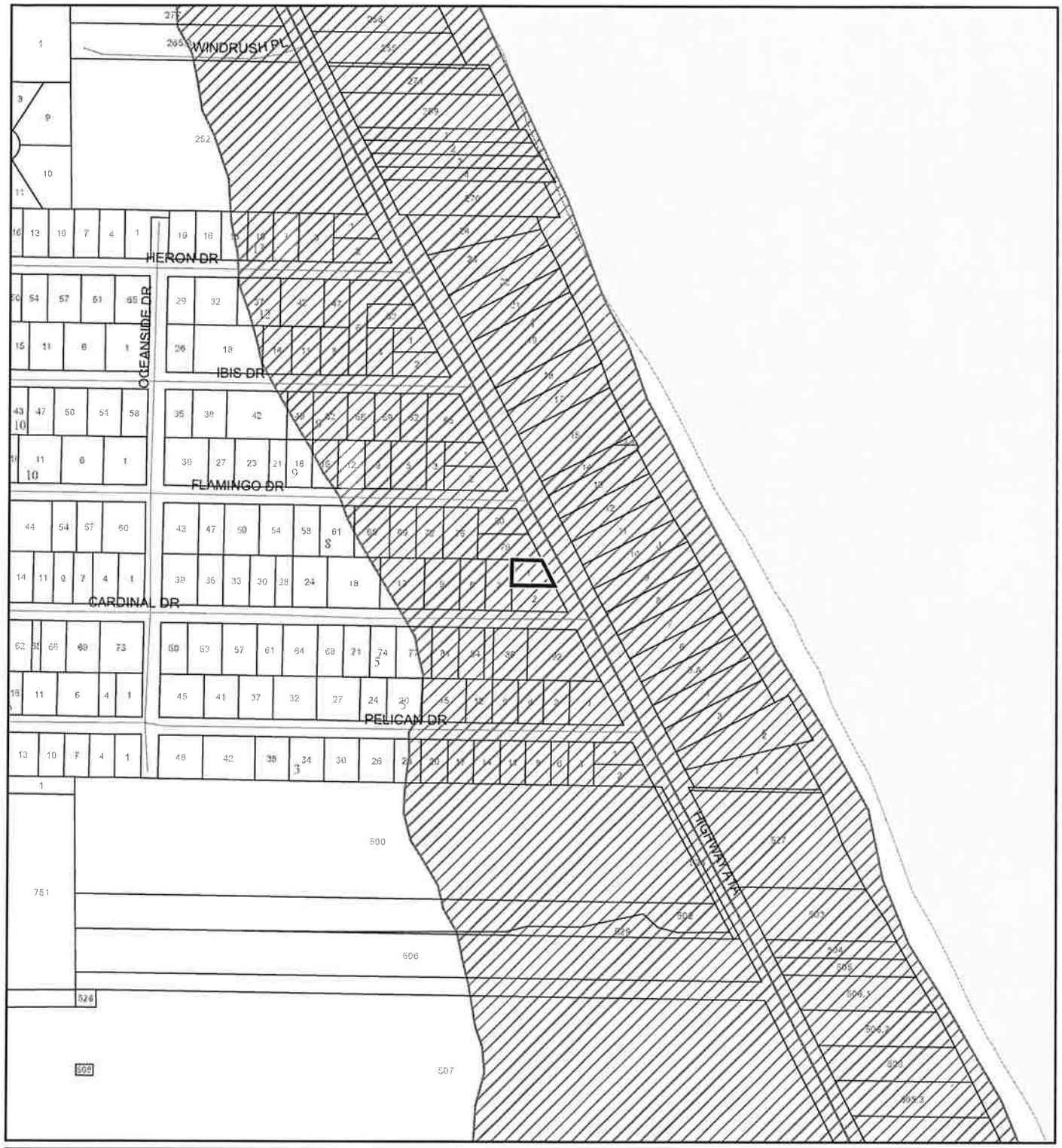
Parcels

Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

Subject Property

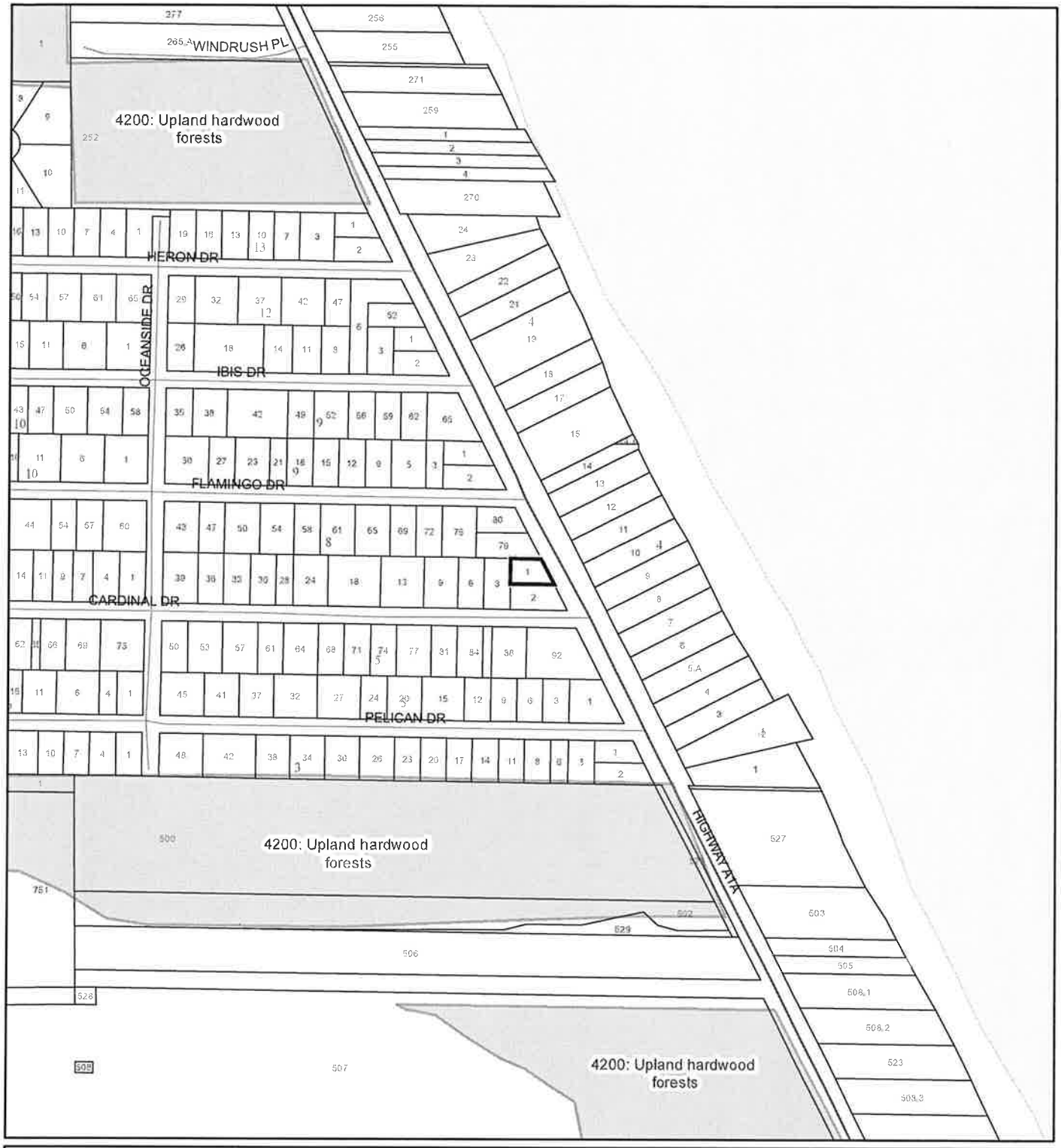
Parcels

Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

NESTLE LARRACAS AND TONY ANDRADE DE LA TORRE

18PZ00133



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Produced by BoCC - GIS Date: 11/8/2018

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

Objections
18PZ00133
De La Torre
(Submitted 12/19/18)

From: dccapemay <dccapemay@aol.com>
To: dccapemay <dccapemay@aol.com>; kcmslp <kcmslp@aol.com>
Date: Wed, Dec 19, 2018 11:34 am

Michael Sego

Dolores Conway

123 Cardinal Drive
Melbourne Beach, Fl 32951

December 19, 2018

To The Board of County Commissioners
Planning & Development Department

Re: 18PZ00132 District 3 - Tony and Nestle Andrade De La Torre

Request for reducing size of build-able lot, changing setback requirements and zoning change.

First, I would sincerely like to welcome Tony & Nestle Andrade De La Torre to our unique and very special little neighborhood.

Our 8 to 10 mile stretch of rural 2 lane A1A Highway known as the South Beaches is more likely to see children with surf boards
& fishing poles crossing A1A than delivery trucks. Lets not forget the many cyclist, joggers, golf carts, turtles and crabs that also

frequent the bike bath that runs along our area of A1A. The lot up for re-zoning is almost right in the middle of an A1A block.
A business mid-block will have a blind driveway that dumps right out onto the

bike/jogging bath as well as being within the area of

crossover to the only Beach Access for Melbourne Shores.

City Planners Design: We own a house at 123 Cardinal Drive which is about 500 feet from the A1A lot requesting a zoning change to a Commercial Retail and Wholesale Bakery. Looking at the Plat book for our area of Melbourne Beach, it would seem the City Planner's intention was to maintain our area as residential with lot sizes being 75' x 150' for the most part, low density with a single North/South access road and well built continuous pedestrian path. The City Planners got it right. The Planners saw the vision of the one geographically confined area of Brevard County that they would save as an escape of the vast areas of business development and keep it for children, campers, fisherman, surfers, tourists, animals, etc. and they succeeded in that vision through smart zoning decisions.

Danger: The lot up for re-zoning is almost right in the middle of an A1A block and just steps away from our only beach access.
A business mid-block will have a blind driveway that dumps right out onto the middle of a bike/jogging bath as well as being within the area of

crossover to the only Beach Access for Melbourne Shores. People expect excessive traffic at a corner intersection but not in the middle of the block. This mixture of children, cyclist, joggers and commercial traffic is dangerous, can be predicted and will result in tragedy someday.

Reducing Land Size Requirements: Examining the Plat Book, without question, the intended required Lot Size that we all had to conform to was 75' x 150' or approximately 11,250 square feet. The request to reduce the required lot size from 75 x 150 down to 73.50' x 125.82 down to actually less than 9,100 square feet due to the irregular lot size. Reducing the required land space is something that should not be granted since it conflicts with the vision the City Planners had.

Change Setback Requirements : The setback requirements that we as homeowners all had to comply with and did so without question, was what the City Planners felt was required for peaceful, quiet enjoyment between homeowners and necessary to keep the density at the level the Brevard County City Planners wanted for this particular area of Melbourne Beach, known as Melbourne Shores. To keep with the City Planners Vision, we can oppose a change in the Setback requirements for the lot being discussed at this hearing.

Again, we are opposed to the proposed changes put forth that will adversely effect our Melbourne Shores neighborhood. We hope that the zoning board will keep this a residential lot and not convert it to a Commercial Lot. At this time we would welcome and agree to any variance that would be needed to make the above lot a build-able residential lot if needed. We will help Mr and Mrs Andrade De La Torre make their undersized lot build able for a residence RR-1 zoning. We affirm that we believe the highest and best use for the above referenced lot is residential use only and that there are many options for the Bakery & Cafe in the nearby vacant space at the Publix Shopping Center.

Thank you in advance for your consideration,

Michael Sego and Dolores Conway

Hurricane Damage?
You may qualify for a property tax rebate.
Apply (/HurricaneDamage.aspx)

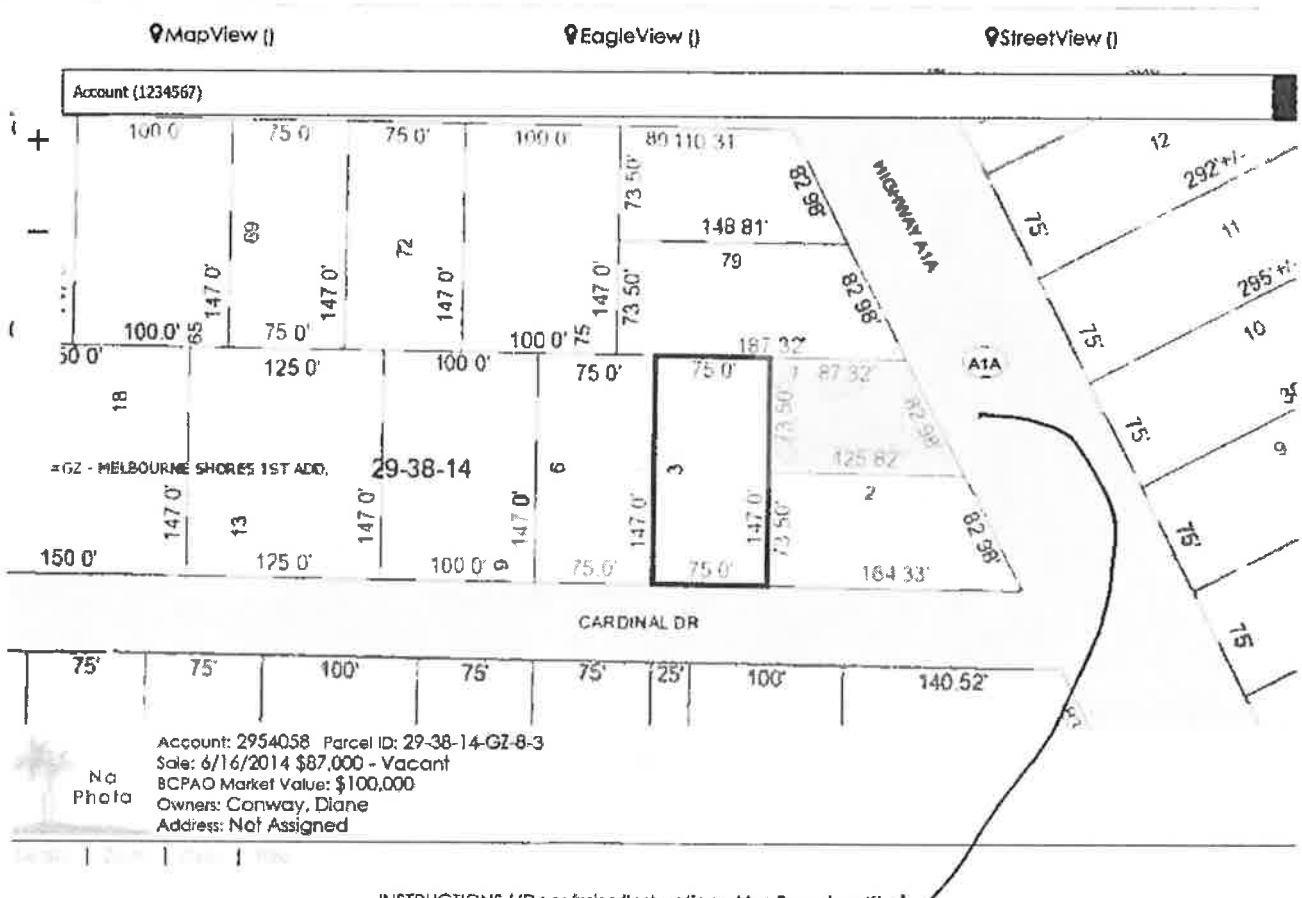
Christmas Holiday
Closed Monday & Tuesday, Dec. 24 & 25, 2018.
Calendar (/ContactUs.aspx?t=hours)

At Your Service
Questions? We're happy to help.
Contact Us

Property Search

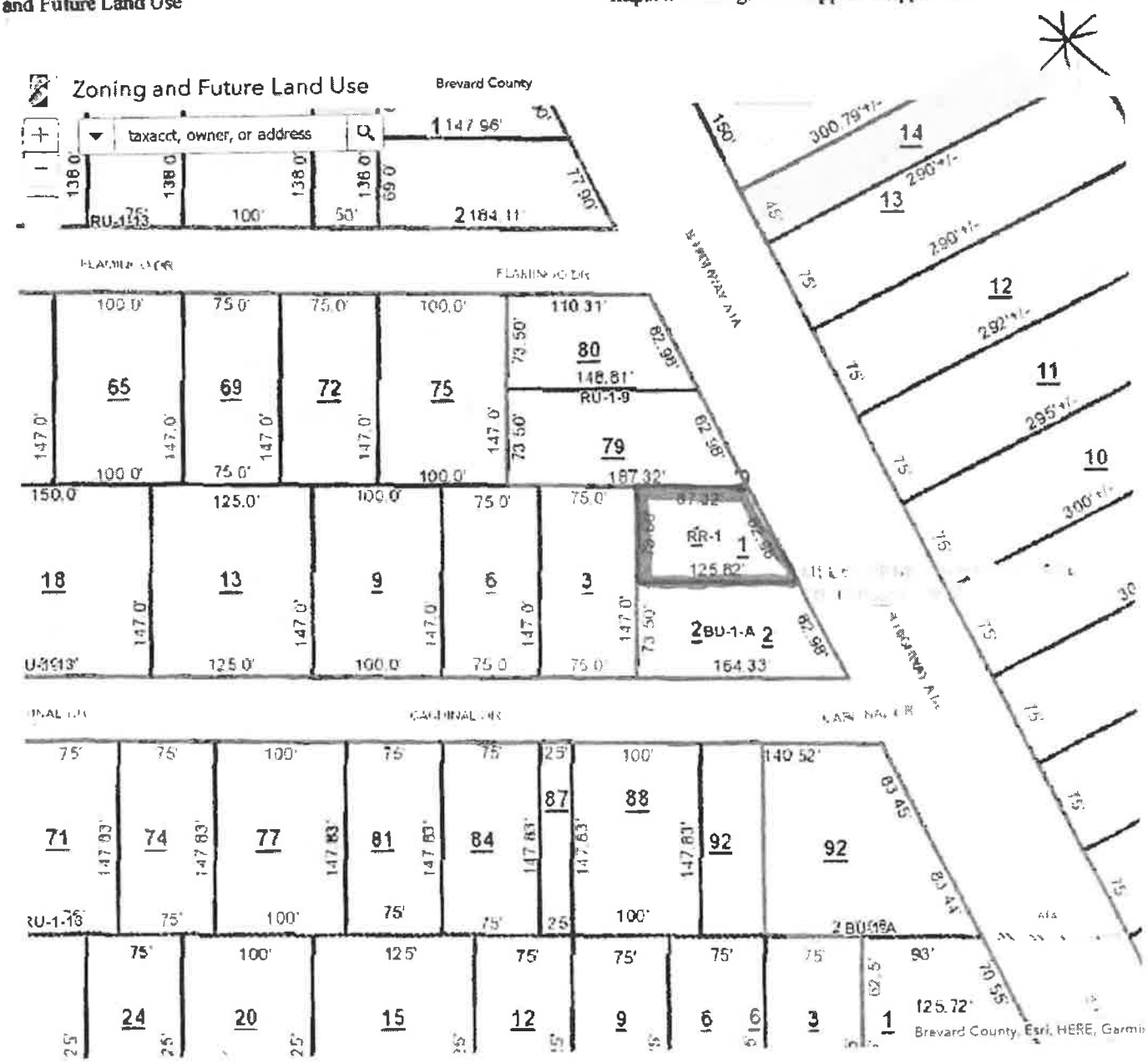
Brevard County Property Appraiser
Dana Blickley, CFA

Map Subject Property () () Open Map in New Window ()



INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf)

Small Undersized lot



* Beach Access Proximity

100ft

Hurricane Damage?
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Apply (/HurricaneDamage.aspx)

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Calendar (/ContactUs.aspx?t=hours)

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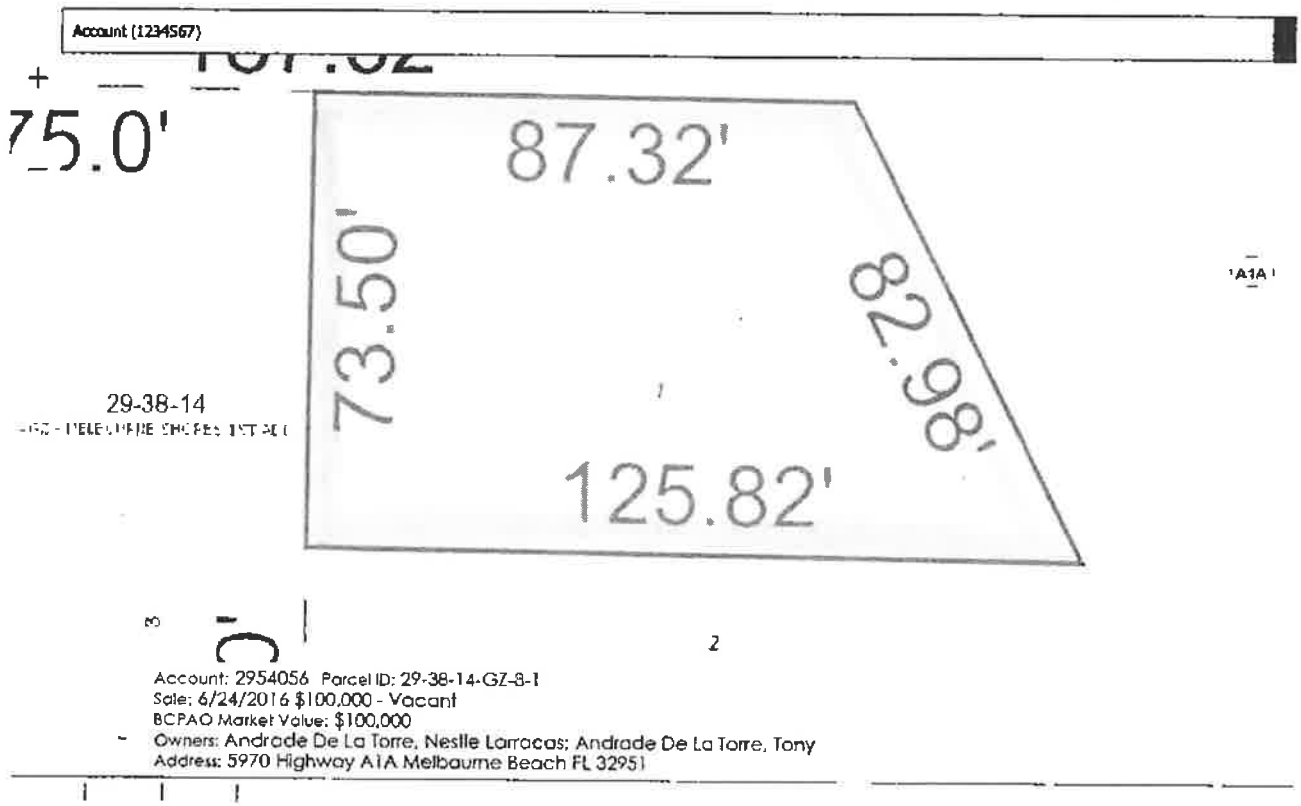
Property Search

Brevard County Property Appraiser
Dana Blickley, CFA

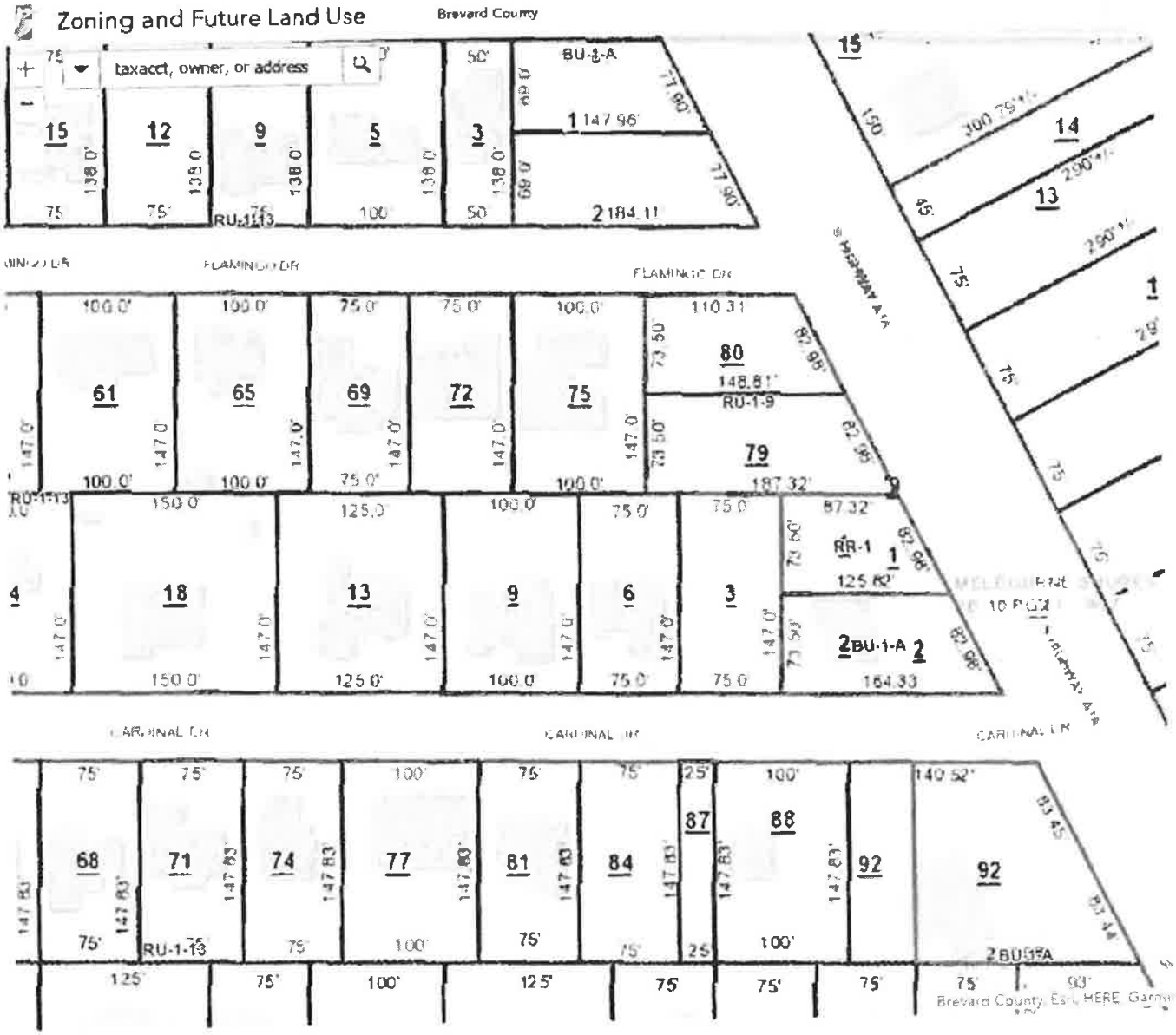
Map Subject Property () ⓘ() Open Map in New Window ()

MapView () EagleView () StreetView ()



INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf)

- Setbacks on above lot
- Non-conforming size, should be 75' x 150'.


Zoning and Future Land Use
Brevard County
taxacct, owner, or address
FLAMINGO DR
CARDINAL DR
RU-1-13
RU-1-9
RR-1
BU-1-A
100ft
Brevard County, Esri, HERE, Garmin

Zoning Map

Hurricane Damage?
You may qualify for a property tax rebate.
Apply (/HurricaneDamage.aspx)

Christmas Holiday
Closed Monday & Tuesday, Dec. 24 & 25, 2018.
Calendar (/ContactUs.aspx?t=hours)

At Your Service
Questions? We're happy to help.
Contact Us

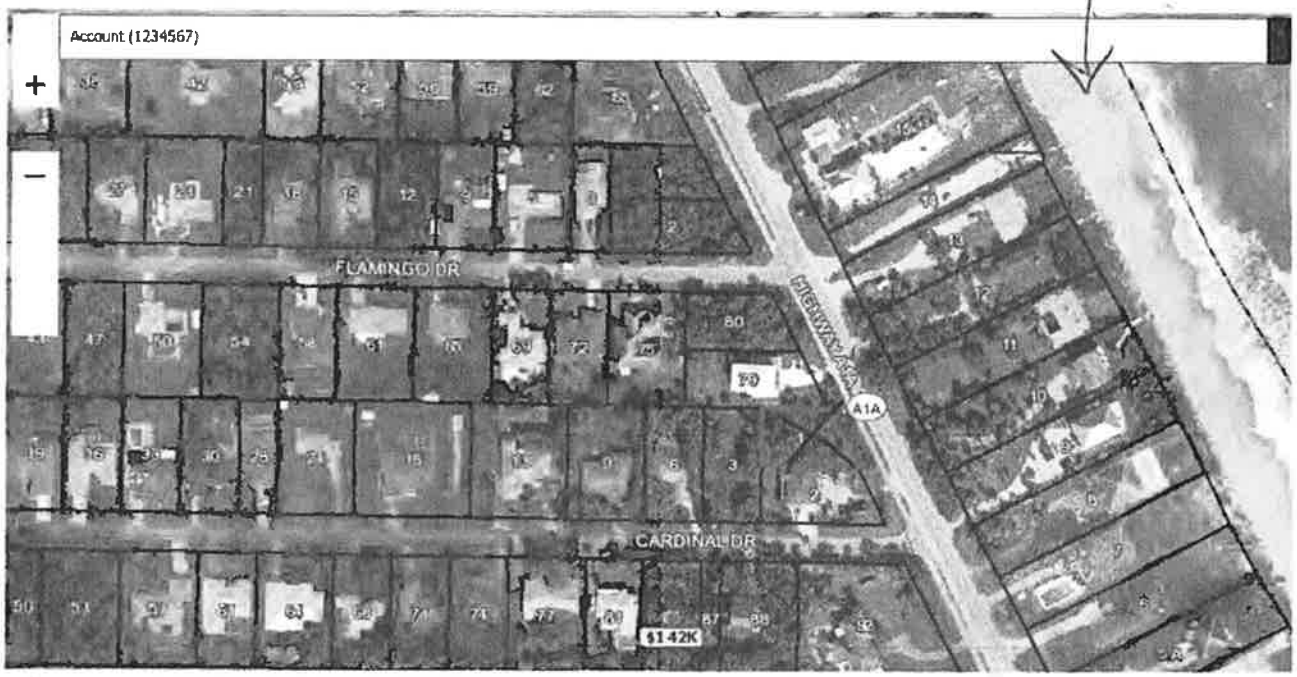
Beach Access

Property Search

Brevard County Property Appraiser
Dana Blickley, CFA

Map Subject Property () () Open Map in New Window ()

MapView () EagleView () StreetView ()



No Photo

Account: 2954056 Parcel ID: 29-38-14-GZ-8-1
Sale: 6/24/2016 $100,000 - Vacant
BCPAO Market Value: $100,000
Owners: Andrade De La Torre, Nestle Larracas; Andrade De La Torre, Tony
Address: 5970 Highway A1A Melbourne Beach FL 32951

INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf)

Bike Path along A1A

To be read ← For.

Diane Conway
Jeffrey & Shannon Warf
19 Bay Acres Dr
Cape May Court House NJ 08210

To The Board of County Commissioners
Planning & Development Department

Re: 18PZ00132 District 3- Tony and Nestle Andrade De La Torre

We own vacant land on Cardinal Dr. lots 3 thru 5 Block 8. We have been informed about the rezoning efforts and request for variances and we are opposed proposed changes. The zoning changes will reduce neighborhood property values and the character of the neighborhood.We are opposed to changing the setback that would result in their structure being closer to our future residential home. We wouldn't have purchased this lot knowing there was going to be a commercial bakery in our backyard . Our other concerns are the nuisances of early hours of operations, baking, noise, deliveries, odors and limited space. If this business doesn't succeed what will be next? Again, we are opposed to these changes and hope that the zoning board will keep this a residential lot.

Thank you

Diane Conway
Jeff & Shannon Warf
609-231-3274

For 116 Cardinal Drive

Hurricane Damage?
You may qualify for a property tax rebate.
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Christmas Holiday
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Calendar (/ContactUs.aspx?t=hours)

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Property Search

Brevard County Property Appraiser
Dana Blickley, CFA

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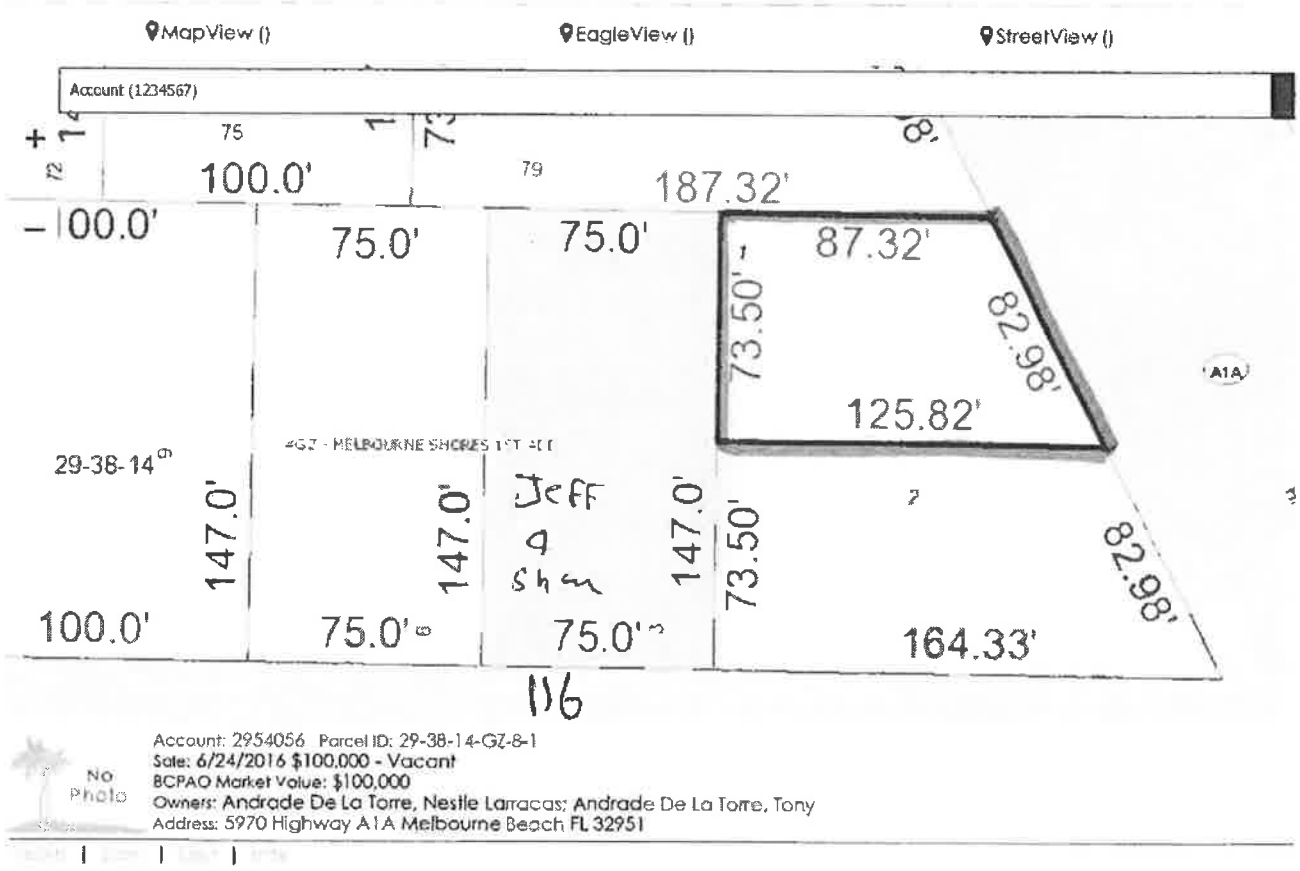


INSTRUCTIONS (/Docs/misc/Instructions_MapSearch.pdf)

→ Lot owned by Tony & Nestle De La Tore that is requesting a Zone Change.

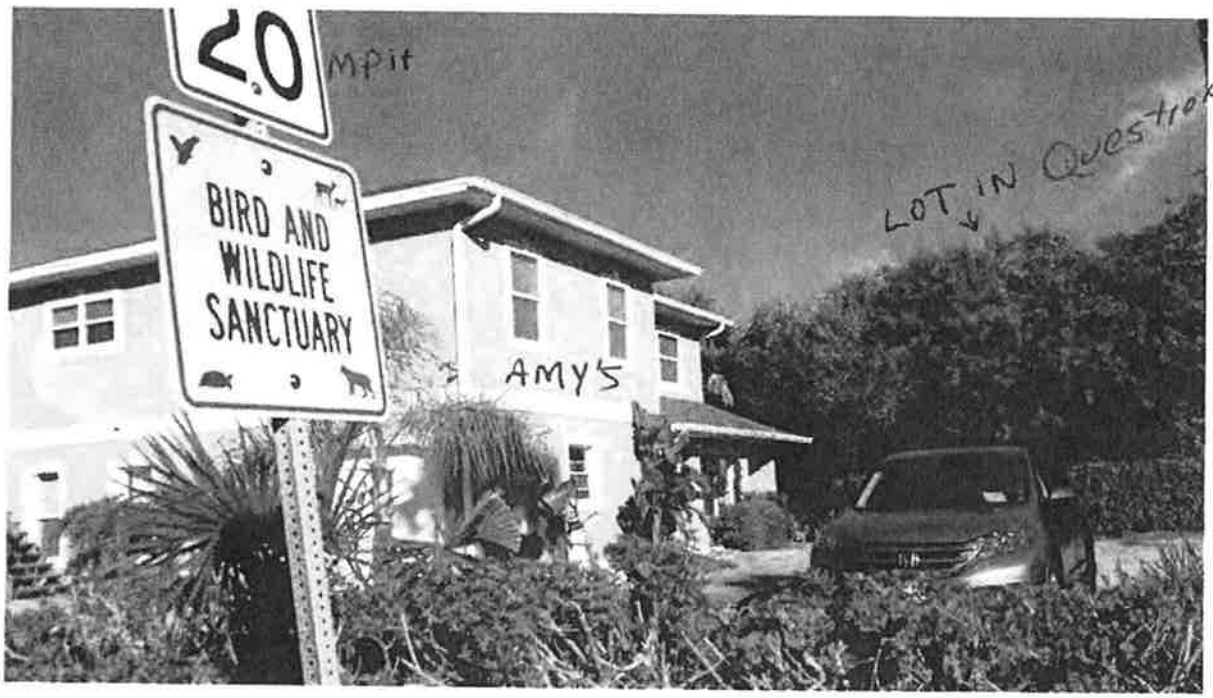
→ Adjacent lot owned by Diane Conway, Jeff and Shannon Warf

(No Subject)

From: jane muller (jjmuller34bike@att.net)

To: jjmuller34bike@att.net

Date: Tuesday, December 18, 2018 06:02 PM EST



Sent from Yahoo Mail on Android

CORNER OF AIA & CARDINAL

SAME - SAME CORNER OF FLAMINGO & AIA

(No Subject)

From: jane muller (jjmuller34bike@att.net)

To: jjmuller34bike@att.net

Date: Tuesday, December 18, 2018 05:53 PM EST

~~EAST~~ SOUTH SIDE OF PELICAN

Sent from Yahoo Mail on Android

(No Subject)

From: jane muller (jjmuller34bike@att.net)

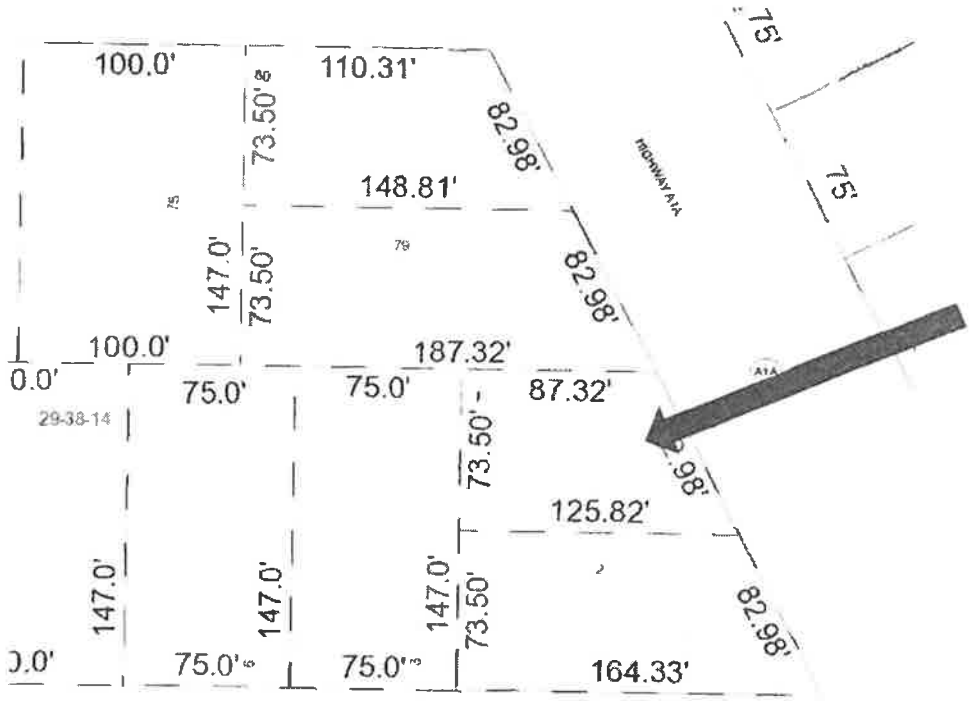
To: jjmuller34bike@att.net

Date: Tuesday, December 18, 2018 05:52 PM EST

Sent from Yahoo Mail on Android

Brian & Theresa Hennessey
thehen5@yahoo.com

5960 Hwy A1A
32951



5970 is currently zoned RR-1

BU-1-A requires a minimum lot size of not less than 7,500 square feet is required, having a width and depth of not less than 75 feet.

Setback Requirements
Front 50 ft
Back 25 ft
North 15ft
South 5ft

Melbourne Beach

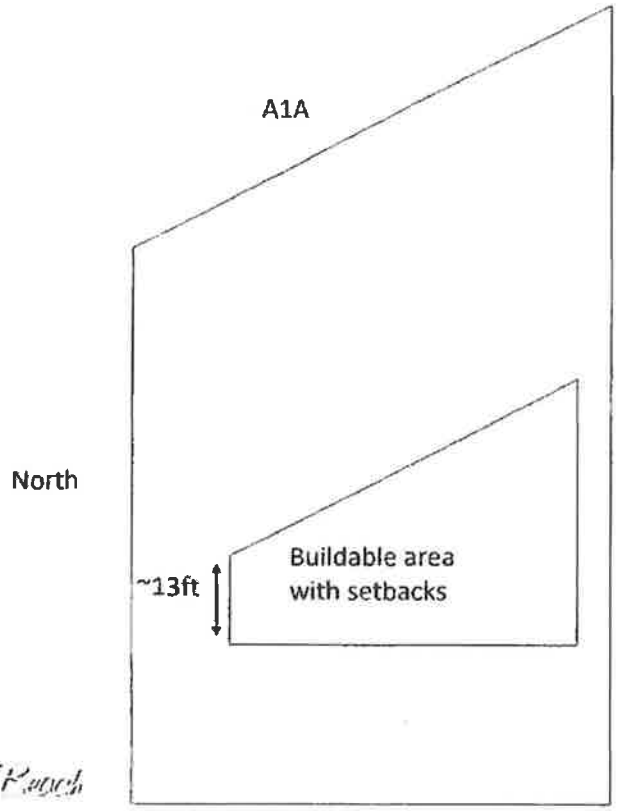
Melbourne Beach
FLORIDA

Area is primarily residential neighborhood

5970 Seeking variance

Current BU-1-A Zoned lot for sale nearby

Melbourne Beach



Is the property suitable for intended use?

Property is 7832 sf = .179 acre

(1 acre = 43,560 sf)

Setback Requirements
Front 50 ft
Back 25 ft
North 15ft
South 5ft

Melbourne Beach

Florida HEALTH

Authorized Sewage Flow

= Net usable area (acres) x Maximum Daily Sewage Flow

For lots served by private well: maximum daily sewage flow is 1500 gpd/per acre

(.37 acres) x (1500 gpd per acre) = 555 gpd

(.179 acres) x 1500 gpd per acre) = 268.5 gpd

Melbourne Beach

STATE OF FLORIDA DEPARTMENT OF HEALTH
CHAPTER 64E-6, FLORIDA ADMINISTRATIVE CODE
STANDARDS FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS
EFFECTIVE JULY 31, 2018

ESTIMATED SEWAGE FLOWS - Water usage
RESIDENTIAL:
Residences

(a) Single or multiple family per dwelling Unit	gpd
1 Bedroom with 750 sq. ft. or less of building area	100
2 Bedrooms with 751-1200 sq. ft. of building area	200
3 Bedrooms with 1201-2250 sq. ft. of building area	300
4 Bedrooms with 2251-3300 sq. ft. of building area	400

For each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing shall be increased by 60 gallons per dwelling unit.

(b) Other per occupant..... 50

(.179 acres) x 1500 gpd per acre) = 268.5 gpd

Florida HEALTH

ESTIMATED SEWAGE FLOWS - Water usage for 800 sf Bakery

Type of Establishment	GPD	800sf
Food operations		
1. Per 100 square feet of floor space	50	400
2. Add per employee per 8 hour shift	15	15
(i) Food Outlets excluding deli's, bakery, or meat department per 100 square feet of floor space	N/A	
2. Add for bakery per 100 square feet of bakery floor space	40	320
Total GPD		**735**

(.179 acres) x 1500 gpd per acre) = 268.5 gpd

Melbourne Beach

Administrative offices.	Automobile repairs,	Billiard rooms and electronic game	Convenience stores, with or without gasoline sales	Medical buildings and clinics, and dental clinics.
Antique shops.	Automobile sales and storage,	arcades (soundproofed).	Child or adult day care centers.	Motorcycle sales and service
Aquariums.	Automobile tires and mufflers	Bookstores.	Dog and pet hospitals	Nursing homes
Art goods and bric-a-brac shops.	Automobile washing.	Bowling alleys	Drug and sundry stores.	Parking lots (commercial).
Artists' studios.	Bait and tackle shop.	Cafeterias.	Electrical appliance and lighting fixtures.	Pawnshops.
Auditoriums.	Banks and financial institutions	Ceramics and pottery;	Foster homes.	Television and broadcasting stations,
Automobile hire.	Bed and breakfast inn.	Coin laundromats.	Funeral homes and mortuaries.	Souvenir stores.
Automobile parts	Bicycle sales and service	Commercial schools including martial arts.	Group homes, levels	Soft drink stands.

- This variance request for rezoning constitutes spot zoning
- which is not in accordance with comprehensive or well considered neighborhood plan.
- This is essentially singling out one small parcel of land for a use classification totally different from the surrounding area for the benefit of a single property owner to detriment of other owners.
- It is highly unlikely that the property is suitable for the intended use based on onsite water and sewage requirements
- If it is zoned BU-1-A and a bakery is not feasible – who knows what business will be established there – a used car lot?

7:42 AM Thu Dec 20

100%

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HOME WEEKLY MENU EVENTS ONLINE ORDERING CONTACT US HARLUE

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Opening a new business that calls for expanding your dessert selection menu? Contact us to set up an appointment at LianssBakery@gmail.com

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Storefront Opening in 2019
S Highway A1A, Melbourne Beach, FL

We'd love to hear from you!

Name *

Email *

Subject

Message

Send

7:52 AM Thu Dec 20

100%

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HOME WEEKLY MENU EVENTS ONLINE ORDERING CONTACT US HARLUE

Catering & Events

FOR THE SWEETEST MOMENTS IN LIFE

At Liansss Bakery, we are proud to offer our customers the finest in baked goods. We bake fresh on our premises every day, and always start from scratch using the freshest ingredients available. Our made-to-order treats include breads, pastries, and much more. Take a look at our bakery menus to check out our other sweet and savory goods, including our exciting 'Around the World' options.

Or, stop by our booth to sample our treats and get an in-person feel for the diversity of our bakery menu at our next event.

Hey, you're on mobile!

Our online ordering is best viewed in fullscreen

OPEN FULLSCREEN

This petition is to oppose the owners of the empty lot at 5970 Hwy A1A from getting a variance in order to change the zoning from Residential (RR-1) to BU-1-A in order to build a commercial business. We are trying to keep our quiet, peaceful Melbourne Shores neighborhood free of commercial businesses that will increase traffic, noise, pollution & crime in addition to lowering property values & changing the character of our residential community.
Please sign your name & address to keep Melbourne Shores zoned residential.

****

Brian and Theresa Hennessey - 5960 Hwy A1A

****

NAME	ADDRESS	SIGNATURE
JAMES WINTER	124 PELICAN DR.	
ERIC LOWD	255 IBIS DR	
Michael C Watson	128 Pelican Dr	
RICHARD W. WILLIAMS	126 PELICAN DR	
Chris Ward	220 Pelican Dr	
Jack Klegman	133 Pelican DR.	Jack Klegman
Zach Barford	215 Pelican Drive	Zach Barford
David Aerts	210 Pelican Dr.	
Dolores Martino	117 Pelican Dr.	Dolores A. Martino
Lynn Blumfelt	115 Pelican Dr	Lynn Blumfelt
RANDY WEBEL	121 PELICAN DR	
Cletus O'Brien	120 Pelican	Cletus OBrien
Randy Arms	114 Pelican	

Name	Address	Signature
Michael Szymanski	108 Pelican Dr	
Matthew C Douglas	106 Pelican Dr	
Paul G Davis	104 Pelican Dr	
Wendy Key	99 Pelican DR. Melbeach	Wendy Key
Tom [illegible]	Thomas Elinski 111 Pelican Dr.	
Danette Brackhause	113 Pelican Dr.	
Clive Booker	113 Pelican Drive	

THANKS

Submitted 12/19

John & Jane Muller
JJMULLER34BIKE@AT&T.NET

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Cheryl Hernandez hrnandii@bellsouth.net
****
****

dccapemay@aol.com – Dolores Conway | Mike Sego 113 Cardinal

Brian & Theresa Hennessey - 5960 Hwy A1A -

Brian & Theresa Hennessey – 5960 Hwy A1A

JOHN MULLER - 118 CARDINAL DR. MEL. SHORES

JANE MULLER - 118 CARDINAL DR. MEL. SHORES Jane Muller

Charles Magel [redacted] 9010 S A1A Melbourne

Helen Stuart — 9010 S A1A Melbourne Beach 32951

Cheryl Hernandez 122 Pelican Dr, Melbourne Shores, Cheryl Hernandez

Joanne Pralle 165 Flamingo Dr Melbourne Bch, Joanne Pralle

DONALD J. MOORE 105 FLAMINGO DR MELBOURNE 32951

Bob Baldwin + Beth Baldwin 245 Ibis Dr Mel Bch 3295

Nancy Blair 160 FLAMINGO DR. MEL. Bch 32951

Curt Braun 295 Flamingo Dr.
Linda + Ellen Nottrup 134 Flamingo Dr. Melbourne
Jane Holbert 305 Pelican Dr Melbourne Beach
Jim Tuohig 113 Cardinal Dr
Dave Wallin 5995 Oceanside Dr.
Pearl Gray 5945 Oceanside Dr
Vlad Zakashansky 117 Cardinal Dr.
Elena Zakashansky 117 Cardinal Dr.
Ed Armitage 283 Flamingo Dr
Mary Kellogg 230 Ibis Dr
Glond McCullough
Sybil Bowman Riverside
Carmen Martens
Joan A Vaughan 265 Pelican Dr
Mike Vaughan 321-405-7581 265 Pelican Dr
Shaun Kavanagh 321-253-4263 245 Pelican Dr
Dave & Debra Rice 125 Flamingo Dr.
Cynthia Gluski 321-446-2006 111 Pelican Dr.
Kathleen Coneys Freel 195 Ibis Drive
195 Ibis Drive Steven P Freel
Sandy + Bob Johnson 1246 Crooked Dr.
Mitchell A Roffe 6035 Hwy A1A, 32951 3218068940
Deborah Fritz 5950 Oceanside Dr
Richard Fritz 5950 Oceanside Dr.
Clarissa Bowman Club P — 6025 Riverside Dr. Melb. Shores
Aaron Adams & Maria Cochran 190 Ibis Drive

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****
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Brian & Theresa Hennessey - 5960 Hwy A1A -

Debb Bagnasky - 320 Heron Dr. MS.

320 Heron DR Mel. SHORES.

295 Flamingo Dr Mel Shores

290 PELICAN DR. MEL. SHORES

310 Heron Dr, MELB Shores

220 Flamingo Dr. Melb. Shores

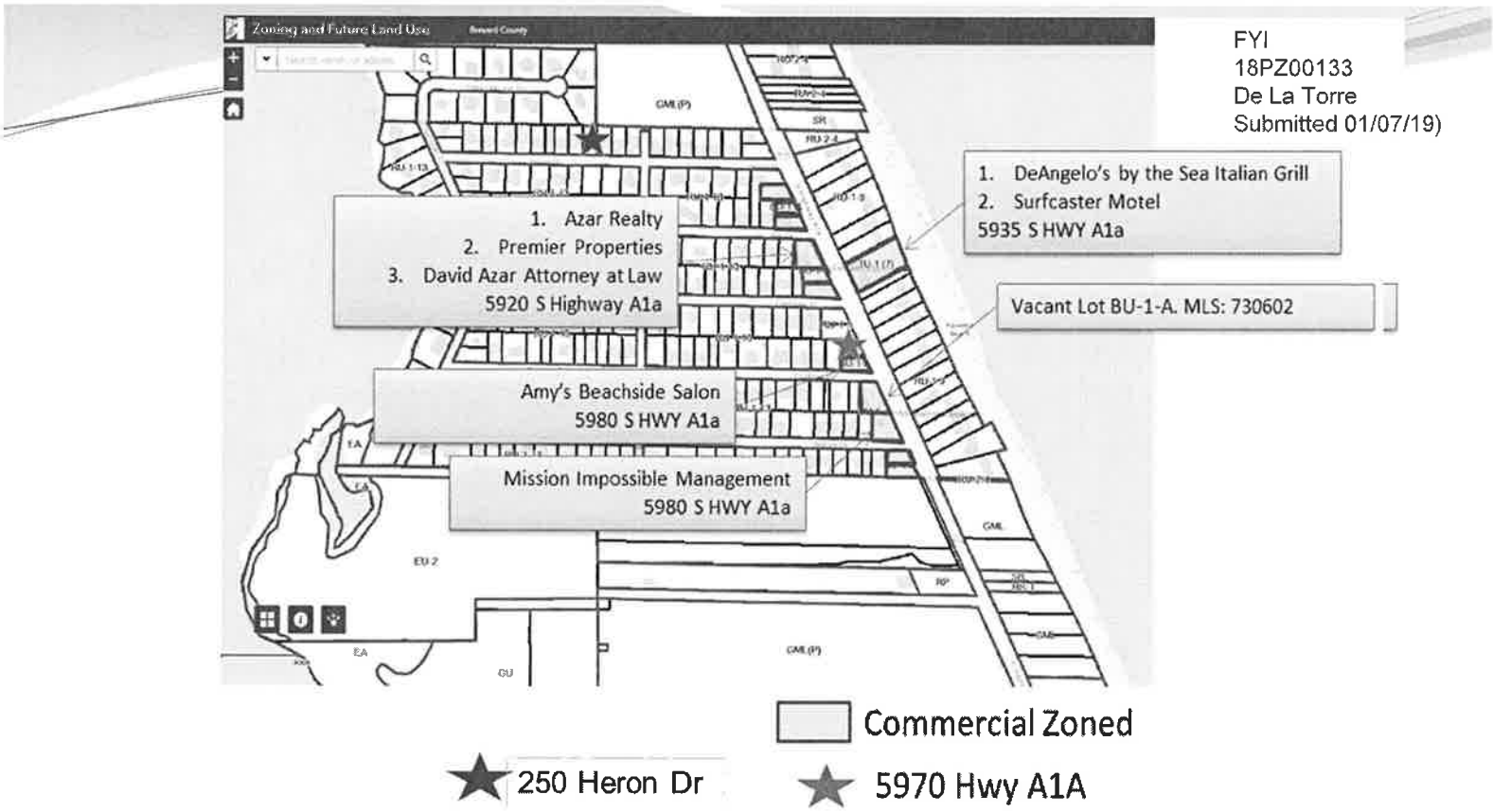
220 Flamingo Dr. Melb Shores

310 Heron Dr. Melb Shores

260 Heron

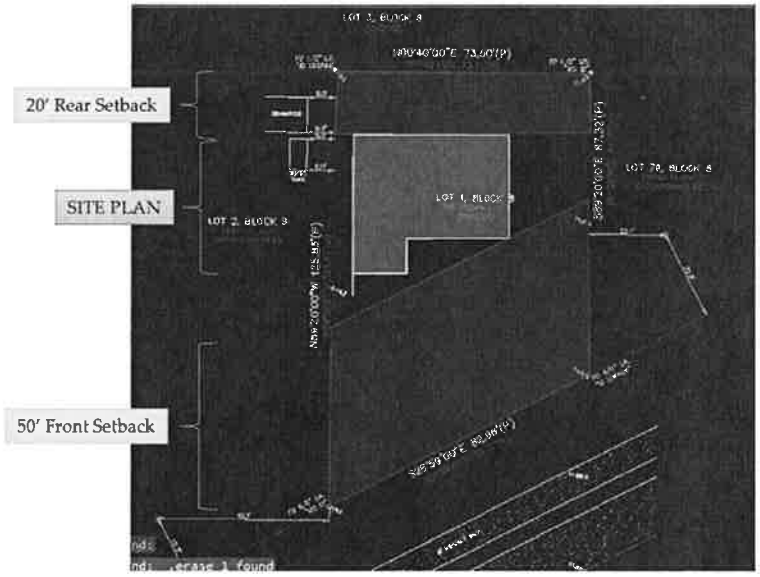
Michal Vaughan 265 Pelican
James Kalambokas 120 Cardinal Dr.
Natalie D Burnell 119 Cardinal Dr
[illegible] 113 Cardinal Dr
Dolores Conway 123 Cardinal Drive
Kathleen Conway 123 Cardinal Dr
Jeff Warf 116 Cardinal Drive
Shannon Warf 116 Cardinal Drive
Joanne Estey Hopker 127 Cardinal Drive
[illegible] 138 Cardinal
[illegible] 138 Cardinal Dr
[illegible] 245 FLAMINGO
[illegible] 245 Flamingo Dr.
[illegible] 275 FLAMINGO DR.
Judith Scamurra 305 HERON DRIVE
Charles Scamurra 305 Heron Drive
[illegible] 124 CARDINAL DRIVE
[illegible] 124 Cardinal Drive
Bill Suvoroff 5985 A1A
Marie DeMoss 136 Cardinal Dr.
Thomas DeMoss 136 Cardinal Dr.
Jeanette Smith 160 Cardinal Dr.
Mark Smith 168 Cardinal Dr.
[illegible] 112 Pelican Dr
[illegible] 112 Pelican Dr.
Vera Brown 270 Heron Dr
[illegible] 270 HERON DR.
G. Maul 5959 Hwy A1A
Michel Vaughan 265 PELICAN DR

FYI
18PZ00133
De La Torre
Submitted 01/07/19)

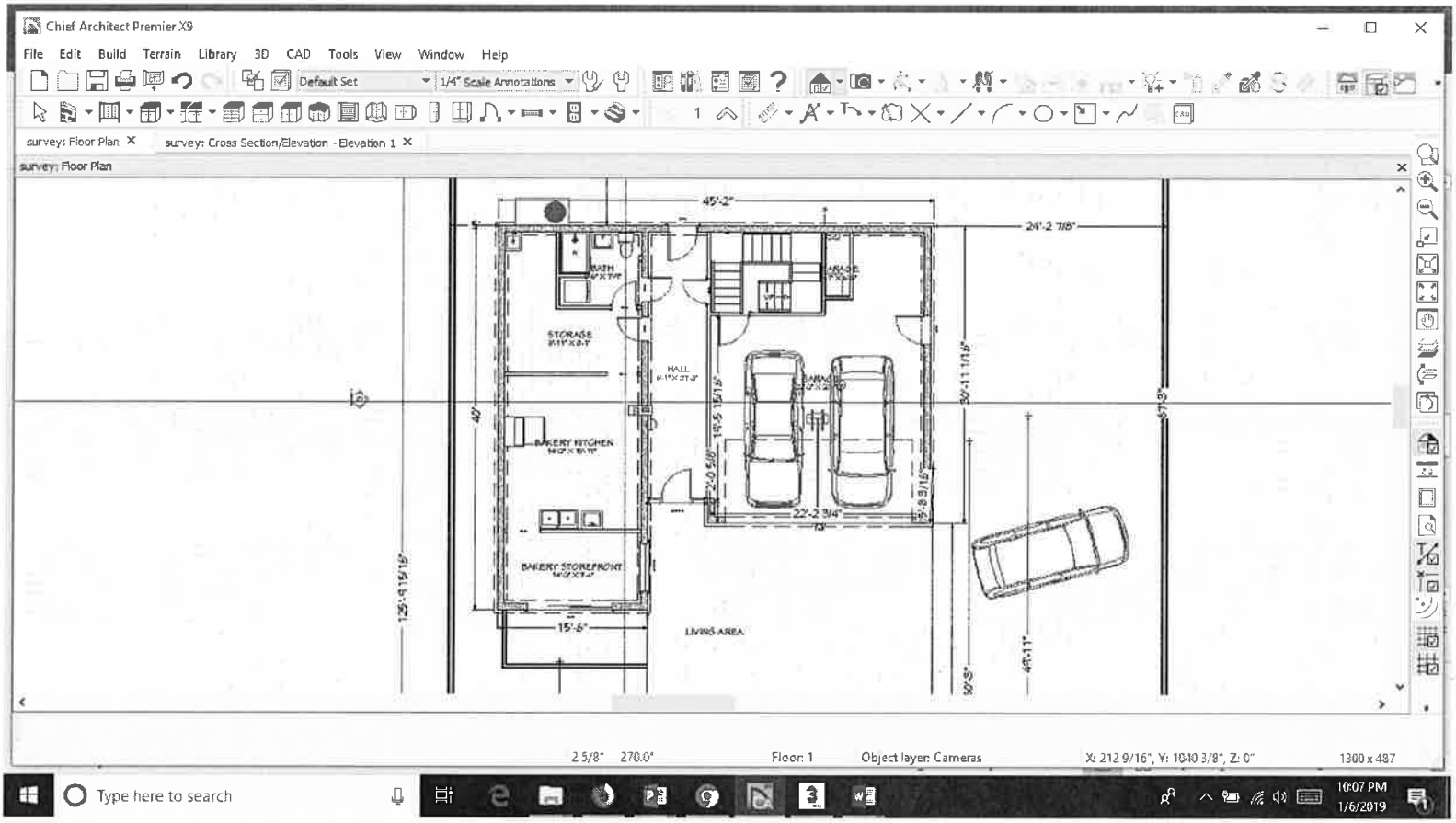


SITE PLAN

(with rear and front setbacks)



3D Rendering of Floor Plan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1/6/2019

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 2019,** at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt of complete agenda.

11. Nestle Larracas and Tony Andrade De La Torre:

Request a Small Scale Comprehensive Plan Amendment 19S.01, to change the Future Land Use designation from Residential 1 to Residential 6. The property is 0.18 acres, located on the west side of Highway A1A, approximately 83 feet north of Cardinal Drive. (5970 Highway A1A, Melbourne Beach) (18PZ00134) (District 3)

12. Nestle Larracas and Tony Andrade De La Torre:

Request a change of zoning classification from RR-1 (Rural Residential) to BU-1-A (Restricted Neighborhood Commercial). The property is 0.18 acres, located on the west side of Highway A1A, approximately 83 feet north of Cardinal Drive. (5970 Highway A1A, Melbourne Beach) (18PZ00133) (District 3)

All documents submitted by the applicants and speakers are in files 18PZ00133 and 18PZ00134, located in the Planning and Development Department.

Tony Andrade – Tony Andrade and Lian Larracas, 2575 Bent Pine Street. We used to live at 250 Heron Drive, in the Melbourne Shores area. We lived there from 2014 to 2015. We really liked the area, we really enjoyed it, it's really peaceful and quiet, near the beach, access to the ocean and the river, and we loved the school district. We decided to buy a lot, 5970 Highway A1A with the intention of building commercial/residential, which is a BU-1-A zoning status. It was previously zoned as BU-1-A. The owners before us had rezoned it to RR-1 and we'd just like to change it back to BU-1-A so that we can do what we want to do and build a small bakery for my wife on the first floor. What I want to point out to you is that we bought on A1A only because that was the area that tends to have both commercial and residential, so we felt like that was a good spot to put our small bakery and our residence as well. There are other lots within Melbourne Shores that were available, but we saw the best opportunity was right there along A1A, so that's where we purchased the lot. We just got approved for a variance in late December, so we got approval for a five-foot setback on the backside, and we got approval for a variance of 1.5 feet on the side, because for BU-1-A we needed at least a minimum of 75 feet of width, and we only had 73.5 feet. Our site plan shows what it will look like. It meets the 50-foot setback from the front, and then we have a 20-foot setback on the rear, with 5 feet

on one side, and 15 feet on the other side. We have a 3D rendering of our house/commercial; it is primarily a house, it's going to be our home; we have three children, a two-year old, a 6-year old, and a 16-year old, so this is the place we're going to live, but we also want to put a bakery inside of it, because my wife has a dream to retire in a place where we have a bakery on the bottom. The only commercial part will be the first floor. It's a 2-car garage, 3-bedroom home. This is our ideal house we'd like to live in and eventually retire in, and have a small bakery.

Brian Hennessey – Brian and Theresa Hennessey, 5960 Highway A1A, the property right next door on the north side. In looking at this, it's an extremely small lot at .179 of an acre. The future zoning use of it is Residential 1. Each block in the neighborhood has one commercial and the rest are residential; there's not adjacent commercial lots, so 75% of that block is already residential. The owner was saying there are multiple other BU-1-A zoned lots, there is one 1,000 feet away, so it's not like there's anything special about this lot, just that it's small and affordable. One of the things we had to do when we built our house was look at the sewage requirements that dictated the size of house we could build. At .179 of an acre, that's 268 gallons per day, and the rendering I saw looks like about 2,000 square feet, which is questionable whether or not that's with pretty strict regulations. They also have sewage flows for a 500 square-foot bakery, and just that alone is nearly double the daily allowable limit. In looking at the Future Land Use, I know Residential 6 requires city water, and we're all on septic and well down there. It's supposed to have centralized potable water. It's not in accordance with the neighborhood; at the end of each block there is one commercial, but everybody wants to keep it as residential, this has settled as a residential area. The fear is that if it turns out that it's not feasible as a zoning for a bakery and a house, it could be used as anything, and I have a list of all the different things that this could be turned into if the zoning is granted. It seems like it's wildly incompatible with the regulations with the water and sewage, so I don't see how at some point it's going to be used for its intended use.

Henry Minneboo – Is the area down there still on water and sewer?

Theresa Hennessey – Septic.

Henry Minneboo – You're on a well?

Brian Hennessey – Yes.

Henry Minneboo – If it wasn't a bakery, would that disturb you?

Brian Hennessey – Actually, it's a wholesale bakery.

Henry Minneboo – If they didn't have a bakery, you wouldn't have an objection?

Theresa Hennessey – If it was a single-family residence we would have no problem with it. Any commercial property we'd have a problem with, not just a bakery. It's an online wholesale catering bakery that's already got an established website; it's not just a small bakery where we could meet for coffee. They are shipping in the morning, there's trucks, there's pollution, there's traffic.

Brian Hennessey – There's a school bus stop there as well, so kids walk right by.

Theresa Hennessey – We also presented a petition with over 100 neighbors' signatures against it, the commercial, not a single-family residence. When we bought our land in 2015 we did a feasibility

study, we did all of our due diligence for all of the requirements before we built our home for our retirement, and both lots were residential. We built everything according to Code to retire there and have residences next to us. Our problem is that regardless of whether it's a wholesale bakery, if it's changed to BU-1-A, in the future if they sell, it's already rezoned and it can be a used car lot, it could be a motorcycle club, a laundromat, or anything qualifying under BU-1-A, which would definitely lower our property values and hurt the peace and quiet of our 5-block community.

Henry Minneboo – There's methods here that we have that can control that, but that's not what we're talking about.

Rochelle Lawandales – As the Chairman just said, we can control what the uses are, so if it was just limited to the bakery would you have any problems with that?

Theresa Hennessey – Yes, because it's a wholesale bakery, it's not a bakery where you can go sit, it's going to have trucks coming in the morning, shipping, catering, online ordering, and we're worried about the traffic, the bus stops, the pollution, the noise, the dumpster, and vermin. We don't have a problem with a single-family house, we have a problem with any commercial, including this bakery.

Delores Conway – I'm Delores Conway, I live at 123 Cardinal Drive, and that's on the street about 83 feet south of the lot. The first thing that they mentioned was that it's peaceful, quiet, near the beach, and there's a bike path that goes past it. The reason they want to live there is the same reason we want to live there, the quiet enjoyment, and it's safe to send your grandkids to the beach. Our beach access is right across the street, and just down a little bit from the bike path of joggers and cyclists; it's the last unspoiled area of Melbourne Beach. If they are allowed to do this there's going to be a blind driveway; it won't be on the end of a street where you expect a car to come out, or a truck; it's going in the middle of a block, and it's going to come right out on the bike path and there may be delivery trucks picking up or delivering right in front of that area where they cross over from the beach. That's my main problem. Then, it's not just traffic, it's where the traffic is. When we had the variance meeting on December 16th, it was basically saying to the residents that they want a house with a 500 square-foot bakery, very minimal impact. Then, today, at this meeting, I see that they want a future zoning for Residential 6, not just the house and the bakery on top of that. Our neighborhood has gone residential; it's basically not commercially oriented. One of the things to prove that is we've had restaurants that were there and they have all gone back to residential, except Chuck's Steak House. We had the Sebastian Inn, which was a restaurant that closed permanently last month, and they have gone residential also. This bakery as proposed will have to have a prep area for cooking, ovens, cooling racks, counter space, shipping and receiving, and a dumpster. The other problem is my niece owns the lot right behind theirs, so it's definitely going to impact them, and they probably won't even build. Those were the points I wanted to make.

Ron McLellan – The adjacent parcel to the south is zoned BU-1-A and has a mixed use of commercial/residential.

Delores Conway – My niece's lot is right behind, she's right behind their lot, but it faces Cardinal Drive.

Ron McLellan – My point is that BU-1-A is all along there, and the parcel to the south of these people is doing the same thing that they're wanting to do. How in the world can we tell them no?

Delores Conway – They were already in business, it's a hair salon, and it's a corner property.

Ron McLellan – But, all along Highway A1A there's BU-1-A.

Erin Sterk – I can clarify the difference between the standard request for commercial zoning and what's before you today. If they were just seeking BU-1-A zoning there's multiple paths to get there, and those are outlined in the Comprehensive Plan report. One of those is with the existing Future Land Use designation of Residential 1. They could be considered BU-1-A, and could be considered consistent with Residential 1 if it were to be deemed transitional. That would be a decision that this board would need to make that we did not evaluate in the staff comments because that would leave them with the development rights for just the commercial component. In our conversations with the applicant, they have not indicated that they want to go from residential to commercial. If that were to be the board's wishes, they have declined taking that as a potential outcome. They only want to have the commercial rights if they retain residential development rights, so that eliminates that one path with the current Future Land Use designation. The other option available to the applicant to get BU-1-A would be to propose Neighborhood Commercial Future Land Use designation. That, again, would just leave them with just commercial development rights and no residential rights. So, the only way to get both residential and commercial development potential from this property is to get the Residential 6 Future Land Use designation, which gets them one unit on .18 acres, and then to rezone to BU-1-A consistent with that. The challenges with that are that Residential 6 requires connection to potable water, where Neighborhood Commercial does not require that. If they were proposing to go to BU-1-A it would be much more feasible, but the Residential 6 is really the decision that this board is faced with in this area of the South Beaches.

Rochelle Lawandales – From a standpoint where the Comprehensive Plan would require potable water and it's not available, they would have to be allowed to go on septic until such time as public water and sewer utilities were there. Is that correct?

Erin Sterk – The question is whether or not this board should consider approving it without that available.

Rochelle Lawandales – I think that's a legal issue. If it's not available, what are those limitations?

Erin Sterk – We talked to the applicant about multiple ways to get BU-1-A zoning, and those other options weren't possible to them.

Henry Minneboo – What does legal think about this?

Jad Brewer – It's in your staff report that staff is saying it's not consistent with the land use regulations, but the applicant is applying, so it's up to this board to decide on a recommendation to make to the County Commission.

Rochelle Lawandales – If the board were to go down one path of approving it, could they stipulate approval of the Residential 6 that they be allowed to use septic until such time as there is public water and sewer utilities available? Since there are none in the South Beaches and there are no plans to provide them.

Erin Sterk – I think there are plenty of properties that have a land use designation that don't meet all of the criteria for that, and if they have the zoning generally they get to a place where they can submit development plans if they already have that zoning. The question is whether or not they should be granted those rights today without meeting those criteria.

Rochelle Lawandales – And it could be stipulated that there be no more than one unit, in a binding development plan, even though it doesn't, just by virtue of the math.

Erin Sterk – Yes, by the math you can't get more than one single-family residence.

Rochelle Lawandales – What would the regulation be on a home occupation?

Erin Sterk – Can you restate the question?

Rochelle Lawandales – What would the regulation be on a home occupation, if they built their home, could they have a home occupation to sell muffins?

Erin Sterk – There are allowances, and maybe George can speak to this more technically, but there are allowances for them to operate a bakery, it's one of the uses permissible by the State without the commercial zoning as a home occupation.

George Ritchie – The Department of Agriculture has a use as a Cottage Food Operation where you can actually get a license from them to sell bakery items and certain other items directly from the residence.

Rochelle Lawandales – That might be the best answer all around.

Delores Conway – Without changing the zoning? That would definitely be a good thing, it wouldn't affect the residential zoning in that area. The main thing is that it is mid-block, it's in the middle of the block. We have cyclists go by there because there's only two lanes, one going north and one going south, no turn lane, and the bike path. There are a lot of cyclists every day, especially on the weekends there's many of them and they come from all over, and they go down one side and up the other. And like I said, it's unique to this area, this little block, that they wouldn't have if they just went half a mile down the road and got a different kind of property. This one is right near the beach access, kids come from our neighborhoods and cross over with fishing rods, surfboards, I mean, it's something to see if you want to come by and see it.

Henry Minneboo – The issue with A1A for years has always been spattered commercial, starting at Sebastian Inlet going north. I think someday it's all going to be commercial.

Delores Conway – But the community doesn't support it; the restaurants come in and they go out, all of them.

Henry Minneboo – That's just Melbourne Beach, unfortunately.

Delores Conway – This is Melbourne Shores.

Dane Theodore – I'm looking at this presentation by the neighbors and it talks about onsite sewage capacity for that size of lot, 265 gpd for .179 acres, which is a maximum. That's a threshold of 3 bedrooms at 300, so the 265 allows two bedrooms between 751 to 1,200 square feet, and that doesn't include a bakery. Is that a correct interpretation of this package?

Erin Sterk – I can't speak to what the applicant provided because that's not Brevard County that does that, the Department of Health manages that criteria, but it's certainly something that if the applicant

had done the due diligence and gotten with the Department of Health that could demonstrate that what they're proposing could be constructed and the site would post that, but I haven't seen any of that information provided.

Dane Theodore – I have a question for the applicant. I don't know if you've done enough due diligence on sewage flows, but my question to you would be, if in fact the maximum buildable area, based on Department of Health sewage, is 1,200 square feet and two bedrooms, and that doesn't include a bakery, are you still willing to go forward with this?

Tony Andrade – Yes, we have hired a septic designer engineer, and he is designing the septic system that's called a Performance Based System, which allows us to put more. Just the zoning itself, we're required to use performance based, but he also stated that we can consider the lots, and not only the plotted lot, but the lot between the street and the line that goes to our lot, he said there's a rule that allows us to include that space as well, because when the water flows out when it rains, the flow the septic has when it expels its water, it's allowed to go onto the streets and we're allowed to include that in the design. The Performance Based System would meet the requirements, so we have done our due diligence and talked to a septic designer, and he's willing to do it. The only thing we're waiting for is to get this rezoning because he charges $7,000 to do the design.

Dane Theodore – So, you're relatively confident that you can build what you want to build?

Tony Andrade – Exactly.

Cheryl Hernandez – My name is Cheryl Hernandez, 122 Pelican Drive. With the BU-1-A classification, it says, 'limited retail shopping and personal services to serve the needs of the nearby low-density residential neighborhoods'. Their website advertises wholesale bakery online sales, and things like that, so my question is would BU-1-A allow that, because it's not serving just the low-density residential neighborhood, it's opening it up to a much greater area and would increase the traffic and the business that's going on there, greatly.

Henry Minneboo – Erin, I don't think that's going to have an impact, do you?

Erin Sterk – Do we anticipate a significant amount of trip generation from the bakery?

Henry Minneboo – The fact that they're wholesale.

Erin Sterk – I don't think the evaluation that we did at this level looked at those differences. The Institute of Transportation Engineers that we use for the trip generation rates, I don't think they break it down that far about wholesale versus a commercial location.

George Ritchie – The BU-1-A zoning does not allow wholesale, it only allows retail. They would not be able to get a Business Tax Receipt for any kind of wholesale operation with this zoning.

Delores Conway – That was my question, because they do advertise that they are a wholesale business. Thank you.

Mitchell Roffer – My name is Mitchell Roffer, I live at 6025 Highway A1A, Melbourne Beach, about 500 feet away from the proposed change. We welcome them to the neighborhood, we enjoy having new people in the neighborhood in a residential type of development, not in commercial. You talked

about the traffic, and my mailbox was taken out about two weeks ago, and it was a metal mailbox. If I had been standing there getting my mail I'd be dead right now, so the traffic is an issue in our neighborhood and we wish something would be done about it. Adding more commercial businesses to our neighborhood is going to change the composition of the neighborhood. We all want to see the composition that we have, and I don't believe A1A will be commercial. We plan on living there until we die, and I think everyone here in our neighborhood as well. We just put together a half-cent tax to Save Our Lagoon, now we're bringing in another commercial operation that's going to use an excess amount of water; the neighborhood already suffers from flooding, from over-saturation of water, regardless of this supposed new septic system they have, the water doesn't just disappear, it goes downhill. There, at the northern top of the neighborhood, that water is going flow and the neighbors to the south of them are going to suffer from the water that's coming down the street into their houses. In addition, I don't know if you've ever lived near a bakery, but at certain times of the day and night they re-heat the ovens and that smells. That's commercialization and it stinks, to be honest with you. I've lived by bakeries before when I lived in New York and when I lived in Miami. This is not a pleasurable experience in a residential neighborhood, so this is not what we're looking for. We're happy to have them as residential in our neighborhood, but changing this to commercial at all times of the day and night is something we don't like. Thank you.

John Mueller – My name is John Mueller, I live at 118 Cardinal Drive, Melbourne Shores, and I'm 75 feet from the proposed zone change. I don't know if you've been provided the petition with all the signatures from our neighborhood. I'm pretty sure you didn't get the pictures of the wildlife sanctuary, which I'll get into when I talk about it, and also about the bike path and beach access. I'm opposed to the proposed zone change for other reasons than previously stated. The pedestrian traffic is quite an issue, we have two school bus stops on Ibis and A1A, and Flamingo and A1A, and I have pictures of that right here, where they are next to the proposed lot. (Pictures shown by Mr. Mueller were not given to staff). There's a lot of kids in our neighborhood, the school bus stops there and unloads kids, so there's always traffic. People coming to the beach access use the bike path; bikers use the bike path; and now you're dealing with a commercial piece of property that is going to have trucks coming in, they're going to be dropping off goods, they're going to be picking up goods. There's no turn lane on A1A whatsoever, and that's a busy street, people go flying there. There's no alley for any kind of commercial trucks in order to drop off the stuff. As far as a dumpster location, the lot is very small, so you put a big house on it, and a parking area, because there has to be parking, so where is the dumpster going to be located? There cannot be just a couple of trash cans, there has to be a dumpster, and which of the three neighbors get the dumpster alongside of their house? It's a small lot less than 75 feet wide. There is noise when the dumpster is emptied, Waste Management picks up the dumpster, flips it up and then it bangs. The closest street is DeAngelo's restaurant and they have pickup and I hear it at 5:00 a.m. all the time, and it is quite noisy. That is a little bit more distant than if it was at Brian and Theresa Hennessey's house right next to this property, and to the back, which is the Conway's. Which neighbor actually gets that dumpster? They won't empty it every day, so there will be a build-up, and remember it's not dry goods. Melbourne Shores, our neighborhood itself, sits by a bird and wildlife sanctuary, and we also border the Maritime Sanctuary, and that means there's a lot of animals. I have a bobcat coming through my yard all the time. What we don't need is more attraction for animals to come into the neighborhood. Having a residential house with a regular trash can will not cause more attraction of animals. By allowing the zoning change you'd be almost granting a strip mall effect, which is not a Melbourne Shores residential neighborhood character. We don't want to be a Town Star, but at least with Town Star just to the south of us, they have a blinking yellow light, which means there's really high traffic. Somebody was killed there years ago and they put a blinking yellow light there. So, you will have two businesses now between Cardinal and Flamingo, so

now you're creating that strip effect. To me, we don't mind residential, everybody in the neighborhood would welcome them as residents. There are plenty of businesses, or lots, that are available for business that would meet all of their conditions rather than trying to change an RR-1, which it is now. They bought the property knowing it was residential, the realtor who sold it to them sold it as residential, and now they want to come in with intentions of changing it to BU-1-A. If that was the case, why did they buy residential? If you allow that to happen on the other side of the Hennessey's property, there's another empty lot, so if you grant this variance on this south side of the Hennessey's lot, then what happens to the one on the north side? Yes, you're setting a precedent, which means they could also change from RR-1 to BU-1-A again, so then the Hennessey's who bought their property as residential knowing either side was residential, now all of a sudden they have a beautiful home and their flanks are now business. I don't think that's fair to the existing people that are already here. I just wish that they would reconsider and find another place for their business. I just don't think they have the room to support the cars, the dumpster, and the house itself; they got the setbacks last month, but there was no plan on the house itself. We, as neighbors, never even knew exactly what was going to be built, so now we see that we're dealing with nothing but concrete out there, so now we don't have the vegetation the wildlife needs. I'm dead against the variance change for these reasons, not including all of the other logistics that have already been stated.

Jane Mueller – My name is Jane Mueller, 118 Cardinal Drive, within the 200-foot range. What I wanted to mention was the Comprehensive Plan. With what has been proposed by the couple, it doesn't look like you have the trees, or the vegetation, and these are things that all of us in the neighborhood have complied with through the years; I've been there 20 years, and I remember people coming to my house asking how many hardwoods I had. I realize that probably doesn't happen at this point, but that's an important aspect of our community and the entire area where we are with the sanctuary next door. We are very compliant and try our best to deal with the vegetation, animal, and wildlife there as well. I don't see that in the picture that was shown, I see concrete. I realize it is a very small lot, and I just don't feel like it fits in with the rest of our neighborhood, and I feel the Comprehensive Plan is a very important aspect to all the people that live in our neighborhood and the surrounding area. Thank you.

James Tuohig – My name is James Tuohig, I live at 113 Cardinal Drive. I'm concerned that this is going to become a commercial hub of the South Beaches area. This is the only area where two contiguous properties are going to be zoned commercial. Melbourne Shores is a very tight little residential area; we have all of these kids going by these driveways to get to the entrance to the beach. I'm astounded that the County does want to make this a commercial hub; it's very interesting because we have all types of places in all types of areas north and south of us that aren't heavy residential. This is very tight little residential community, and another business does not belong there. I'm dead-set against this. We have 100 signatures, but we could have had 300, except it was just right before Christmas and I didn't have time to get them. Nobody wants it, and certainly everybody with kids are really upset because of the bus stop and because of the entrance to the ocean. Thank you.

Tony Andrade – We agree with them 100%. That's why we like the community, we lived there before and we love that it is quiet, it is isolated. We're not trying to change things, we're moving in there to conform, we have kids ourselves, so safety is a big issue. James talked about it being a commercial hub, and yes, my wife has started the business. She started it in California.

Lian Larracas – My name is Lian, I've been baking for a very long time, and for me it's therapeutic. I'm currently a full-time electronics engineer and a part-time baker. What started as a hobby evolved into a bakery business in California in 2013, and I started it in my home under the cottage food law, and then moved into a rental wholesale kitchen, which eventually the wholesale business aspect wasn't where my business income was coming from, and eventually it went to my storefront bakery. Most of my transactions were pre-orders for weddings, caterings, birthday parties, farmers markets, and festivals, most of which are transported to those locations through pick-up or delivery. My bakery was a place where I baked and the storefront had always been used minimally off the main street in a busy part of Santa Clarita in California. I would like the same in Melbourne Shores where I can continue the venture in a small town community.

Tony Andrade – Really, her business is not bringing traffic into it. She had rented a bakery on Main Street as well, in California, and what happened was we were surprised to know we didn't get a lot of traffic; the business was sustainable with just foot traffic. As a matter of fact, her business was sustainable by her doing events, going out and doing stuff like the small cottage, but she needed a bigger kitchen. This was all valuable to the people that needed the service, and they liked it. I feel like this is a service that the whole community would eventually like. I feel like we can make this work, I really do. The commercial hub, I don't see it happening, it didn't happen in our last business in Santa Clarita; we didn't have delivery trucks, and we didn't create any more traffic coming into it, and we did everything based on the vehicles we already owned, we didn't have a business truck, so I don't think increased traffic is a concern because we own two cars. Another issue they had mentioned is the mailbox and the commercial aspect of it. I'm sorry his mailbox got hit by increased traffic, but I don't think we'll be causing a lot of traffic because history shows from our previous business that it didn't create any additional traffic. We're hoping to service people that are already going through there. We don't plan to expand this larger than that 500 square-foot area; we want to keep it at a small scale; we don't want to expand it beyond what we already have built.

Henry Minneboo – Do you have established hours of operation?

Lian Larracas – No, not at the moment. Right now, I'm working full-time.

Henry Minneboo – People are under the impression it's open 24 hours a day.

Tony Andrade – No, it's not. We're talking about a process that's going to take a few years and we're not going to build this thing and start baking on day one. We still have to get the materials, the kitchen going, we have to get health and safety involved so they can do their inspections, and then eventually we have to buy equipment. We're doing this out of our own income, we're not a corporation, we're small business owners, so it's going to take time for us to accumulate, but we just want to get this rezoned because we know that's our end goal. We want to retire here, we want to have our children grow up in this area, so safety is a big concern with us as well.

Henry Minneboo – Generally, with commercial you do have a dumpster.

Tony Andrade – There's going to be a dumpster, but we haven't really thought that far into it, but if it's required by the State and the Health Department we're going to have to have a dumpster.

Rochelle Lawandales – Is there a reason you couldn't do this as a Cottage Industry and as a home occupation? I think that would be the best compromise solution to allow you to bake and for it to stay residential.

Lian Larracas – I started as a Cottage Industry, but under the cottage food law, the bakery wouldn't be under the regulations of the Health Department, which wasn't desirable to the consumer, so I went into a licensed bakery. If I were to continue as a cottage bakery it would be unlicensed and I wanted this to be regulated under the Health Department.

Rochelle Lawandales – Doesn't the Health Department regulate any kind of food production, not just the Cottage Industry.

George Ritchie – If it was run from the house as a home business, the Cottage Food Industry is not a full bakery, it gives you a range of which items could be done and which items could not be sold, so they actually want you to sell them from the residence and not on the internet or a marketing scheme that takes the product away from the house. Under the home business as a home occupation you're limited to the family members living there on the site and one non-resident employee, and we limit visitation that would come to the property, so you're limited to two parking spaces, so we don't have a lot of traffic coming to the home. There is a big difference in how you want to license the business.

Lian Larracas – Also, if we want to serve coffee, cottage food won't allow certain drinks, and it has to be packaged with plastic and labeled. Based on my experience starting as a cottage food industry it was undesirable with the consumers, so I transitioned to a licensed bakery.

Rochelle Lawandales – Where would you sell coffee? Would you have seats outside?

Lian Larracas – No, it's a take-out bakery, and if we had seating we would have to accommodate with public restrooms, which we do not have capacity for.

Tony Andrade – We're balancing a home being built and bakery being built, and the issue a lot of people brought up is it's going to increase traffic and it's all concrete. We're required to put in three levels of vegetation, so what you saw in this picture, the draftsman didn't put what was required by Brevard County. The neighbors do have a petition, and when we found out they had a petition, we went out to our neighbors, including Amy's Salon, which is right next door to us, and is also BU-1-A, and she was okay with it. We talked to other residents along that street. There is a realtor that is BU-1-A and he is fine with it. We went deep into the neighborhood and asked people if they signed a petition against us, because I felt like we needed to explain what we're really trying to build because somebody mentioned that we were going to build a bar, and no, we have kids, we don't want a bar, we want to build a family-safe environment. We chose the lot on A1A because we thought that was a good place to put a commercial residence. We didn't pick anything where all the houses were, we picked A1A, and I thought we picked a good location. You can see all along there's empty lots within Melbourne Shores that are BU-1-A, and we're preventing someone else going in there and building what they don't want to have built. We bought the lot and our intentions were to convert it, but it was previously zoned BU-1-A, so we just want to get it back to its original zoning.

Brian Hodgers – From what I've heard from the people in opposition, it seems as if the main issue is that this is a wholesale thing that's going to create traffic. I heard from them that they don't want anything commercial, I get that, but I haven't heard from you guys directly, and it sounds like you want to maybe sell coffee and do a little bit here and there, but to me it does sound like a wholesale commercial application. You're not going to have a lot of people coming to the property to purchase things, it's possibly going to be some shipment by FedEx or UPS, so can you give us, for our own edification, are you really looking for foot traffic, are you looking for people to walk up and buy things from you, or is this really a wholesale online thing only?

Tony Andrade – This is not wholesale only. We do want people to come to our house and look at all the baked goods and make a decision for them to see the product they like and come back. We kind of wanted a storefront.

Brian Hodgers – There won't be seating?

Tony Andrade – No, there's no seating.

Brian Hodgers – They will come in and see a display case?

Tony Andrade – Yes, and pick their items. We want to retire in a home where we can do this and have a business downstairs.

Lian Larracas – Also, the wholesale, it's a different requirement from a regular bakery. There's a lot more requirements from the Health Department to build a wholesale, requiring an office, a drainage system, and a separation. It's not a wholesale bakery, and that wouldn't be allowed in BU-1-A.

Erin Sterk – Mr. Chairman, at the opening of this hearing, I read into the record Item 11, but usually if there's an associated item I read both into the record. Just to clarify, we're talking about the Comprehensive Plan amendment to Residential 6 and the rezoning to BU-1-A, so we'll need separate actions.

Henry Minneboo – We have 18PZ000134 first.

Rochelle Lawandales – The problem as I see it is that they want to do a mixed use like that which exists on the corner. I think that's very compatible. I think you've got BU-1-A all up and down A1A; I'm looking at a zoning map, so I don't know whether the community understands that, but at every endcap, with the exception of the south corner of Flamingo and A1A , it's all BU-1-A.

Henry Minneboo – How long does that BU-1-A run?

Ron McLellan – It's the whole block.

Henry Minneboo – Through all of Melbourne Shores?

Rochelle Lawandales – It is all BU-1-A.

Ron McLellan – I don't see how we can legally tell this man he can't do that, with BU-1-A next to him doing the same exact thing he wants to do.

Scott Langston – It was already zoned that before. We understand, too, the fact of the residential close by, but it's kind of going that way because of everything else around there, according to our maps.

Rochelle Lawandales – I do have concerns, and I think we can't go into this blindly. I think we have to recognize that there are concerns. From the standpoint of the mixed use, I don't have a problem with the mixed use, the problem is how you get there. The other problem that I have is, I think you look at the structure and see a residence, what goes on inside, whether she stays up from 2:00 a.m. to 6:00 a.m. baking and sells at farmers markets, I can't imagine that anybody would care about that. They can't do wholesale because that's not allowed by the zoning. I see problems with dumpsters, I see

problems with accessibility, but I also see just a house and somebody who wants a home occupation. If it's going to be a house and a home occupation, I can vote today very easily. If they want to go for the BU-1-A, I think there's a lot of reasons to do BU1-A; if they are going to stay residential, that's easy.

Ron McLellan – Would there be any way we could do that if there's a binding development plan, to satisfy the neighbors?

Rochelle Lawandales – I think you can.

Ron McLellan – When I was a kid, my fondest memories are of riding my bicycle to the bakery in the morning and getting a hot donut. That's how I see this; I don't see it as commercial with people coming in, I see it as a neighborhood bakery. I think we put some kind of binding development plan on them where they have walk-ins and take out service, no parking. I think it would work, and I think these people would like it.

Ben Glover – And we limit it to just the bakery?

Ron McLellan – Yes, and then they can't do anything else.

Erin Sterk – You could do a binding development plan if the applicants were amenable to those conditions.

Brian Hodgers – Can you have a mixed use in a BU-1-A?

Ron McLellan – Yes, there's one right beside it.

Erin Sterk – The one beside it is a tricky question. The answer about how the one beside it came to fruition is a mystery because our records retention requirements do not go as far back as when that was developed. They permitted the property, and we can see that they've pulled a single-family residential septic permit on that property south of them. We do not have the plans, so whether or not they identified that there was a salon component of that development to the south, it's certainly not something that the zoning and land use would have allowed for. If it was missed on the plans we don't have those plans because it's beyond our records retention timeframe. If it was there it was missed and it should not have been approved. The zoning and land use on the property to the south would not allow for that to be developed today.

Rochelle Lawandales – That's why they have to go to the Residential 6 land use in order to allow the residence and the BU-1-A to allow for the bakery.

Ron McLellan – It states it right here in our staff comments.

Erin Sterk – It is there, we just do not find a record that it was permitted appropriately. We have the numbers of the permits, we just don't have the plans, so we can't tell whether or not that commercial component on the first floor was identified in the plans, or if they converted it after the fact.

Mark Wadsworth – The zoning restricts the footprint, the 500 square feet?

Erin Sterk - No, if they had the BU-1-A zoning, even if they go to the Future Land Use and the zoning, they could build a commercial component much larger than that depending on what the stormwater would allow for.

Dane Theodore – I'm looking at the land use map and everything is Residential 1, everything north and south and east. We're contemplating changing this one lot within this huge swath of Residential 1 to Residential 6, simply to manipulate the Future Land Use and the zoning to allow this bakery. How does staff feel about that? It just seems that it's spot land-use.

Erin Sterk – The history of the Comprehensive Plan in this area is interesting. When this was proposed to have the entire area reduced to Residential 1, some of you may have worked for the County then, it came before the Board and the Commission decided not to take action on that, and they put that decision to referendum, and when this property became Residential 1 it was a vote and a no action. To undo that and potentially change a piece of property to Residential 6 after that action occurred, to allow for a new use on a lot this small, it is a serious decision to make. You can see it has not been changed in that area since that time.

Rochelle Lawandales – That sheds a different light on things to me. How do you reconcile all of the other BU-1-A properties that are there in light of the Residential 1 land use? If somebody came in for BU-1-A business license, or a site plan to do something, how would you deal with that?

George Ritchie – In the BU-1-A zoning classification one of the listed uses is a single-family residence, that's what's causing the land use amendment part of this request. They can do commercial operations with no residence as long as they are considered a transitional use to buffer the properties west of A1A, so we can put in the BU-1-A west of A1A. We can put in the BU-1-A zoning and Neighborhood Commercial land use, but with Community Commercial land use, nobody would really want to see that type of land use go in here because it would promote additional commercial zoning classifications. In some instances, in residential zoning, we have an asterisk that says when deemed a transitional use it could also be heard. To get the commercial aspect of a bakery, that can be done in BU-1-A, BU-1, or BU-2 zonings. The least intensive one is to match the adjacent BU-1-A zoning. To get the residence to remain on the property, we're dealing with lots that were platted before the zoning code, they're non-conforming lots of record, and there's the Comprehensive Plan that was added after the zoning. If the lot was already in existence and used for residential purposes, it's grandfathered in, but now we're taking that zoning away, replacing it with a commercial zoning classification, and now they still want to retain that residential use, so we need to bump up the land use classification to be consistent with the lot size that they have. If they had a one acre lot we could have kept it at Residential 1 and they could have done both uses there, but unfortunately they don't have a one-acre lot to be consistent with the Comprehensive Plan for the residential purpose.

Rochelle Lawandales – So, on the lot to the north, and that whole block that is BU-1-A, they can do commercial in there under the Residential 1 because they can also do residential and it's a transition?

George Ritchie – Yes.

Rochelle Lawandales – So, there wouldn't be an inconsistency. If these folks just kept it as a commercial use they could do it under Residential 1, if they got the BU-1-A zoning. Or they can do the residential.

George Ritchie – To change from the current residential zoning to BU-1-A, it's a commercial classification, it's not looked at as a residential classification anymore, so they'd have to be consistent with the Comprehensive Plan to get a residential unit, but in BU-1-A.

Rochelle Lawandales – But if they didn't want to do that they can still do that under Residential 1.

George Ritchie – They could, and that is something that we would enforce by zoning.

Ben Glover – Can you limit it to one structure, even with the Residential 6?

George Ritchie – Under Section 62-2106, which is the mixed use activity that's allowed by the zoning code, you can have a freestanding commercial building, you can have a freestanding residential building, or you can combine them and have them both in one building. If you want to limit it to one building that's fine, it's still consistent with Code, but I haven't heard the applicant say they want to make two different buildings on the lot, but that is something, if you wish to require them to have as part of the binding development plan, you can ask the applicant to do that.

Henry Minneboo – You'd spend more money on the septic tank than the lot is worth with two separate building structures with the septic tank where it is located.

Rochelle Lawandales – What I'm most comfortable with, in light of all of this discussion, is that it stay residential and that they get a home occupation to do the bakery. So, I think that means to recommend denial of the Residential 6, and then denial of the BU-1-A. We've got to take it in two steps. I don't know where this will go.

Henry Minneboo – Let's deal with one first.

Rochelle Lawandales – I'm going to move denial of the Comprehensive Plan change from Residential 1 to Residential 6.

Dane Theodore – Second.

Henry Minneboo called for a vote on the motion as stated, and the motion passed 7:2, with Brian Hodgers and Ben Glover voting nay.

Henry Minneboo – Now the second motion.

Rochelle Lawandales – They could still do the BU-1-A.

Henry Minneboo – Let's not add any confusion.

Rochelle Lawandales – I don't have a problem if they want to do BU-1-A.

Erin Sterk – Staff spoke with the applicants throughout this process and if they were to receive the BU-1-A without the Residential 6 and abandon the residential rights and be only granted commercial development rights, they have requested not to have that outcome.

Rochelle Lawandales – Motion to deny.

Henry Minneboo – There's a motion to deny the BU-1-A, 18PZ00133, Item 12.

Dane Theodore – Second.

Erin Sterk – Just to clarify, if we don't approve the Residential 6 we can't really approve the BU-1-A.

Rochelle Lawandales – You can approve the BU-1-A, but it would only be limited to the commercial.

Erin Sterk – Right.

Rochelle Lawandales – You couldn't do the mixed use. They couldn't do the residential, but they could do the bakery. My motion was to recommend denial of BU-1-A.

Ron McLellan – Let me get this straight. What are we denying?

Henry Minneboo – We're denying the BU-1-A.

Rochelle Lawandales – And that's because the applicant does not want to just do the commercial component without the residential. Without their desire to just do the commercial component, there's no need to change it in my opinion. I have no problem with the BU-1-A.

Ron McLellan – I don't either, but I don't think we're accomplishing anything.

Henry Minneboo – We're not.

Henry Minneboo called for a roll call vote, and the motion failed 7:2, with Henry Minneboo, Ron Bartcher, Brian Hodgers, Ben Glover, Ron McLellan, Scott Langston, and Mark Wadsworth voting nay. Rochelle Lawandales and Dane Theodore voted aye.

Rochelle Lawandales – We need another motion.

An unidentified audience member asked for clarification on the motion and vote.

Erin Sterk – They voted to deny the rezoning to BU-1-A. The motion was to deny and it did not pass. There would need to be a second motion made.

Ben Glover – I'm a little disappointed that we voted against the other one because now we really can't go anywhere with this.

Brian Hodgers – Can the original issue be re-brought up?

Henry Minneboo – Yes, we can go back to the original.

Brian Hodgers – Since I'm one who voted nay, I can make a motion to reconsider.

Erin Sterk – What that would take from staff is revising the staff report. The way that you could consider the BU-1-A with the current zoning classification is if it were to be perceived as transitional. We would need to evaluate the ways that this applicant is making the commercial transition to residential. So, that takes evaluating buffering distances and things like that. Our staff report didn't really go there because they weren't looking for that outcome. There's a whole other set of analysis that considering that land use designation transitional and the zoning appropriate, that hasn't been provided to this board. We can do that analysis, but that's not the outcome they desire.

Ben Glover – Is it possible to re-vote on the item that was denied?

Henry Minneboo – We can go back to Item 11.

Ben Glover – That's what I'd like to do. I make a motion to reconsider the denial.

Ron McLellan – I second.

Brian Hodgers – I think that we're all confused because from various comments. We have people saying they are in favor of BU-1-A because it's consistent with up and down that whole corridor, but we have problems with the wholesale aspect versus the walk-up aspect, and the residential aspect. I think we need a little bit of guidance from you guys as to, can they get the BU-1-A and be residential without having to go to the Residential 6, and if not, then I think that's where we have to go back to the original vote that we took that we want to re-open.

Erin Sterk – They cannot retain residential development rights with any other path than Residential 6, plus the BU-1-A. In all of our conversations in getting to this moment with the applicants, they do not want to lose the residential development potential. They don't want to just build a bakery without living there. We did not look at those other options to get to BU-1-A zoning, because that wasn't the outcome they desire. We would need to do some work if that were to be something if the land use change does not go through we could evaluate those things, but the applicant has told us that's not what they want. I'd like to hear from them if they've changed their mind on that.

Brian Hodgers – Is there any Residential 6 in that whole area?

Erin Sterk – No.

Henry Minneboo – That's the problem.

Ben Glover – But if we limit them to only able to build one structure on the property, it's compliant, but it's really Residential 1, correct?

Henry Minneboo – The only thing that grabs us later on in a year, someone down the street all of a sudden wants it.

Ben Glover – I don't see anything wrong with what the applicants are trying to accomplish here. I made the motion to re-visit the vote, and I believe Ron seconded it.

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

Ben Glover – I'd like to make a motion to approve the Residential 6, and also the BU-1-A, with a binding development plan only allowing one structure to be built on the property and limiting it only to a bakery.

Mark Wadsworth – Second.

Rochelle Lawandales – We have to have two motions, one on the land use and one on the zoning.

Erin Sterk – Just take action twice. Considering the conditions, can the applicant attest to whether or not those are amenable to them, the two conditions.

Henry Minneboo called for a vote on the motion as stated, to approve Residential 6, and it passed unanimously. The vote passed 7:2, with Rochelle Lawandales and Dane Theodore voting nay.

Ben Glover – I'll make a motion to approve BU-1-A with a binding development plan only allowing one structure on the property and limiting it to only a bakery.

Mark Wadsworth – Second.

Jad Brewer – We need their consent to conditions on the record as binding development plans are voluntary.

Lian Larracas – I tried to catch all the acronyms, but I think there was one recommendation to approve BU-1-A limiting it to a bakery only, which we are not opposed to. I think we heard some concerns that we might turn the bakery into something more intense, like a bar or a wholesale, which we don't intend to do. If that's a recommendation then that is something we would not be opposed to.

Tony Andrade – You're telling us you're willing to approve us to just put a bakery on the first floor, no expansion, and one building, for the entirety of the time that we live there, even though it takes a few years for us to build a bakery there, that we can only leave it as bakery? If we want to do less intrusive, if we want to keep office spaces, is that allowed?

Henry Minneboo – I'm not sure you want to go there. You start talking about an office and that's a whole different game.

Ben Glover – I can clarify on what I proposed. You're only allowed to put one structure, which would be the house and your bakery, it would all be in one building, and then the zoning is only allowed to operate a bakery out of the property. You would not be able to do any other commercial use.

Henry Minneboo – You won't be able to go to an office later.

Brian Hodgers – They can use it as residential space.

Erin Sterk – So, the condition in the binding development plan would limit them to the residential development and the bakery as the only commercial use.

Henry Minneboo – Are you on board?

Lian Larracas – Yes, sir. I thought that it would only be a bakery, which we want to live there.

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

The Board recessed from 5:15 p.m. to 5:20 p.m.