



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.6.

8/3/2023

Subject:

Star Rush, LLC (Sean MacLaurin and Hamilton Williams) requests a CUP for Trailer and Truck Rental in a PUD zoning classification. (23Z00033) (Tax Account 3018275) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a CUP (Conditional Use Permit) for Trailer and Truck Rental in a PUD (Planned Unit Development) zoning classification.

Summary Explanation and Background:

The applicant is requesting a CUP for trailer and truck rentals to be offered to customers through the retail establishment. This retail establishment, as part of their standard operations, uses outside designated parking spaces for rental of trucks and trailers.

The entire site will include 8 buildings totaling 190,000 square feet. The retail establishment subject of this request will be located on the southwest portion of the site, occupying 136,014 square feet of building space as the anchor store for the shopping center. Per the CUP plan, the designated 18 parking spaces of the proposed trailer and truck rental will be located on the west side of the building.

The subject property is surrounded by PUD zoning to the north, south, east, and west. To the north of these parcels are retention ponds and a multi-family complex. To the east, a restaurant, retail, and retention pond. To the south is a single-family subdivision, and to the west is vacant land.

The Board may wish to consider the compatibility of the proposed CUP with the surrounding area. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1954 to mitigate potential offsite impacts to the abutting properties.

Such as:

- To help mitigate any off-site impact, the Board may wish to consider limiting the trailer and truck rental hours of operation.
- Limiting the truck and trailer rentals to the area as shown on the CUP plan titled "Viera Station Overall Site Plan" dated April 12, 2023.
- Site plan shall comply with Brevard County code and regulations.

- Trailer and Truck rental activities shall maintain a minimum setback of 30 ft. from the residential property line.

On July 17, 2023, the Planning and Zoning Board heard the request and unanimously recommended approval. Their recommendation did not include any special conditions.

Clerk to the Board Instructions:

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

Resolution 23Z00033

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

WHEREAS, Star Rush, LLC requests a CUP (Conditional Use Permit) for Trailer and Truck Rental, in a PUD (Planned Unit Development) zoning classification, on property described as Lot A, Block 1, Viera North PUD, as recorded in ORB 9658, Pages 865 - 876, of the Public Records of Brevard County, Florida. **Section 33, Township 25, Range 36.** (20.25 +/- acres) Located on the southeast corner of Interstate 95 and Viera Blvd. (No assigned address. In the Viera area.); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and the Planning and Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved with the conditions that the trailer and truck rental parking spaces shall be located on the western side of the property, and that the trailer and truck rental hours of operation be the same as the associated retail store; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested CUP for Trailer and Truck Rental, in a PUD zoning classification, be approved with the conditions that the trailer and truck rental parking spaces shall be located on the western side of the property, and that the trailer and truck rental hours of operation be the same as the associated retail store. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 3, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission
As approved by the Board on August 3, 2023.



ATTEST: 

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – July 17, 2023

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

development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.

Helen Seaman

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Monday, August 14, 2023 8:08 AM
To: Clerk to the Board
Subject: Zoning Resolutions from 08/03/23
Attachments: 23Z00037 Resolution.docx; 23Z00033 Resolution.docx

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

Good morning,

Attached are two resolutions that were for items approved on August 3rd.

Thank you,
Jennifer

Jennifer Jones
Special Projects Coordinator
Brevard County
Planning and Development Department
Phone: 321-350-8300
Extension: 58300
jennifer.jones@brevardfl.gov

Brevard County is currently in the process of implementing changes to increase the accessibility of information and documents on its website. If you require assistance to better access this document or information contained therein, please contact Brevard County's A.D.A Coordinator by phone at 321-637-5347, or by email at ADACompliance@brevardfl.gov

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

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ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00033

Star Rush, LLC

CUP for Trailer & Truck Rental Service in PUD on 27.5 acres.

Tax Account Number: 3018275
 Parcel I.D.: 25-36-33-76-A-1
 Location: Property is east of I-95 Hwy, south of Viera Blvd., and west of Star Rush Dr (District 4)
 Acreage: 20.25 +/- acre
 Planning & Zoning Board: 7/17/2023
 Board of County Commissioners: 8/03/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PUD	PUD with CUP for trailer & truck rental service
Potential*	2.0 FAR	136,014 sq ft
Can be Considered under the Future Land Use Map	YES DRI	YES* DRI

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

Background and Purpose of Request

The applicant is requesting a CUP for trailer and truck rentals, pursuant to Section 62-1954, that will be offered to customers through the retail establishment. This retail establishment, as part of their standard operations, uses outside designated parking spaces for rental of trucks and trailers.

The undeveloped subject property is located within the Viera Development of Regional Impact (DRI) east of I-95 Hwy, south of Viera Blvd., and west of Star Rush Dr. The

proposed development is currently being reviewed under site plan 21SP00038. The site will include 8 buildings totaling 190,000 square feet. The retail establishment will occupy 136,014 square feet of building space as the anchor store for this shopping center. Located in the southern west portion of the site. Per the CUP plan, the designated parking spaces of the proposed trailer and truck rental area is on the westside of the building, occupying approximately 18 parking spaces.

West of the proposed trailer and truck spaces is an existing canal and to the south is a residential subdivision. A 6ft masonry wall and a 20ft landscape buffer will separate the residential subdivision to the rear of the store.

In May 1999 zoning action **Z-10249 approved a change of zoning classification from PUD (Planned unit Development), BU-1 (General Retail Commercial), PIP (Planning Industrial Park) and TU-2 (tourist Commercial and Transient Tourist Use) to all PUD (May 1999).**

Land Use

The subject property is currently designated as Development of Regional Impact (DRI) on the Future Land Use Map (FLUM). The existing PUD zoning can be considered consistent with the existing DRI FLU designation under Sec. 62-1255.

Applicable Land Use Policies

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

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

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

Criteria:

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

Regarding the hours of operation, lighting, odor, noise levels, traffic or site activity. The applicant shall be subject to compliance with all performance standards within Sections 62-2251 through 62-2272. Trailer and truck are anticipated be only be available for rent during store hours. The Board may consider other conditions to address off-site impacts such as noise and hours of operations of the trailer and truck rentals to help minimize off-site impacts.

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

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

1. historical land use patterns;

The subject property is currently undeveloped. And being reviewed for a commercial shopping center. To the north of these parcels are retention ponds and a multi-family complex. To the east a restaurant, retail and retention pond. To the south is a single-family subdivision. To the west is vacant.

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

Development within a one-half mile radius over the immediately preceding three years east of I-95 Hwy includes a convenience store with gas pumps, coffee shop, restaurant, car wash, and professional office building. An industrial complex was developed on the west side of I-95 Hwy.

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

There has not been any development approved but not yet constructed within a half mile in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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

There is an existing pattern of PUD zoning on parcels abutting surrounding the subject property. However, there is of one BU-2 zoned property and a cluster of BU-1 zoned properties to the east approximately within 1500 feet of the subject property.

Analysis of Administrative Policy 5 - the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.

The proposed CUP will access Viera Blvd segment between Stadium Pkwy and Murrell Rd. The maximum development potential from the proposed CUP increases the

percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 50.06% of capacity daily. This request is not anticipated to create a deficiency in LOS.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Retention pond/convenience store with pumps	PUD	DRI3
South	Single-family residential	PUD	DRI3
East	Restaurant/Retail/retention pond	PUD	DRI3
West	Vacant land	PUD	DRI3

The subject property is surrounded by PUD zoning to the north, south, east and west. To the north of these parcels are retention ponds and a multi-family complex. To the east a restaurant, retail and retention pond. To the south is a single-family subdivision. To the west is vacant land.

Planned Unit Development (PUD) encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses. Within the PUD zoning classification, development standards found in the BU-1 zoning classification are permitted pursuant to Section 62-1446(8).

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

There are no pending zoning actions within a half-mile radius of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Viera Blvd between Stadium Pkwy and Murrell Rd, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 50.03% of capacity daily. The maximum development potential from the proposed

rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 50.06% of capacity daily. The proposal would not create a deficiency in LOS.

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

The parcel is serviced by the City of Cocoa utilities for public water. The closest Brevard County sewer line runs parallel to the subject property along Viera Blvd.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1936, Land Alteration.

Pursuant to PUD Section 62-1446 - Land use regulations, nonresidential shall be subject to the same development standards as are found in the BU-1-A, BU-1 and BU-2 zoning classifications, as appropriate.

Pursuant to PUD Section 62-1444 - conditional uses within Division 5, subdivision III not specified as part of a preliminary development plan application may be considered for approval by undertaking the standard conditional use process.

This request should be evaluated in the context of Division 5, subdivision III, Conditional Uses - **Section 62-1954**, which governs trailer and truck rental which states:

1. All trailers and trucks for a trailer and truck rental use shall be parked within the confines of the lot, tract or parcel of land.
2. No trailers or trucks shall be permitted on public streets, roads or rights-of-way, or on or across public sidewalks.
3. All parking areas shall be paved.

The applicant has delineated a portion of the property that will be utilized for the trailer and truck rental. The overall site plan sheet submitted with this request indicates that

the trailer and truck parking is proposed to be located on a portion of the planned parking lot, on the southwest portion of the property, on west side of the building.

General Standards of Review

Section 62-1901(2)(b)(c)(f)(h) General standards of review, include but not limited to,

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.

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.

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.

Section 62-1901(c)(1)(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.

Applicant's Response: The proposed use will have a 6ft masonry wall with sufficient landscaping to prevent any impact on adjacent or nearby properties. (1) there will be few people using the conditional use daily, (2) far enough away from adjacent properties with no smoke, fumes, and other emissions, (3) this conditional use will not increase traffic with minimal customers.

Staff analysis: The Board may consider limiting the hours of operations to the property and/or use limitations created in order to reduce those concerns.

Section 62-1901(c)(1)(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.

Applicant's Response: The proposed use will be compatible with nearby properties and will be held to same requirements of the current retail development.

Staff analysis: The Board may consider the wall and landscaping as an adequate buffer.

Section 62-1901(c)(1)(c) The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable 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 a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: The proposed use will not cause a substantial diminution in value of abutting residential property as substantial buffering (landscape and masonry wall) has been included in the design to ensure no impact to adjacent uses.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(a) Ingress and egress to the property and proposed structures (including vehicular and pedestrian safety and convenience, traffic flow and control, and emergency response access) shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent 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 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.

Applicant's Response: The conditional use requested has no material impact on any traffic flow given its scale to the overall retail development which includes 190,000 square feet of retail and restaurant space.

Staff analysis: This property has direct access to Viera Blvd and Star Rush Dr. as identified on the CUP plan. If needed, additional improvements can be addressed

at the site plan review stage for the trailer and truck rental inclusion.

Section 62-1901(c)(2)(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.

Applicant's Response: The proposed use will have a 6ft masonry wall with sufficient landscaping to drown out noise, glare, odor and other emissions.

Staff analysis: This project must be compliance with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code parameters or a violation will be created.

Section 62-1901(c)(2)(c) Noise levels for a conditional use shall comply with Section 62-2271 of the Code.

Applicant's Response: The proposed use will be held to the time period stated in the with the entire retail development.

Staff analysis: The proposed trailer and truck rental must comply with noise ordinance.

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal for the property or area covered by such level of service, to be exceeded.

Applicant's Response: No impact to solid waste.

Staff analysis: The adopted level of service for solid waste disposal will be reviewed as part of the site plan review process.

Section 62-1901(c)(2)(e) The proposed conditional use shall not cause the adopted level of service for potable water or wastewater for the property or the area covered by such level of service, to be exceeded by the proposed use.

Applicant's Response: The use will not affect any level of service for potable water or wastewater.

Staff analysis: The adopted level of service for potable water or wastewater will be reviewed by utilities as part of the site plan review process.

Section 62-1901(c)(2)(f) The proposed conditional use must have existing or proposed screening or buffering, in terms of type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

Applicant's Response: The proposed use will be screened by a 6ft masonry wall with landscaping to the south, extensive landscaping to the west, building to the east. It is only visible from the North entrance.

Staff analysis: Should the Board determine if additional measures become necessary, the Board may wish additional conditions to address any off-site impacts.

Section 62-1901(c)(2)(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.

Applicant's Response: The conditional use requires no additional signage or lighting.

Staff analysis: A sign plan for the entire site will require a separate permit. Exterior lighting presented on the site plan complies with Brevard County Performance standard Sec. 62-2257.

Section 62-1901(c)(2)(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.

Applicant's Response: The hours of operation of this use will be held to the same hours as the retail development.

Staff analysis: The Board may consider limiting hours of operation to address any off-site impacts.

Section 62-1901(c)(2)(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.

Applicant's Response: The height of the use will not be more than thirty-five (35) feet above any residential uses within 1000 feet.

Staff analysis: There are no proposed structures with this request.

Section 62-1901(c)(2)(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.

Applicant's Response: The proposed use is far enough away that nearby properties will not be impacted. The 6ft masonry wall will also prevent all access to the proposed use by nearby properties.

Staff analysis: The CUP concept plan has 18 parking spaces designated for the trailer and truck rental with an additional 858 parking spaces on the entire parcel for a total of 876 parking spaces. Site plan will need to demonstrate compliance with Brevard County code, Section 62-3206(f)(1) Offsite and shared parking requirements. The Board may consider limiting the truck and trailer rentals to the area as shown on the CUP plan.

Environmental Constraints

No formal review by the Natural Resources Management Department is required for a CUP for trailer and truck rentals. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

For Board Consideration

The Board may wish to consider the compatibility of the proposed CUP with the surrounding area. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1954 in order to mitigate potential offsite impacts to the abutting properties.

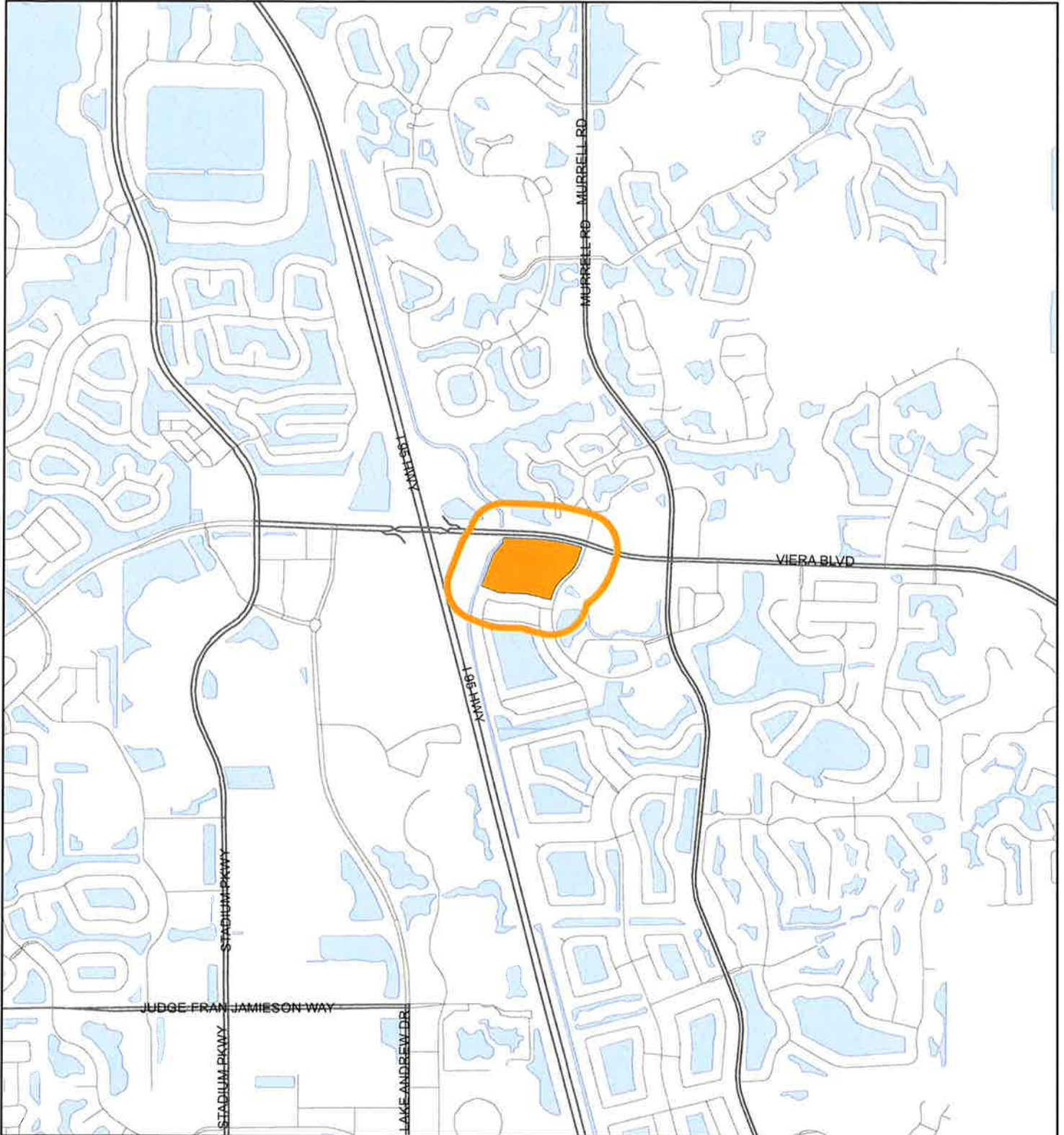
Such as:

- To help mitigate any off-site impact, the Board may wish to consider limiting the trailer and truck rental hours of operation.
- Limiting the truck and trailer rentals to the area as shown on the CUP plan titled “*Viera Station Overall Site Plan*” dated April 12, 2023.
- Site plan shall comply with Brevard County code and regulations.
- Trailer and Truck rental activities shall maintain a minimum setback of 30 ft. from the residential property line.

LOCATION MAP

STAR RUSH LLC

23Z00033





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.

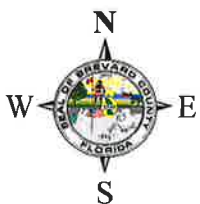
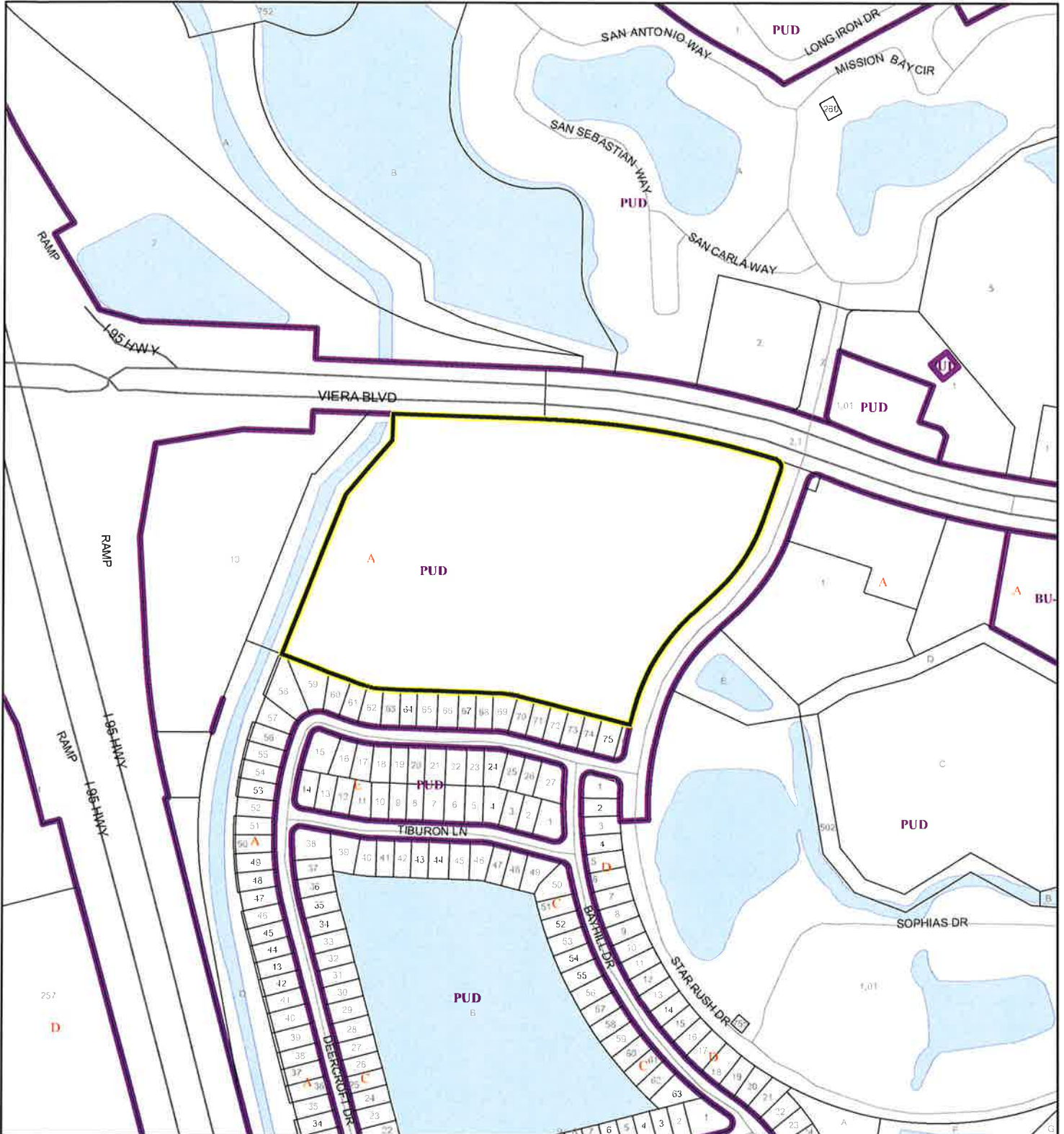
Produced by BoCC - GIS Date: 6/27/2023

-  Buffer
-  Subject Property

ZONING MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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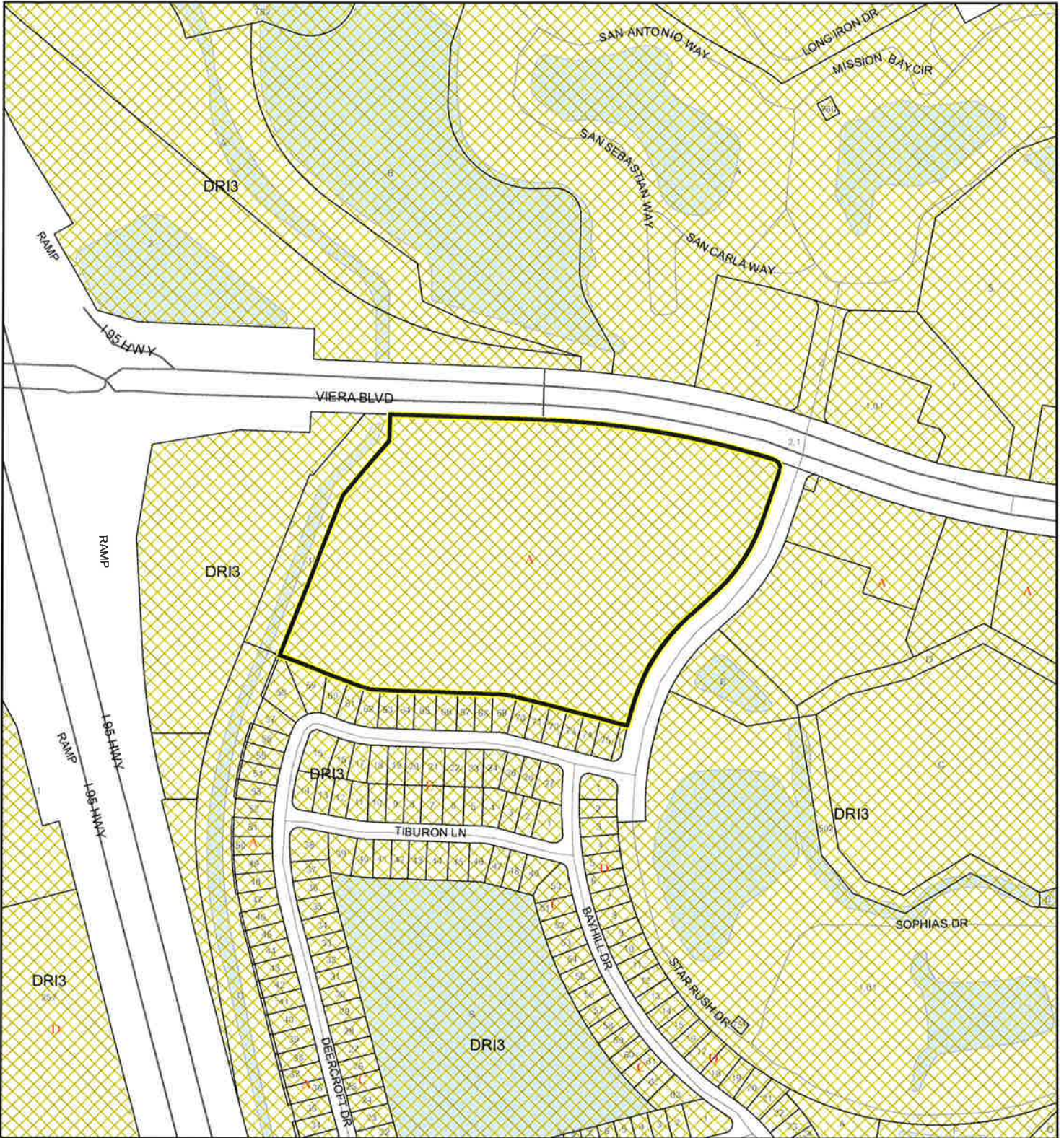
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-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

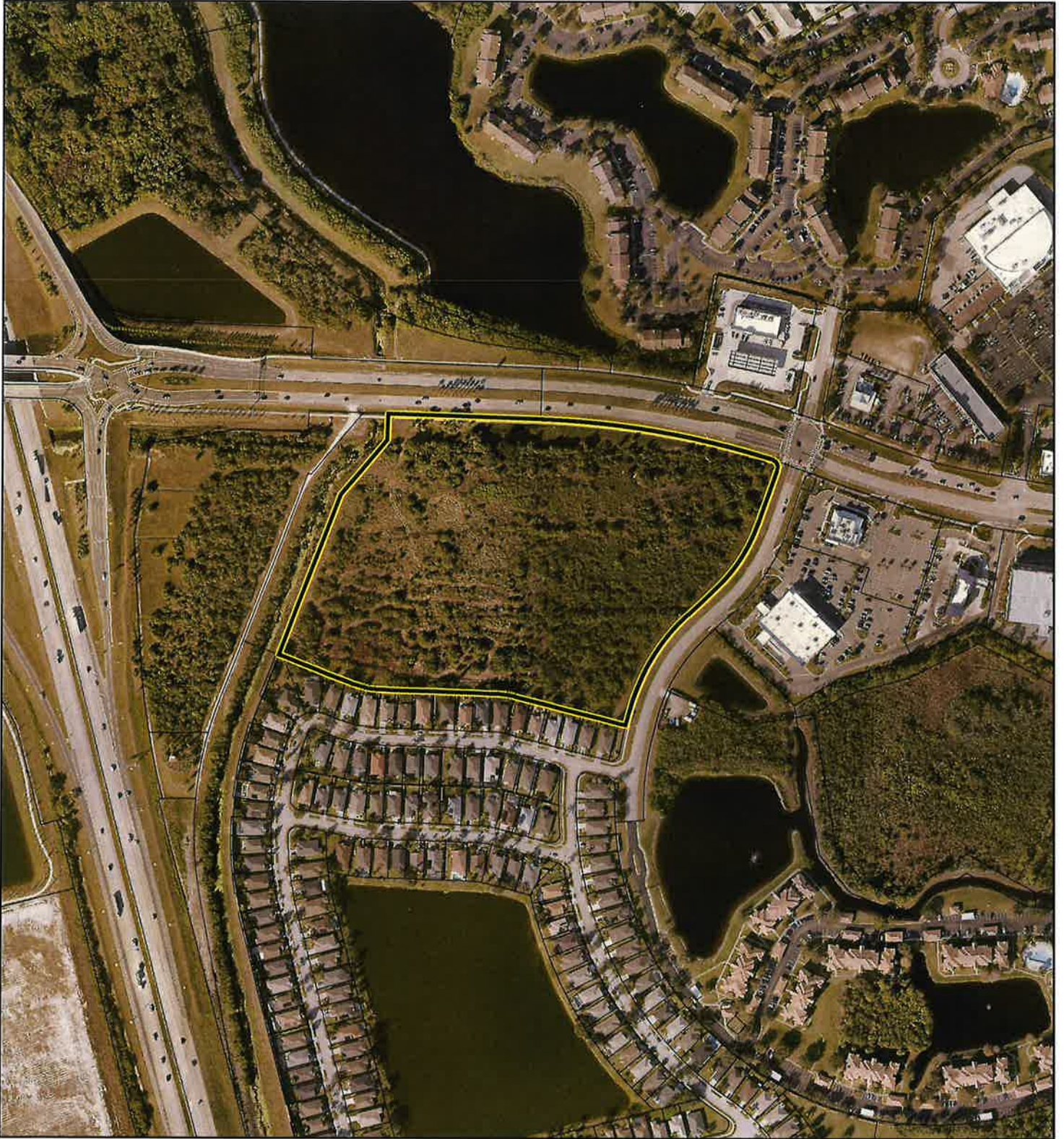
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/27/2023

AERIAL MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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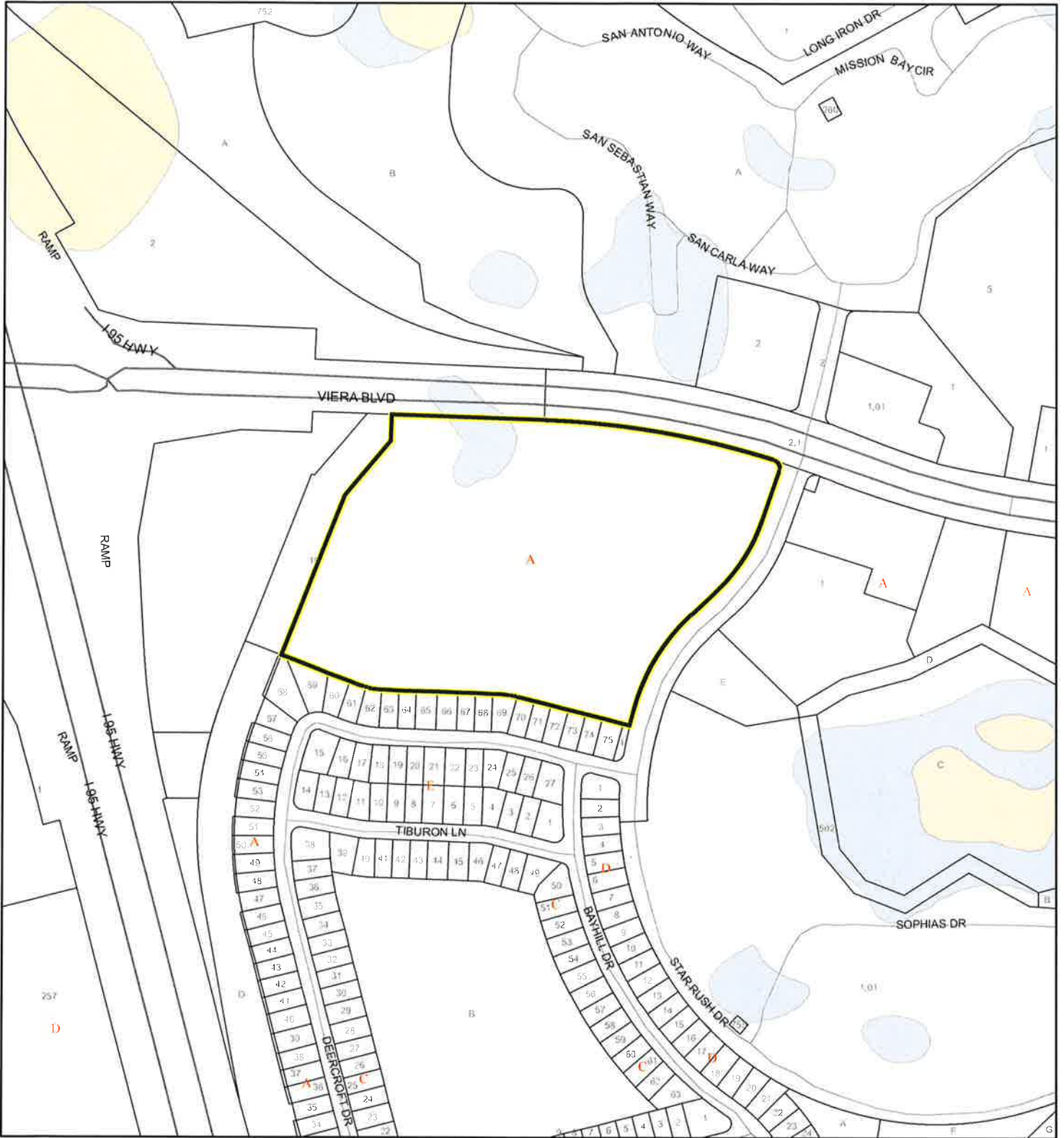
 Subject Property

 Parcels

NWI WETLANDS MAP

STAR RUSH LLC

23Z00033










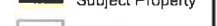


1:4,800 or 1 inch = 400 feet

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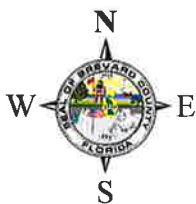
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

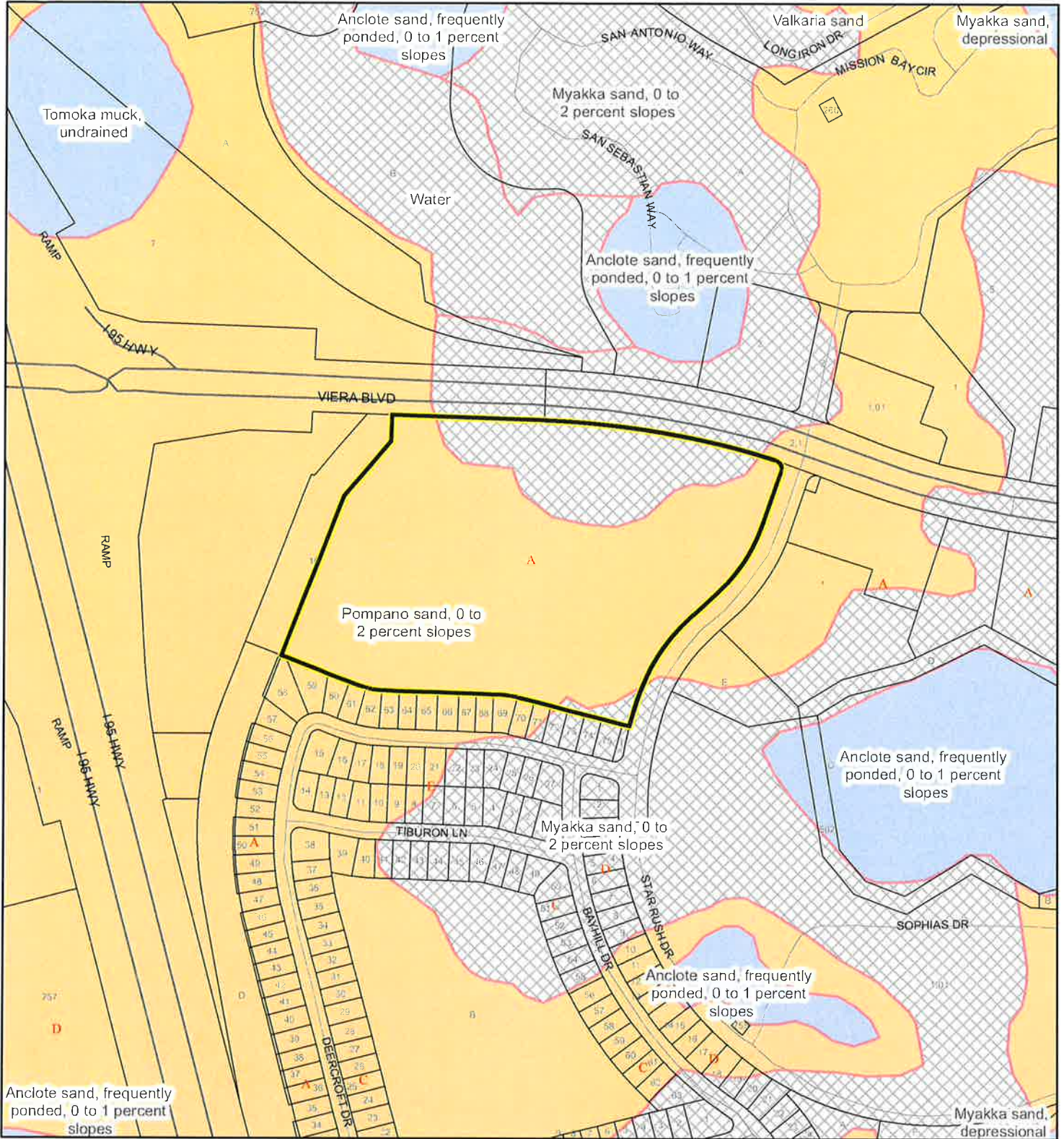
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property Parcels

USDA SCSSS SOILS MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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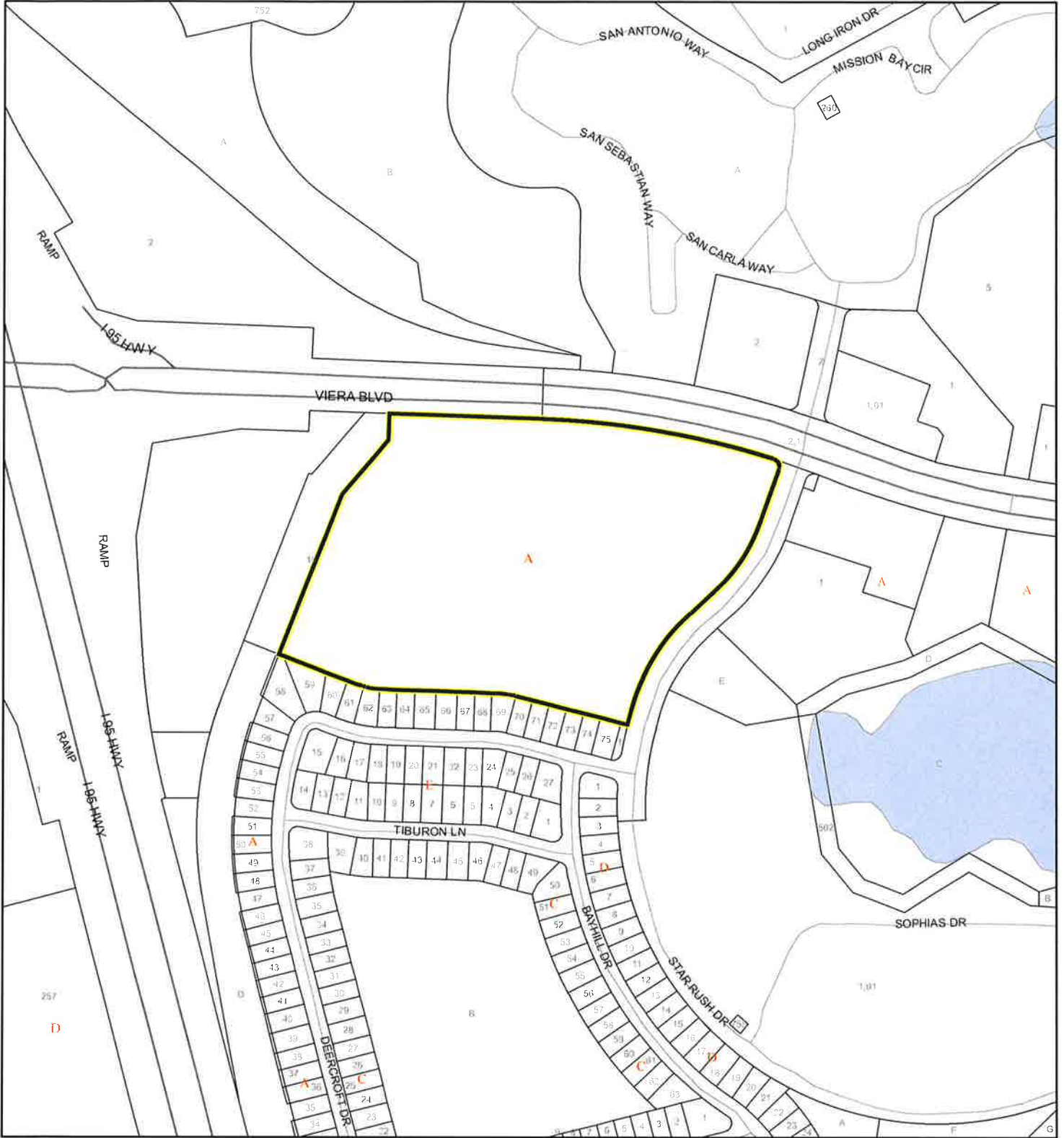
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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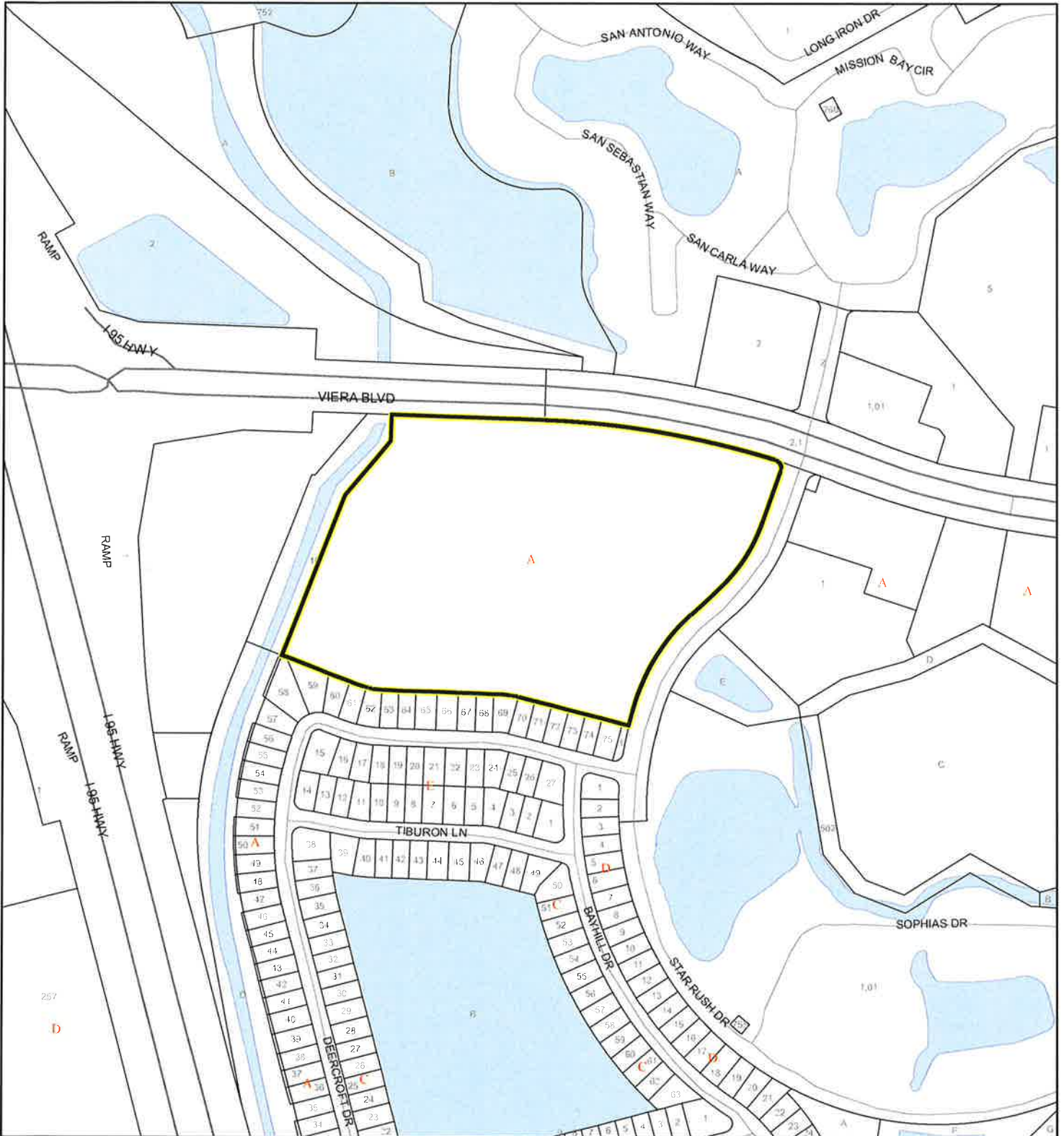
Produced by BoCC - GIS Date: 6/27/2023

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

COASTAL HIGH HAZARD AREA MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

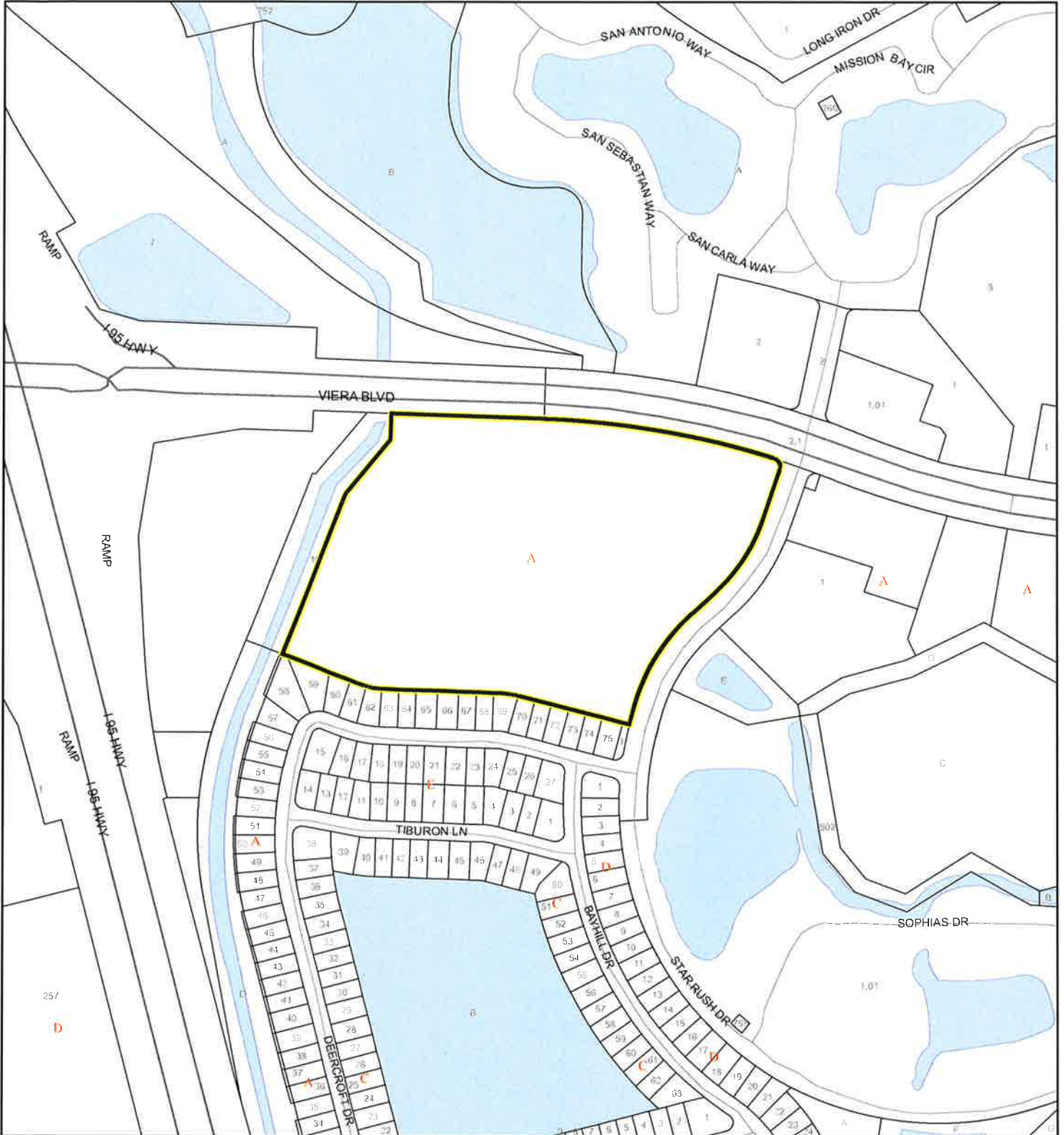
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

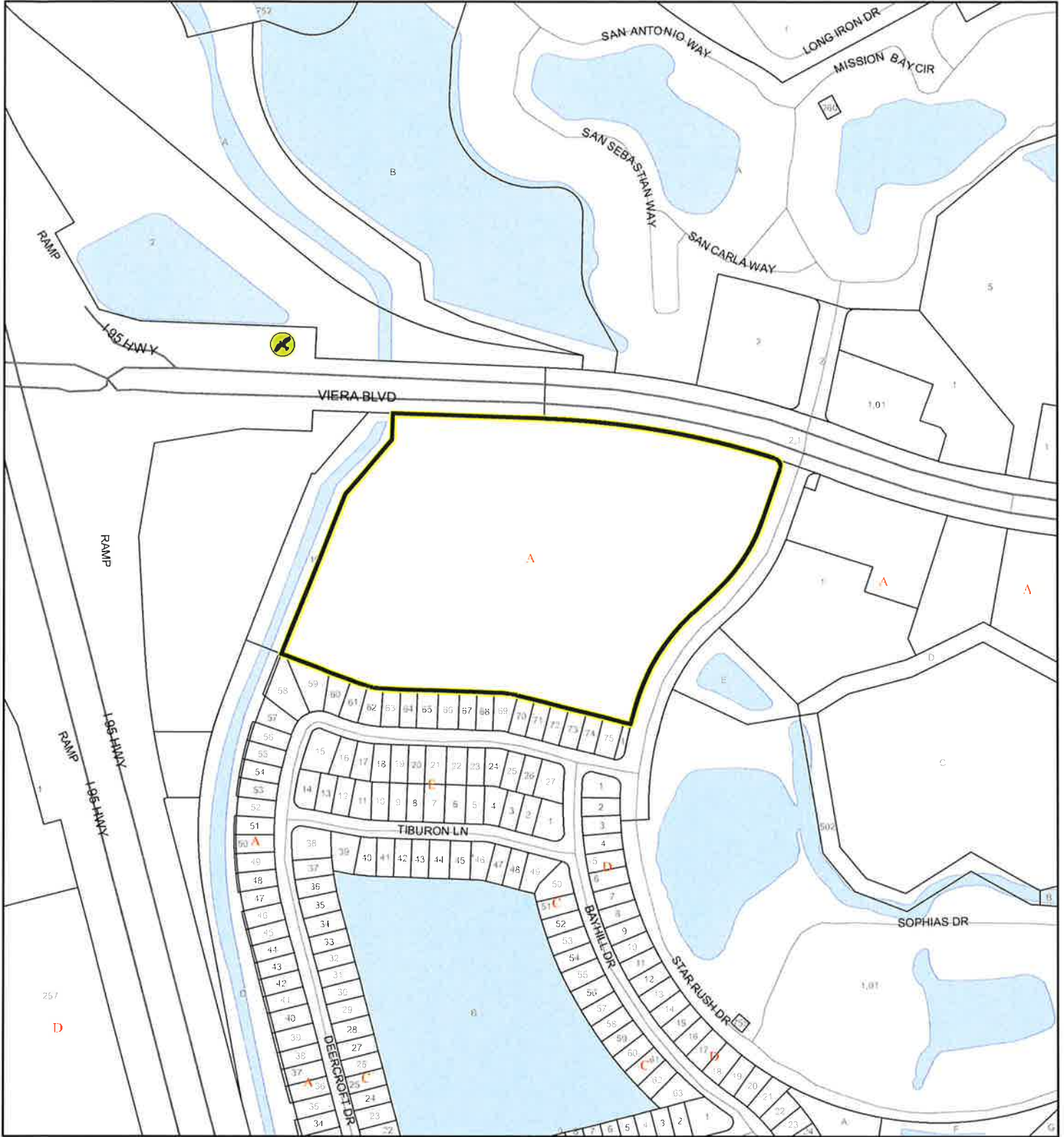
 60 Meters

 All Distances

EAGLE NESTS MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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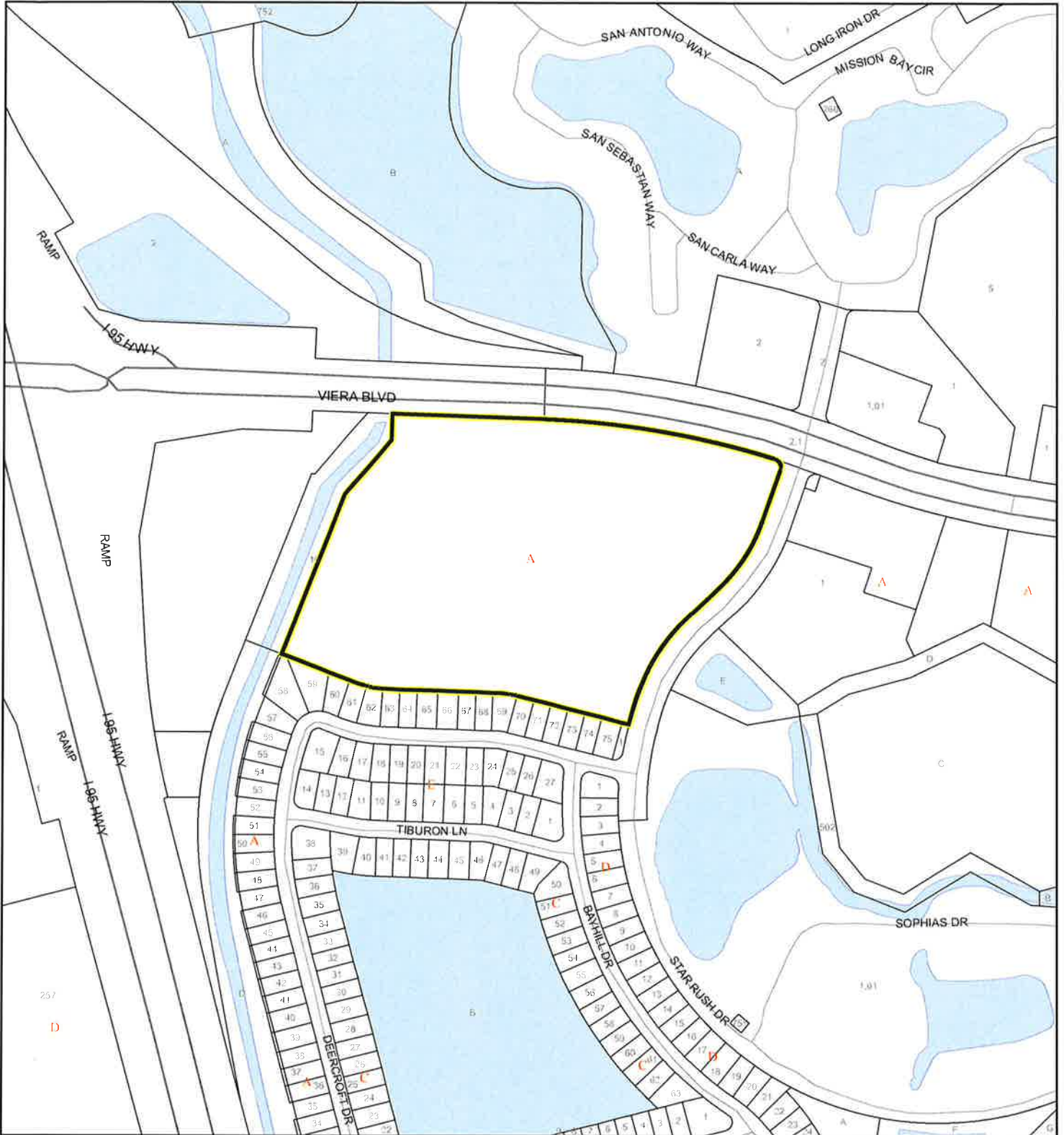
Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
-  Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

STAR RUSH LLC




23Z00033



1:4,800 or 1 inch = 400 feet

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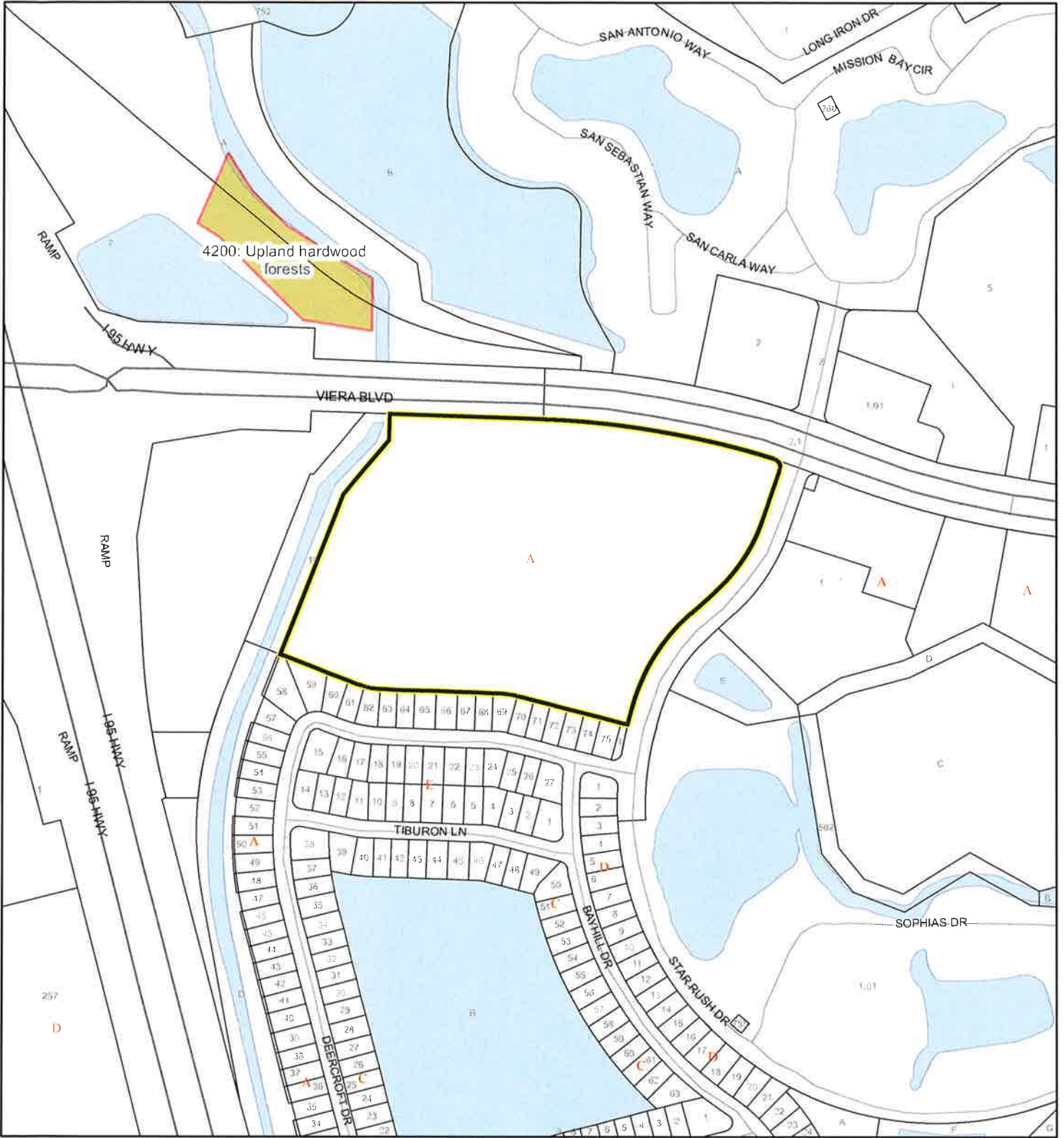
Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

STAR RUSH LLC

23Z00033



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/27/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 17, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Robert Brothers (D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Star Rush, LLC (Hamilton Williams / Sean MacLaurin)

A CUP (Conditional Use Permit) for Trailer and Truck Rental, in a PUD (Planned Unit Development) zoning classification. The property is 20.25 +/- acres, located on the southeast corner of Interstate 95 and Viera Blvd. (No assigned address. In the Viera area.) (23Z00033) (Tax Account 3018275) (District 4)

Sean MacLaurin, SJC Ventures, Atlanta, Georgia, 1100 Interlock Dr., Atlanta, stated the proposed project on the corner of I-95 and Viera Boulevard is a total of approximately 30 acres, with 190,000 square feet of retail, and a portion of that is being allocated to Home Depot, which will have truck rental as part of their normal operations. He said the rental trucks will be located at the back of the site and landscaped so they will not be visible from the road, and the trucks will not be for third party rentals, only for Home Depot.

Public comment.

John McGoey, 5663 Star Rush Dr., Viera, asked how close to Star Rush Drive will the parking spaces and rental trucks be located. Mr. MacLaurin replied it will be approximately 800 to 900 feet, they will be on the west side of the Home Depot site and buffered by a series of buildings.

Mr. Hopengarten asked if there will be a buffer on south side. Mr. MacLaurin replied a six-foot masonry wall will be on the south side, with code-minimum landscaping, and the developer has agreed to additional landscaping.

Motion by Robert Sullivan, seconded by Ron Bartcher, to recommend approval of a CUP for Trailer and Truck Rental, in a PUD zoning classification. The motion passed unanimously.



Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

D4.Commissioner@Brevardfl.gov

July 18, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Disclosure – 23Z00033 Tax Account: 3018275

Concerning **23Z00025** on the August 3, 2023, Brevard County Zoning meeting agenda; on July 18, 2023, Commissioner Feltner met with Mr. Sean MacLaurin (SVP Development/SJC Ventures), Mr. Josh Peterson (SVP Development/SJC Ventures), Mr. Hamilton Williams (Home Depot) and Mr. Todd Pokrywa (The Viera Company) in the District 4 Commission Office. The meeting lasted approximately twenty minutes. The discussion entailed buffers for the benefit of the neighbors, hours of operation and placement of the rental trucks.

Thank you.

Rob Feltner

Brevard County Commissioner

District 4

From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#); [Chase, Beatrice Mae](#)
Cc: [Pritchett, Rita](#)
Subject: 23Z00033
Date: Tuesday, August 1, 2023 8:57:47 AM
Attachments: [Viera Blvd - Whole Foods & Home Depot Project.msg](#)

Good morning,

On behalf of Commissioner Pritchett, she received the attached email requesting a meeting regarding Agenda Item G.6., 23Z00033. She was unavailable and did not meet with the applicant.

Kind Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Legislative Aide
Brevard County Commission, District 1
Commissioner Rita Pritchett
[321.607.6901](tel:321.607.6901) | Adrienne.Schmadeke@brevardfl.gov
7101 S. US Hwy 1
Titusville, FL 32780

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may, therefore, be subject to public disclosure.

From: Sean MacLaurin
To: [Commissioner, D1](#)
Subject: Viera Blvd - Whole Foods & Home Depot Project
Date: Thursday, July 6, 2023 10:42:45 AM
Attachments: [image001.png](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Commissioner Pritchett,

My name is Sean MacLaurin, and I am with the development team working on the new shopping center at Viera Blvd and I-95. We're extremely excited about how this project has taken shape over the last 24 months and are excited to bring such a quality offering to the market.

That said, we do have a final hurdle we're working on related to the Home Depot portion of the project and a required Conditional Use Permit for the rental truck component of their outdoor operations.

I will be in the area on July 17th and 18th and would love to take a few minutes of your time to share with you more about our project and the requested Conditional Use Permit. I look forward to your response. Thanks



Sean MacLaurin
SVP Development
SJC Ventures
1115 Howell Mill Rd, Suite 410
Atlanta, GA 30318

e: sean@sjcventures.com

w: www.sjcventures.com

p: (404) 272-2042