



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

11/7/2024

Subject:

Sol Vida Land, LLC requests a change of zoning classification from RU-1-9 to RU-1-11. (24Z00046) (Tax Account 3017131) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-1-9 (Single-family Residential) to RU-1-11 (Single-family residential) to allow a zoning consistent with the RES 4 FLUM designation.

The subject property was part of the abutting property to the North. It was reconfigured on April 8, 2022. The subject property was again reconfigured into its current configuration on July 12, 2024, per Official Records Book 10108, page 2482. Therefore, these reconfigurations caused the property to lose its non-conforming lot of record status.

North of the subject property is a 0.27 acres parcel, developed with a single-family residence with RU-1-9 zoning. South of the subject property is a 0.46 acre a parcel, developed with a single-family residence with RU-1-9 zoning. East of the subject property are 2 parcels: Both parcels are 0.4 acres each, developed with a single-family residence with RU-1-9 zoning. West of the subject property are 2 parcels: The first parcel is 0.2 acres, developed with a single-family residence with RU-1-9 zoning. The second parcel is 0.4 acres, developed with a single-family residence with RU-1-9 zoning.

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

On October 14, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 24Z00046

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

WHEREAS, Sol Vida Land, LLC requests a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential), on property described as the south 40 ft. of Lot 57, the north 40 ft. of Lot 58, Block 5, and the south 20 ft. of Lot 58, and all of Lot 59, Block 5, Addition Number 2 to City Acres, as recorded in ORB 10108, Pages 2482 – 2483, of the Public Records of Brevard County, Florida. **Section 02, Township 28, Range 36.** (0.53 acres) Located on the east side of Iowa St., approx. 966 ft. south of Miami Ave. (2237 Iowa St., Melbourne); and

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

WHEREAS, the Board, after considering said application and the Planning and Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-9 to RU-1-11, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of November 07, 2024.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Vice Chair 
Brevard County Commission
As approved by the Board on November 07, 2024.

ATTEST: 
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – October 14, 2024

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

24Z00046

Sol Vida Land LLC

RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential)

Tax Account Number: 3017131
 Parcel I.D. 28-36-02-50-5-57
 Location: 2237 Iowa St., Melbourne, FL 32904 (District 5)
 Acreage: 0.27 acres

Planning & Zoning Board: 10/14/2024
 Board of County Commissioners: 11/07/2024

Consistency with Land Use Regulations

- Current zoning cannot 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 | RU-1-9 | RU-1-11 |
| Potential* | 0 Single-family | 1 Single-family |
| Can be Considered under the Future Land Use Map | No RES 4 | Yes RES 4 |

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-1-9 (Single-family Residential) to RU-1-11 (Single-family residential) to allow a zoning consistent with the RES 4 FLUM designation.

The subject property was part of the abutting property to the North. It was reconfigured on April 8, 2022. The subject property was again reconfigured into its current configuration on July 12, 2024, per Official Records Book 10108, page 2482. Therefore, these reconfigurations caused the property to lose its non conforming lot of record status.

On May 22, 1958, Brevard County adopted the zoning code, and the subject parcel was established with the zoning classification of RU-1, Single-Family Residential Zone. Based on the best available date, the lot was created on July 2, 1925 as part of City Acres.

On May 5, 1966, the board approved a Special Use Permit (SUP) under zoning action Z-1910, for the use of a temporary trailer, nontransferable.

On June 1, 1972, the zoning classification RU-1 was replaced with the RU-1-9, Single-Family Residential zoning classification.

On June 28, 1976, a requested zoning change from RU-1-9 to TR-1 was denied and the board instead extended the SUP under zoning action Z-1910, for the temporary trailer, nontransferable, allowing expiration to run with current mobile home.

The subject property is located on the East side of Iowa St., a county-maintained road located within the residential neighborhood.

Surrounding Area

| | Existing Land Use | Zoning | Future Land Use |
|--------------|--------------------------|---------------|------------------------|
| North | Single-family residence | RU-1-9 | RES 4 |
| South | Single-family residence | RU-1-9 | RES 4 |
| East | Single-family residences | RU-1-9 | RES 4 |
| West | Single-family residences | RU-1-9 | RES 4 |

North of the subject property is a 0.27 acre parcel, developed with a single-family residence with RU-1-9 zoning.

South of the subject property is a 0.46 acre a parcel, developed with a single-family residence with RU-1-9 zoning.

East of the subject property are 2 parcels: Both parcels are 0.4 acres each, developed with a single-family residence with RU-1-9 zoning.

West of the subject property are 2 parcels: The first parcel is 0.2 acres, developed with a single-family residence with RU-1-9 zoning. The second parcel is 0.4 acres, developed with a

single-family residence with RU-1-9 zoning.

The current RU-1-9 classification permits single family residences on minimum 6,600 square foot lots, with a minimum width of 66 feet and depth of 100 feet. The minimum house size is 700 square feet. It was rezoned administratively by the Board of County Commissioners under zoning file Z2980 which became effective June 1, 1972.

The proposed RU-1-11 classification permits single-family residences on a minimum of 7,500 square foot lots with a minimum width of 75 feet and depth of 75 feet. The minimum house size is 1,100 square feet.

Future Land Use

The subject property is currently designated as Residential 4 (RES 4) FLUM designation. The current RU-1-9 zoning is not consistent with the existing RES 4 FLUM designation. The proposed RU-1-11 zoning is consistent with the existing RES 4 FLUM designation.

The applicant's request can be considered consistent with the existing Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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

Criteria:

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

The applicant intends to construct a single-family residence on this vacant property. The request is not anticipated to diminish the enjoyment of, safety or quality of life in the existing residential area.

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

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

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

- 1. historical land use patterns;

The historical land use patterns of the surrounding development can be

characterized as single-family residences on properties 0.2 acres to 3.09 acres in size.

There are multiple zoning classifications within a 0.5-mile radius of the subject. Located North of the drainage canal is predominantly Single-Family Residential (RU-1-9). There is also couple of properties with the zoning classification Rural Residential (RR-1) mixed in. Located South of the drainage canal is predominantly Single-Family Residential (RU-1-11).

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

There has been one development within 0.5 miles during the preceding three years. The development is a single-family residence that is currently under construction.

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

While there has been no development approved within the past three years that has not been constructed. There have been four zoning actions within a half-mile of the subject property within the last three years.

Zoning Action within one-half mile within past three years:

- 22Z00011 rezoned from RU-1-9 to SR (Suburban Residential) on 05/26/2022 and is undeveloped, vacant land.
- 23Z00074 rezoned from RU-1-9 to RU-1-11 on 11/2/2023 and is undeveloped, vacant land.
- 23Z00084 rezoned from RU-1-9 to RU-1-11 on 02/01/2024 and is developed with a single-family residence.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation,

commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

There are multiple parcels with RU-1-11 zoning located with the 0.5-mile radius of the subject property. The prominent number of parcels with this zoning designation are located south of the subject parcel. The closest parcel being North and East of the subject parcel at the corner of Miami Ave. and Arizona St.

Residential 4 (RES 4) is the prominent FLU in this area.

RU-1-11 has been an established zoning classification in the surrounding area.

The request provides consistency with the FLUM and immediate surrounding zoning classifications.

It will also recognize existing development trends as there are two parcels that recently had a rezoning change from RU-1-9 to RU-1-11.

The request is not anticipated to impact the surrounding established residential neighborhood materially or adversely.

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.

The property is located in an existing platted residential neighborhood. There are clearly established roads and residential lot boundaries. The road boundaries are Miami Ave. to the north and Iowa St. to the west.

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

The request is not for commercial use. It is for single-family residential zoning in an existing single-family residential neighborhood.

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

The area is primarily single-family residential with commercial zoning located exclusively along the W. New Haven Ave. corridor to the north.

Administrative Policy 7- Proposed use(s) shall not cause or substantially aggravate any (a)

substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Hydric Soils

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

Based on the above reference, the development potential of the subject property may be limited.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US 192 from S. John Rodes Blvd. to S. Wickham Rd., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, an Acceptable Level of Service (ALOS) of D, and currently operates at 76.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 76.38% of capacity daily. The addition of one single-family dwelling unit will have a minimal impact on level of service. This is only a preliminary review and is subject to change.

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

There is no County or City sewer or water utilities in the area. The subject property will have a well for water and septic for sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 23Z00086**

Applicant: Bryan Cates (Owner: Sol Vida Land LLC)

Zoning Request: RU-1-9 to RU-1-11

Note: to be consistent with FLU (RES 4)

Zoning Hearing: 10/14/2024; BCC Hearing: 11/07/2024

Tax ID No.: 3017131

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

Hydric Soils

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

Per Section 62 3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321 633-2016 prior to any plan or permit submittal.**

Aquifer Recharge Soils

This property contains Basinger sand that may also function as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 14, 2024**, 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.

Voting Board members present were Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Erika Orriss (D3); Mark Wadsworth, Chair (D4); Ana Saunders (D5), and John Hopengarten (BPS).

Staff members present were John Denninghoff, Assistant County Manager; Edward Fontanin, Director (Utility Services); Ian Golden, Director (Housing and Human Services); Darcie McGee, Assistant Director (Natural Resources Management); Tad Calkins, Director (Planning and Development); Alex Esseesse, Deputy County Attorney; Jeffrey Ball, Zoning Manager; Trina Gilliam, Planner; and Desirée Jackson, Planner.

Excerpt of complete agenda

Motion by Henry Minneboo, seconded by Robert Sullivan, to approve the P&Z/LPA minutes of September 16, 2024. The motion passed unanimously.

Items H.1. and H.2. were moved to begin before item H.9. of the agenda by staff.

Item H.5. Sol Vida Land, LLC requests a change of zoning classification from RU-1-9 to RU-1-11. (24Z00046) (Tax Account 3017131) (District 5)

Trina Gilliam read the application into the record.

Brian Cains spoke to this item. They are looking to change the zoning from RU-1-9 to RU-1-11 to build a single-family house. The RU-1-9 is not compatible with the future zoning and the RU-1-11 is. I think that will exceed the RU-1-9 setbacks and square footage required.

No public comment.

Ron Bartcher asked staff when the land use was set to Res 4 and why did we create a large neighborhood who's zoning is inconsistent with the land use.

Jeffrey Ball noted in 1988 when they established the Res 4 they didn't take into consideration any existing zoning that was in place. Unfortunately, 1255 does not allow for Res 4 and the existing zoning to be consistent. That's the whole reason why we're entertaining this request, to allow for a consistent zoning classification in compliance with the Res 4 land use category or designation.

Ron Bartcher then asked why it wasn't set to Res 6 instead of Res 4. Wouldn't that be more appropriate?

Jeffrey Ball commented that considering that this area is all Res 4, it's more appropriate to change the zoning to match that. You could change the land use part of it, but staff felt it was more appropriate to change the zoning to match.

Motion to recommend approval of item H.5. by Ron Bartcher, seconded by Robert Sullivan. Motion passed unanimously.

Jackson, Desiree

From: Sherry Smith <sherry.smith71@yahoo.com>
Sent: Monday, October 14, 2024 12:17 PM
To: AdministrativeServices
Subject: RE: ID#24Z00046

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

Hi I live right down the street from where this house is supposed to be built. I am not opposed to the house being built but I am opposed to the county not doing anything out in this area to help with too much water. We live in one of the oldest houses and therefore are the lowest. People keep building houses all around us and they keep getting higher and higher. My husband has to pump water out of the yard when we have a little too much rain or we would flood. We have lived in this house over 30 years and I have only seen the ditches get cleaned out once in all that time. Most are clogged and the water does not flow like it should.

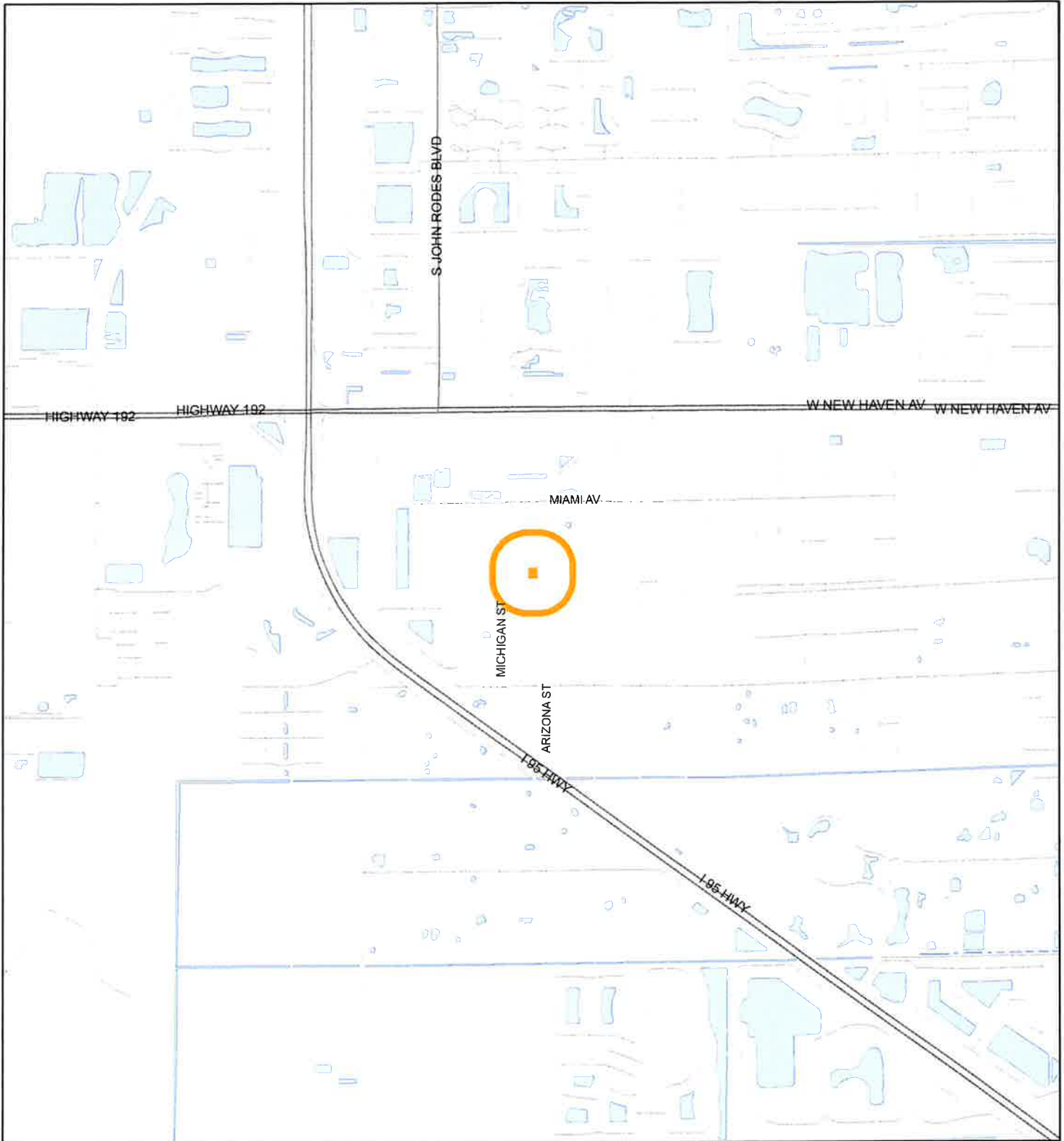
If you would like to discuss further, please contact me.

Thanks
Sharon Smith
2200 Iowa Street
West Melbourne, FL 32904

LOCATION MAP

Sol Vida LLC

24Z00046





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

Buffer Distance: 500 feet

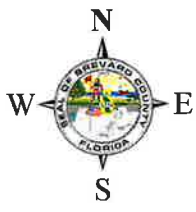
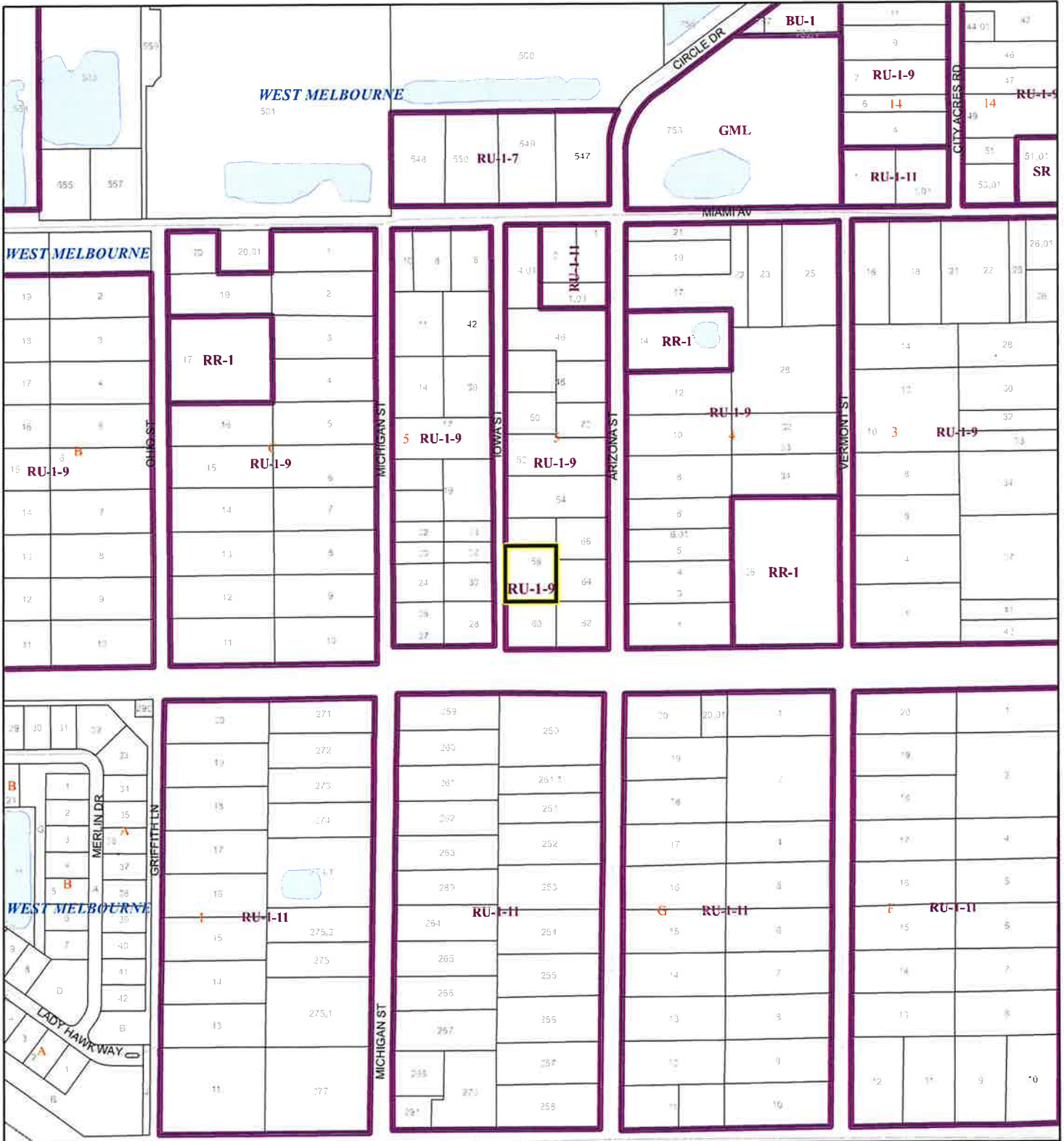
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/7/2024

-  Buffer
-  Subject Property

ZONING MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

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FUTURE LAND USE MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

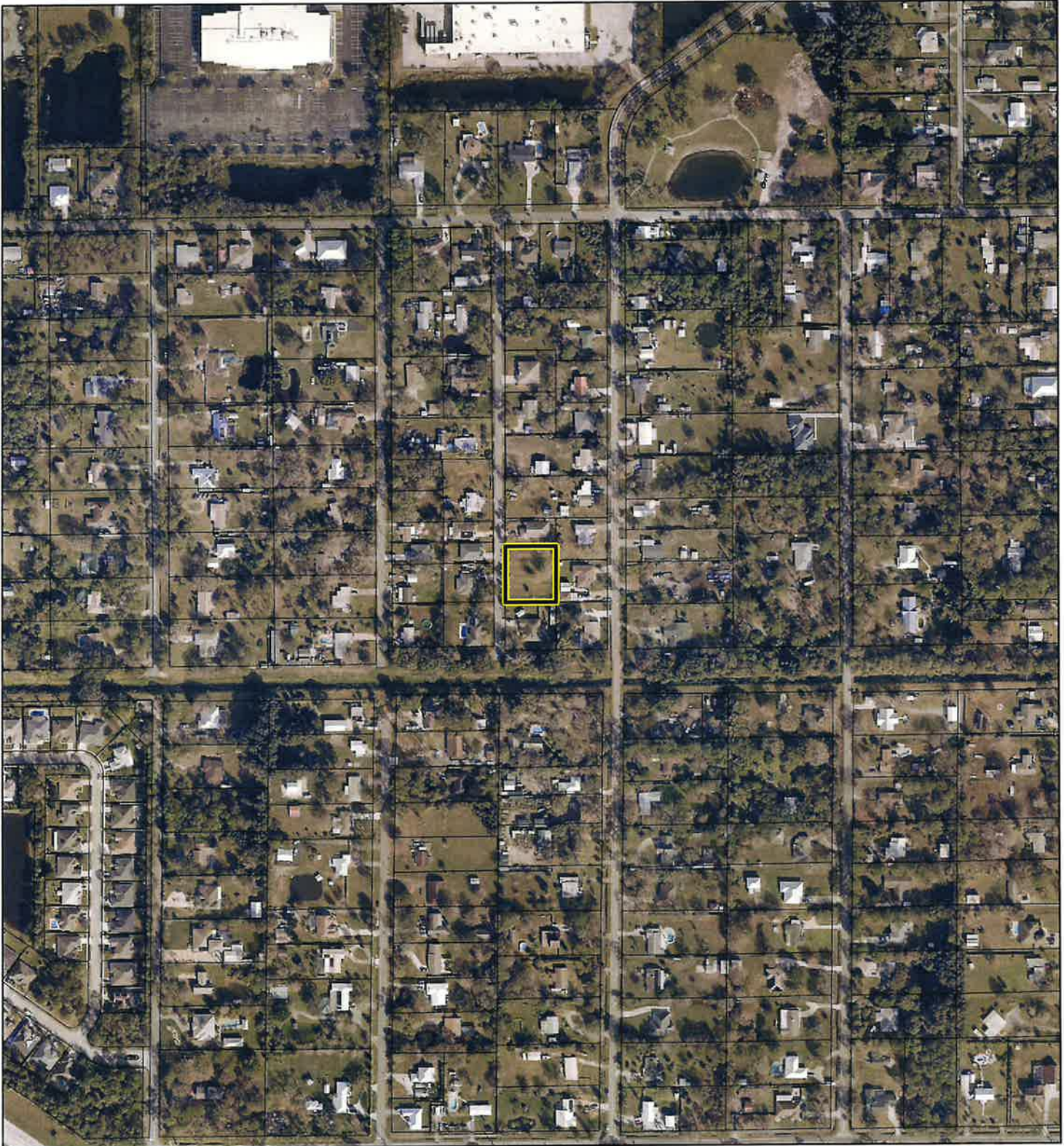
- Subject Property
- Parcels

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Produced by BoCC - GIS Date: 8/7/2024

AERIAL MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2024

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Produced by BoCC - GIS Date: 8/7/2024

 Subject Property

 Parcels

NWI WETLANDS MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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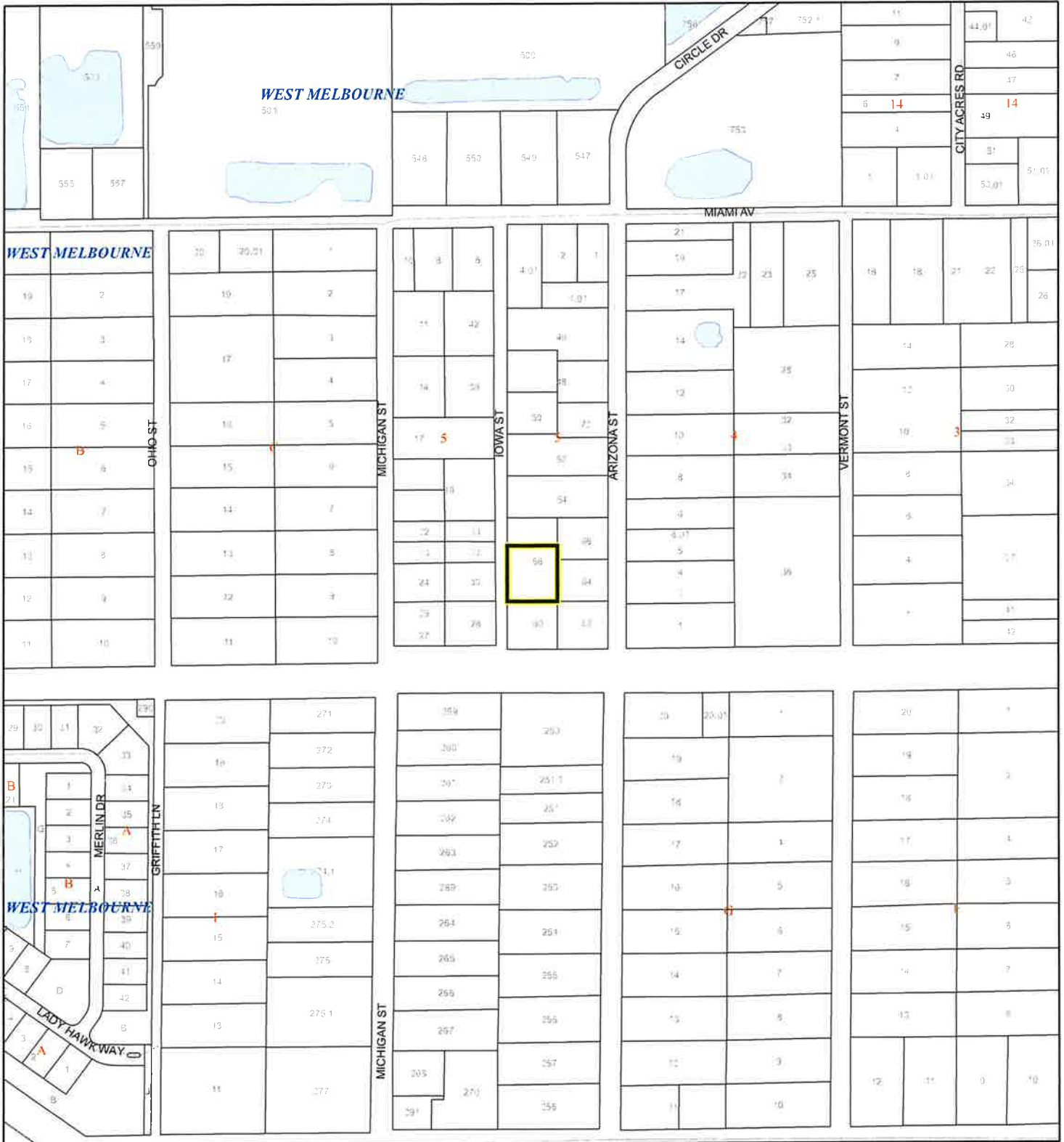
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National Wetlands Inventory (NWI)

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

SJPWMD FLUGGS WETLANDS - 6000 Series MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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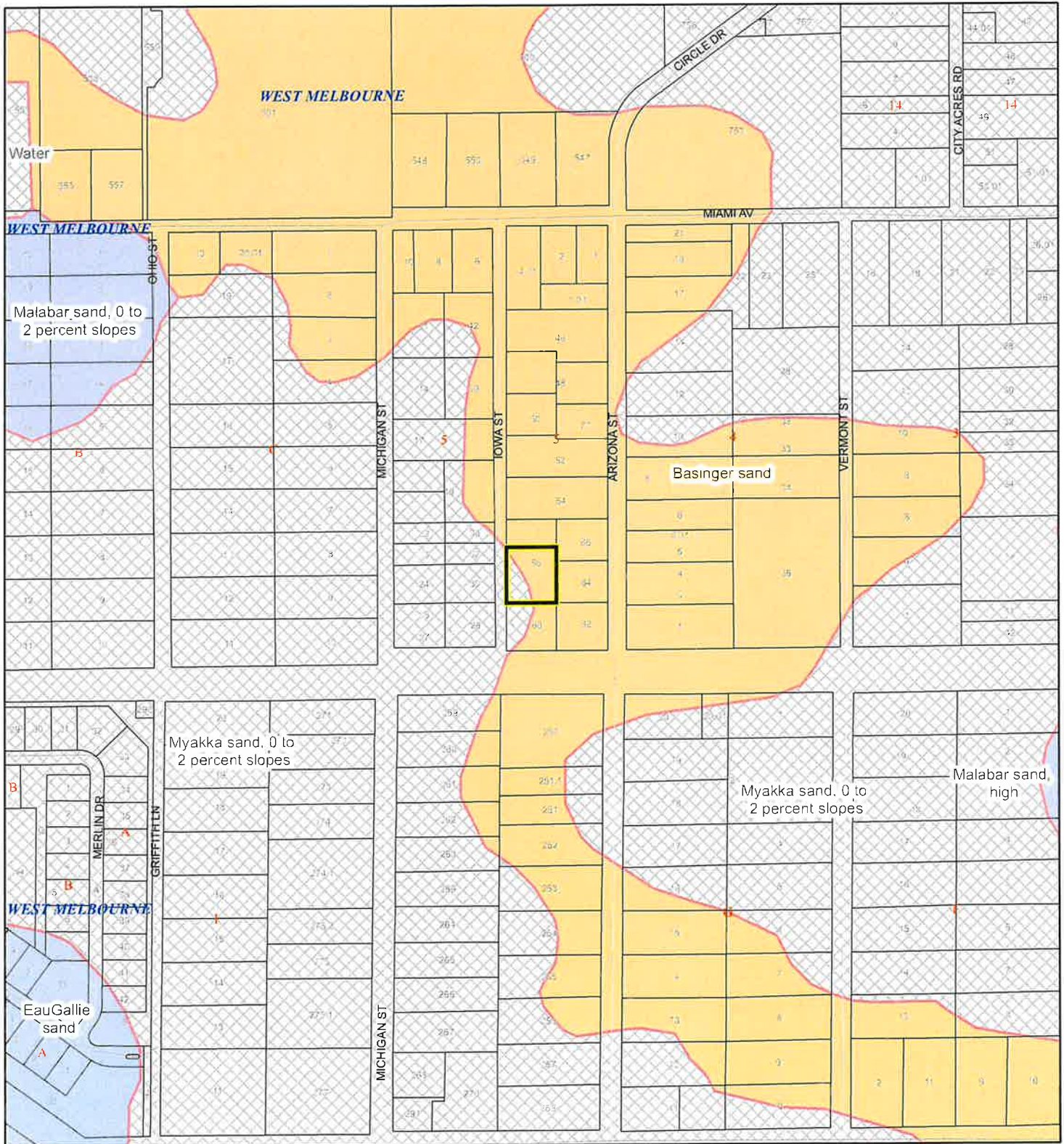
- SJRWMD FLUGGS WETLANDS**
- Wetland Hardwood Forests - Series 6100
 - Wetland Coniferous Forest - Series 6200
 - Wetland Forested Mixed - Series 6300
 - Vegetated Non-Forested Wetlands - Series 6400
 - Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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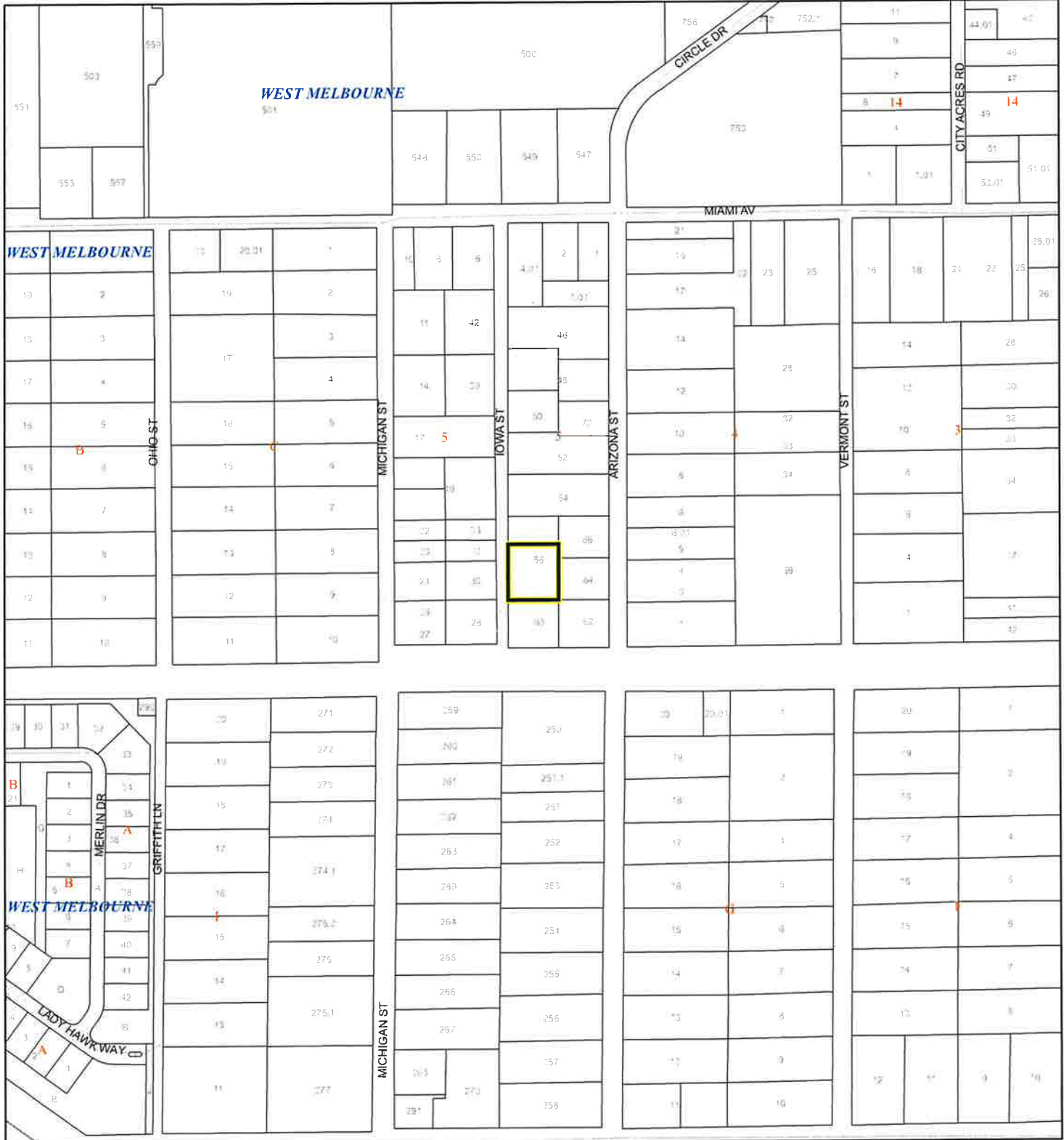
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USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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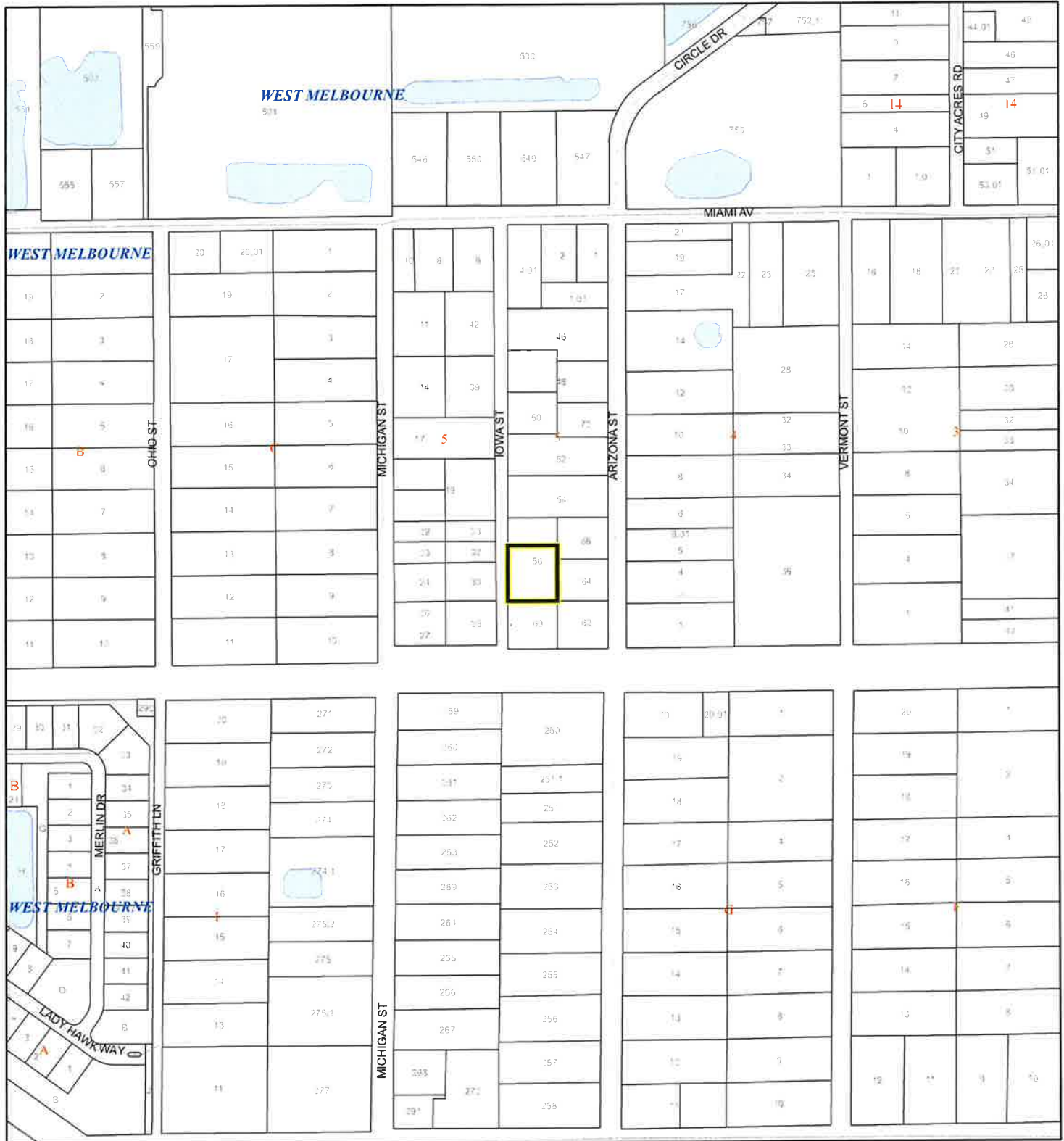
Produced by BoCC - GIS Date: 8/7/2024

FEMA Flood Zones

| | | |
|------------------|------------|---|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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 Subject Property

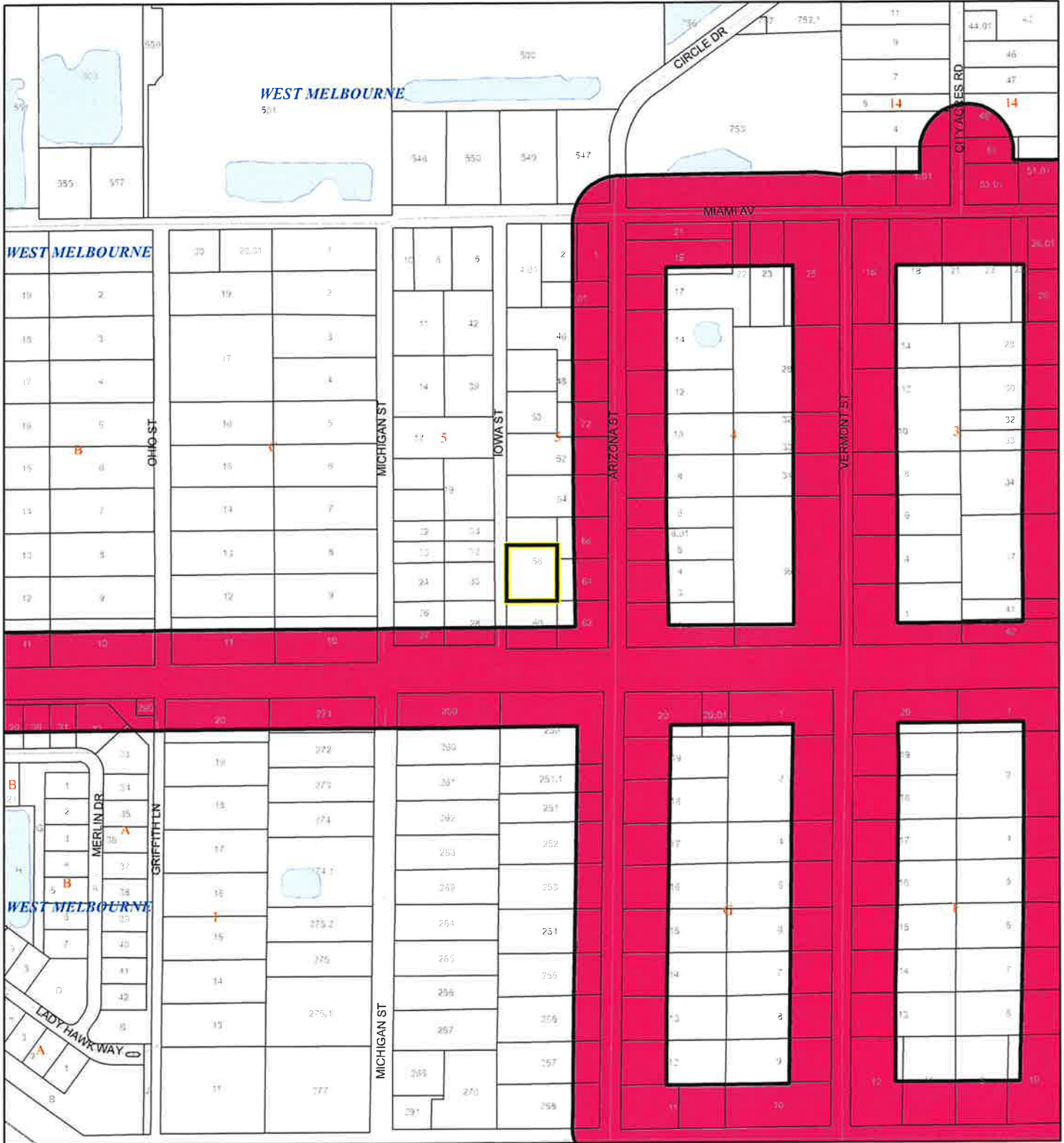
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

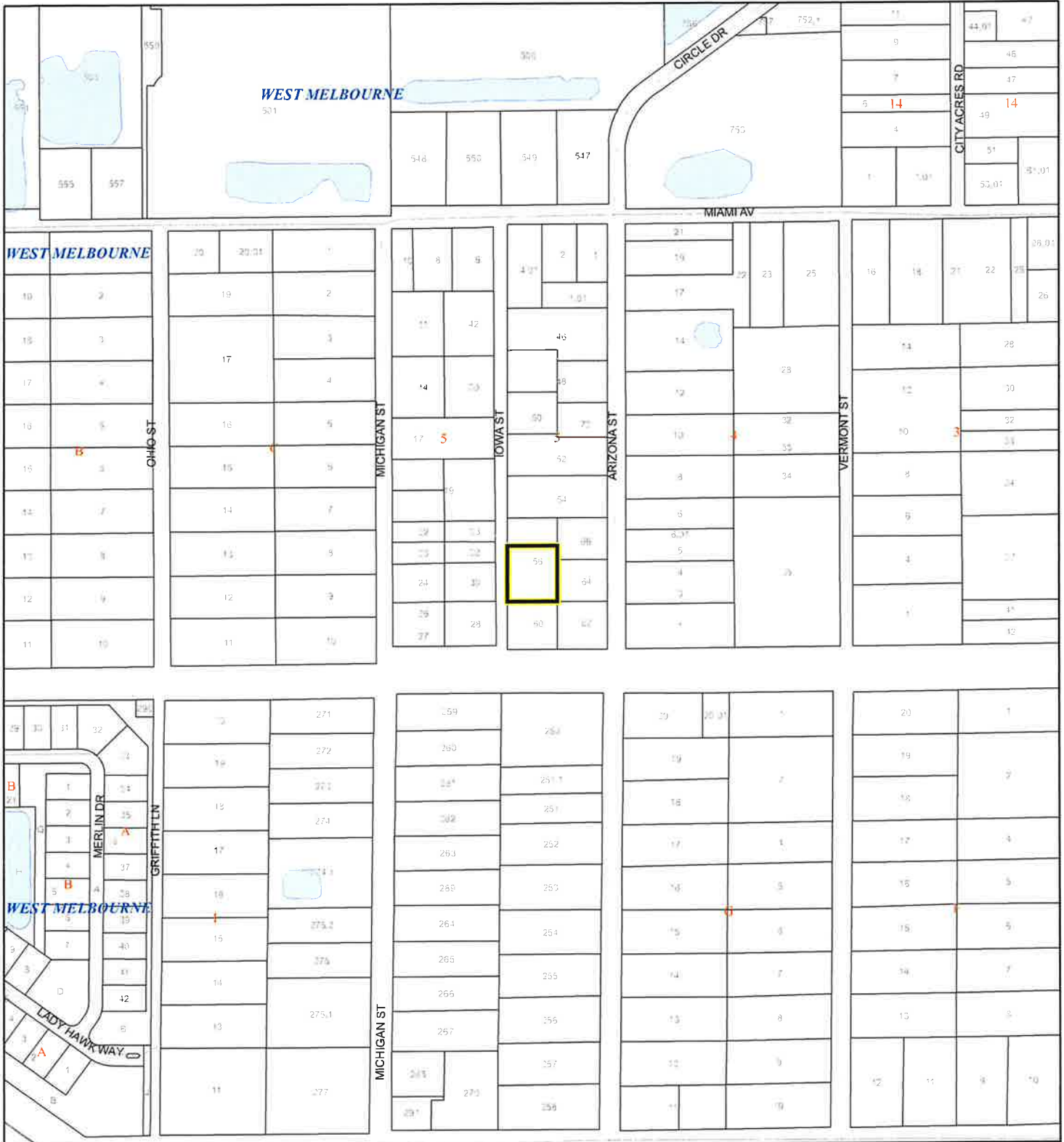
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP


Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

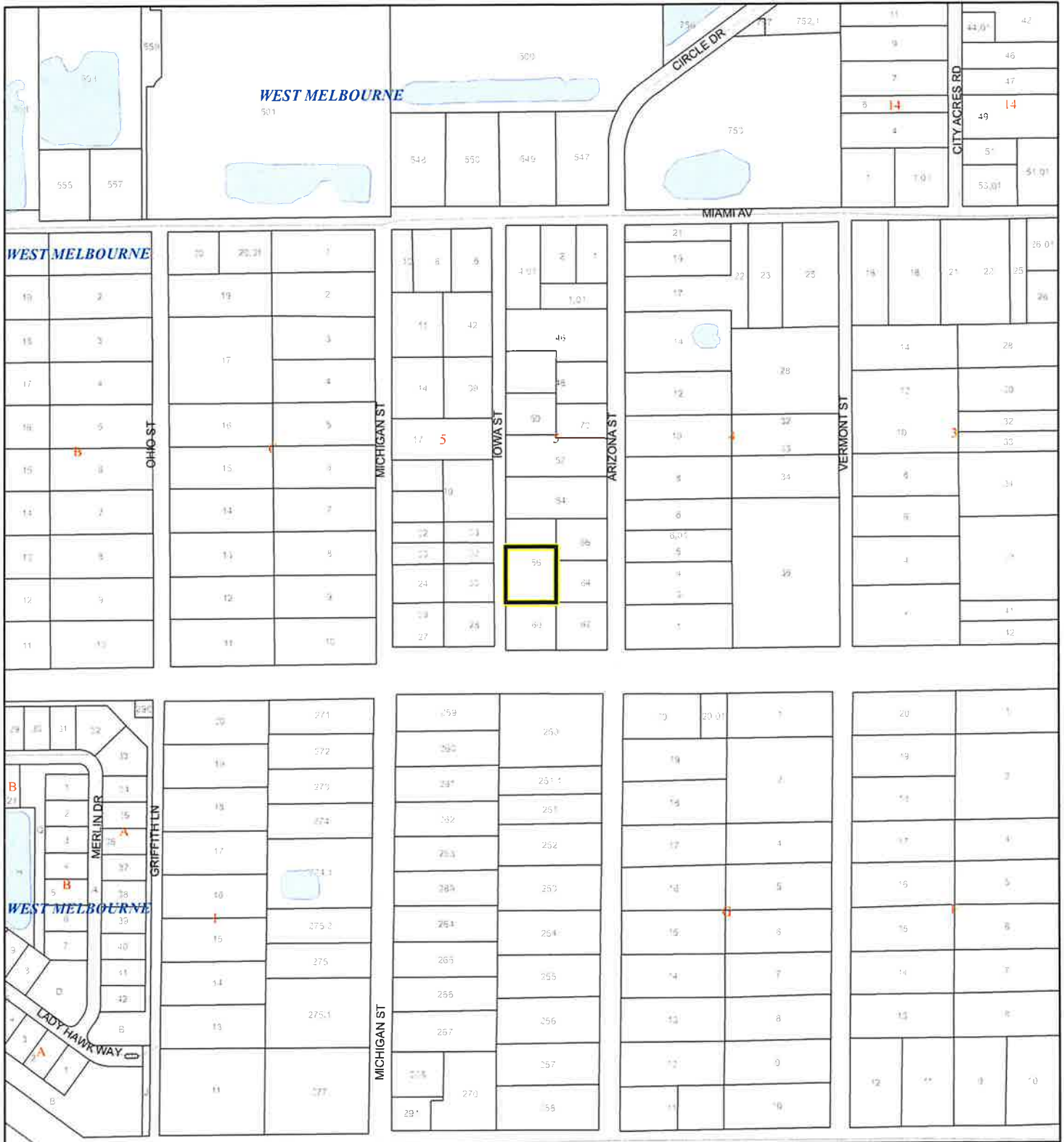
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Produced by BoCC - GIS Date: 8/7/2024




-  Subject Property
-  Parcels
-  Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

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Produced by BoCC - GIS Date: 8/7/2024

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Sol Vida LLC
24Z00046



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS Upland Forests

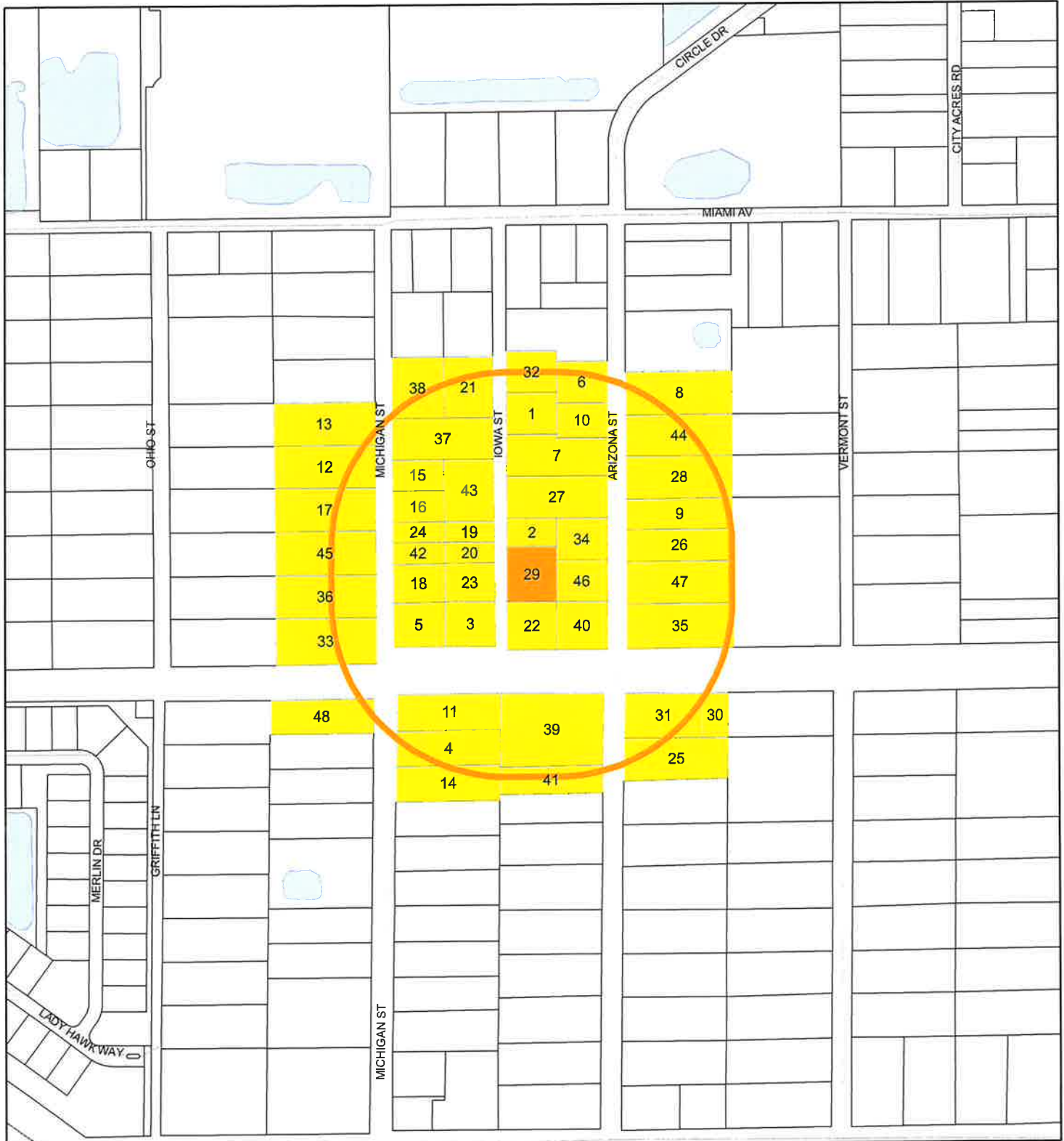
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

RADIUS MAP

Sol Vida LLC
24Z00046







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 8/7/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels