



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

11/7/2019

Subject:

Frances P. and Thomas A. Spina, Co-Trustees request a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential). (19PZ00095) (Tax Account 2406818) (District 1)

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 GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to all AU (Agricultural Residential) on property located at 1470 Adamson Road, Cocoa, for the purpose of having agriculture farm animals including, but not limited to roosters and ducks.

The proposed AU zoning classification permits a single-family residence and agricultural uses on 2.5-acre lots. AU zoning also allows the raising/grazing of animals, fowl, and beekeeping.

The developed character of the area along Adamson Road is SR (Suburban Residential), AU and RR-1, all with a Future Lane Use of Residential 2 along the west side and Residential 8 Directive, Residential 2 and Residential 1 along the east side of the road. Also, along the east side of Adamson Road, there is a developed single-family subdivision, Adamson Creek, which is located in the City of Cocoa with 0.15 to 0.25-acre residential lots. The abutting parcel to the north is a 30 feet wide undeveloped parcel zoned GU. The parcel to the north of this 30 feet wide parcel is the Brevard County Land Fill which is zoned GML(H) (Government Managed Land High-Intensity).

The Board may wish to consider whether the request is consistent and compatible with the GU parcels to the north, south and west and the RR-1 parcel to the south.

On October 7, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolutions are received, please execute and return to Planning and Development.

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Resolution 19PZ00095

On motion by Commissioner Pritchett, seconded by Commissioner Tobia, the following resolution was adopted by a unanimous vote (Chair Isnardi absent):

WHEREAS, Frances P. and Thomas A. Spina, Co-Trustees have requested a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential) on property described as Tax Parcel 779, recorded in Official Records Book 8479, Pages 2336 – 2337, of the Public Records of Brevard County, Florida. Section 21, Township 24, Range 35. (4.72 acres) Located on the west side of Adamson Road, approximately 0.50 mile north of Saratoga Lane. (1470 Adamson Road, Cocoa); 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 Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from GU and RR-1 to AU be approved as recommended. 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 7, 2019.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Vice Chair

Brevard County Commission

As approved by the Board on November 7, 2019.

ATTEST:

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 7, 2019

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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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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STAFF COMMENTS

19PZ00095

Frances P. and Thomas A. Spina, Co-Trustees

GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2406818
 Parcel I.D.: 24-35-21-00-779
 Location: 1470 Adamson Road, Cocoa (District 1)
 Acreage: 4.72 acres

Planning and Zoning Board: 10/07/19
 Board of County Commissioners: 11/07/19

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	GU and RR-1	AU
Potential*	One Single-Family Unit	One Single-Family Unit
Can be Considered under the Future Land Use Map	YES Residential 2	YES Residential 2

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to all AU (Agricultural Residential) for the purpose of having agriculture farm animals including, but not limited to roosters and ducks.

Land Use Compatibility

The subject property retains the RES 2 (Residential 2) FLU (Future Land Use) designation. The existing zoning classifications GU and RR-1 along with the proposed AU zoning classification are consistent with the Future Land Use designation.

Future Land Use Element Policy 1.8, *The Residential 2 Future Land Use designation and permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element.*

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

Environmental Constraints

Property has mapped NWI and SJRWMD wetlands. Bona Fide Agricultural Uses on lands classified as agricultural are exempt from wetland impact restrictions; however, the Brevard County Property Appraiser Office (BCPAO) establishes agricultural classification and should be contacted prior to any land clearing activities, plan or building permit submittal. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, are not permitted in wetlands. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Concurrency Analysis

The subject property is located on the concurrency management segment of Adamson Road, between Coconut Avenue and State Road 528, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 34.46% of capacity daily. As the parcel is currently developed with a single-family residence, the trip generation from the proposed rezoning application will not produce any more trips than the maximum development potential within the AU zoning classification could, which is 10 trips per day and 1 trip during the PM peak hour. The corridor is anticipated to operate at the same 34.46% of daily capacity. The proposal is not anticipated to create a deficiency in Level of Service.

As there is an existing single-family home on the parcel, this request will not impact Brevard County Schools.

The subject parcel's existing single-family home is on septic, however the parcel has Brevard County Sewer force-main running along the west side of Adamson Road. The existing single-family home is connected to The City of Cocoa water.

Applicable Land Use Policies

The applicant is seeking a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to all AU (Agricultural Residential) for the purpose of having agriculture farm animals including, but not limited to, roosters and ducks.

The GU (General Use) portion of the parcel's zoning is original to the lot, no zoning actions have been previously requested for this portion.

The RR-1 portion of the parcel was rezoned from GU per zoning actions Z-5083 on September 24, 1979 and Z-7396 on February 03, 1986.

The GU portion of the parcel was combined with the RR-1 portion on July 03, 2019 per Official Record Book 8479, Page 2336.

The GU classification is a holding category, allowing single-family residences on a five acre lot with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

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

The proposed AU zoning classification permits a single-family residence and agricultural pursuits on 2.5-acre lots, with a minimum width and depth of 150 feet, and a 750 square-foot minimum house size. The AU zoning also allows the raising/grazing of animals, fowl, and beekeeping.

The developed character of the parcels along Adamson Road is Suburban Residential (SR), AU and RR-1, all with a FLU of RES 2 along the west side and RES 8 DIR, RES 2 and RES 1 along the east side of the road. Also along the east side of Adamson Road, there is a developed single-family subdivision, Adamson Creek, which is located in the City of Cocoa with 0.15 to 0.25-acre residential lots.

The abutting parcel to the north is a 30 feet wide undeveloped parcel zoned GU. The parcel to the north of this 30 feet wide parcel is the Brevard County Land Fill which is zoned GML(H) (Government Managed Land High-Intensity). The GML(H) zoning classification allows heavy industrial uses. On August 07, 2014 a CUP (Conditional Use Permit) was approved for a solid waste management facility.

The abutting parcel to the south and along Adamson Road is zoned RR-1 (Rural Residential) and is developed with a single-family residence.

The remaining abutting parcels to the south and to the west are zoned GU and are not developed.

There has been one zoning action within a half-mile of the subject property in the last five years. On February 04, 2016, application 15PZ00069 changed the zoning from RU-2-10 (Medium Density Multi-Family Residential) to AU on a 5 acre parcel, located at 1085 Adamson Road approximately 2,445 feet south of the subject parcel on the east side of Adamson Road.

For Board Consideration

The applicant is seeking a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to all AU (Agricultural Residential) for the purpose of having agriculture farm animals including, but not limited to roosters and ducks.

The developed character of the parcels along Adamson Road is SR, AU and RR-1, all with a FLU of RES 2 along the west side and RES 8 DIR, RES 2 and RES 1 along the east side of the road. Also along the east side of Adamson Road, there is a developed single-family subdivision, Adamson Creek, which is located in the City of Cocoa with 0.15 to 0.25-acre residential lots.

The Board may wish to consider whether the request is consistent and compatible with the GU parcels to the north, south and west and the RR-1 parcel to the south.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item # 19PZ00095

Applicant: Frances Spina

Zoning Request: GU & RR-1 to AU

Note: Applicant wants farm animals

P&Z Hearing Date: 10/07/19; **BCC Hearing Date:** 11/07/19

Tax ID No: 2406818

- 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.**

Substantial Natural Resources Land Use Issues:

Property has mapped NWI and SJRWMD wetlands. Bona Fide Agricultural Uses on lands classified as agricultural are exempt from wetland impact restrictions; however, the Brevard County Property Appraiser Office (BCPAO) establishes agricultural classification and should be contacted prior to any land clearing activities, plan or building permit submittal. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, are not permitted in wetlands. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Summary of Mapped Natural Resources Present on the Subject Property:

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Floodplain

Land Use Comments:

Wetlands

The subject parcel contains mapped areas of NWI and SJRWMD wetlands, and hydric soils (Anclote san and Anclote sand – frequently ponded 0 to 1% slopes) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service

Soils Survey maps, respectively; indicators that wetlands may be present on the property. Section 62-3694 states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a **Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification and should be contacted for requirements that establish this classification.** If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, are not permitted in wetlands. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Floodplain

The western and northeastern portions of the property are mapped as being within the floodplain, potentially isolated, as identified by FEMA and as shown on the FEMA Flood Zones Map. The portion of the property located within the floodplain is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within an isolated floodplain greater than one third (1/3) acre in size. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

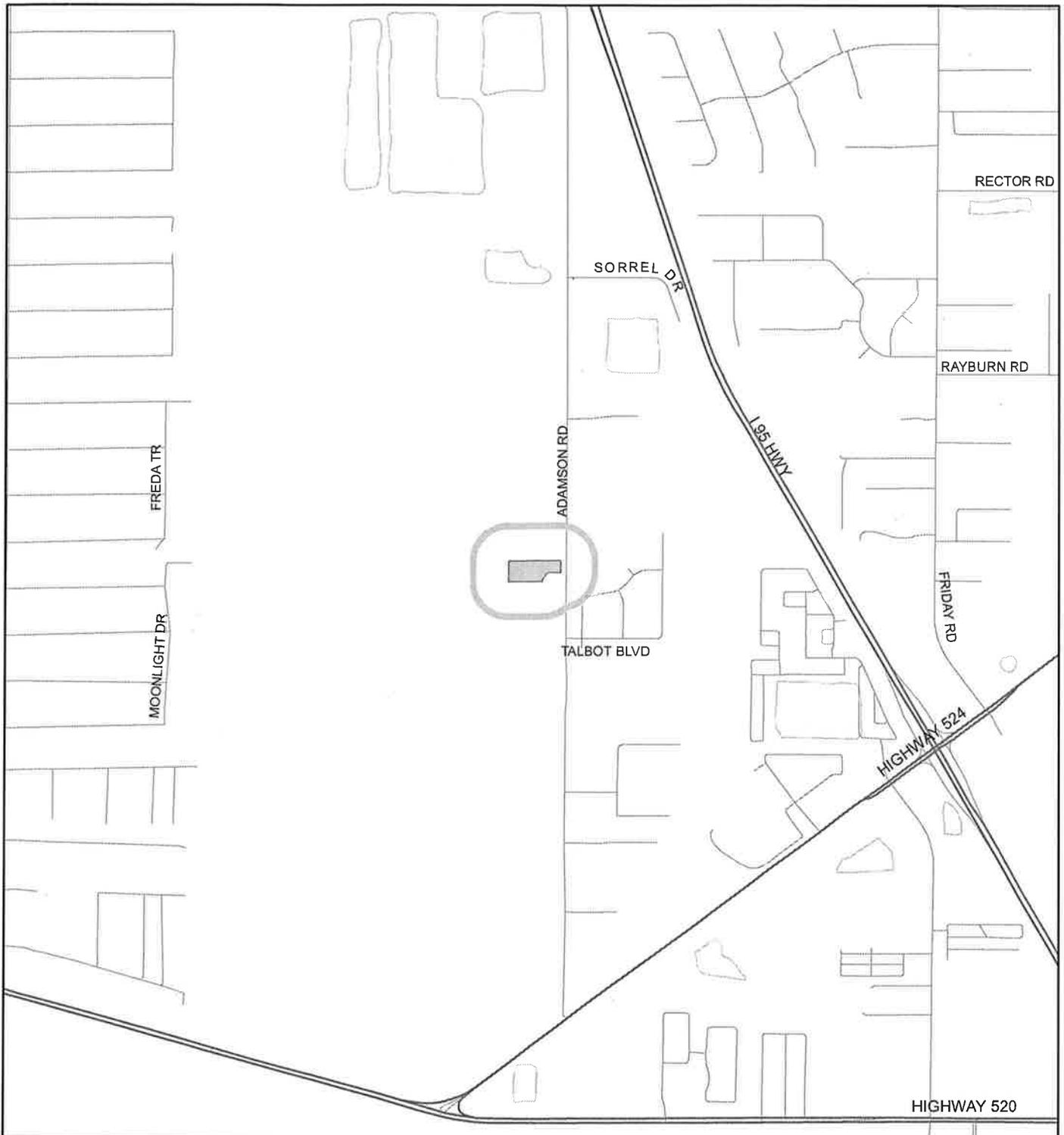
Heritage Specimen Trees

The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 6170 - Mixed Wetland Hardwoods. Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Federally and/or state protected species may be present on the property. Should any protected species be present, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

LOCATION MAP
SPINA, FRANCES P. AND THOMAS A.
19PZ00095



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

Buffer Distance: 500 feet

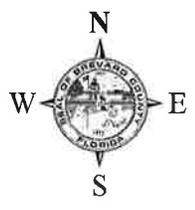
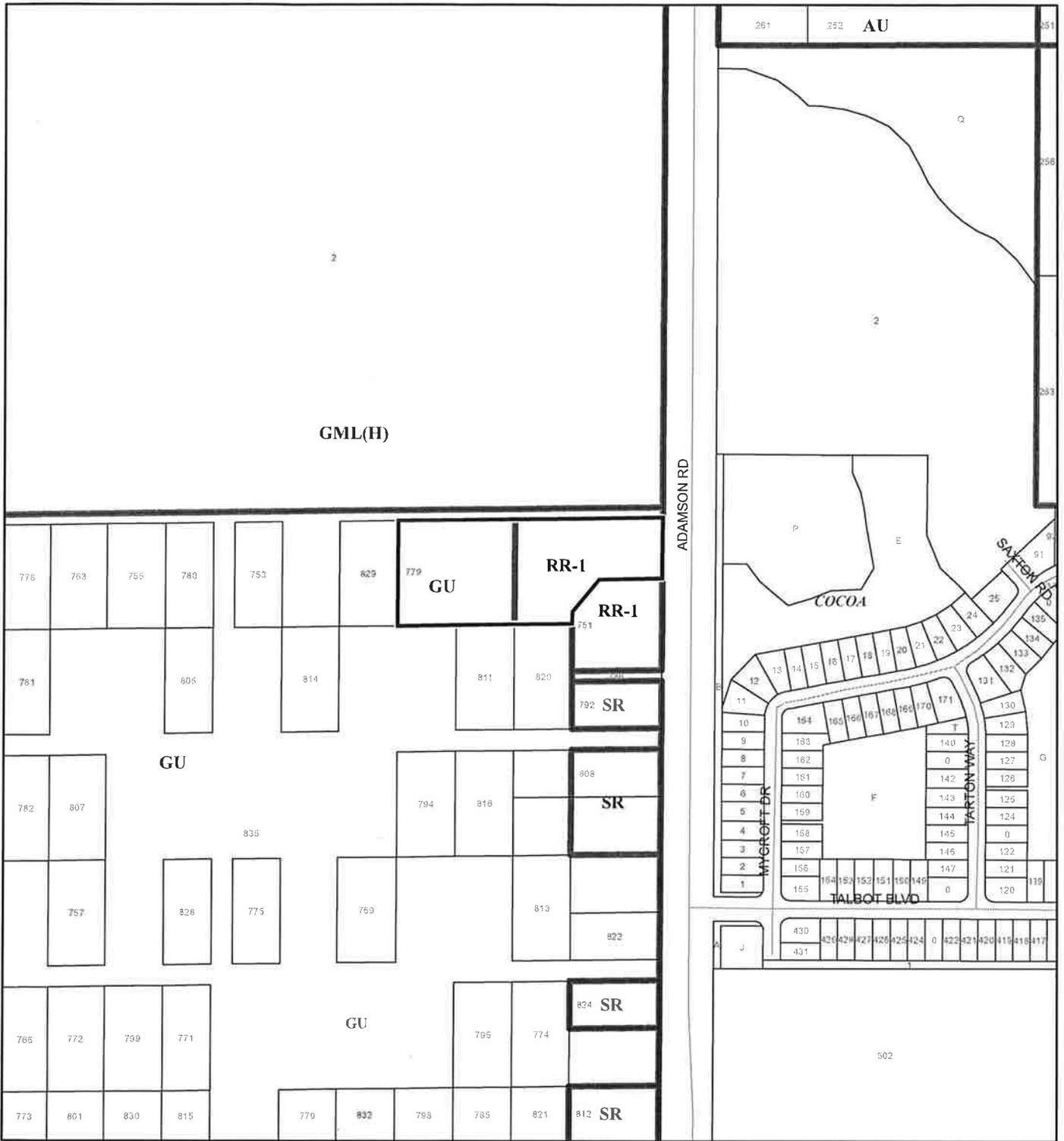
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/17/2019

-  Buffer
-  Subject Property

ZONING MAP

SPINA, FRANCES P. AND THOMAS A.
19PZ00095



1:4,800 or 1 inch = 400 feet

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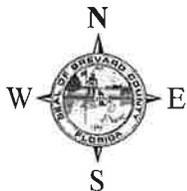
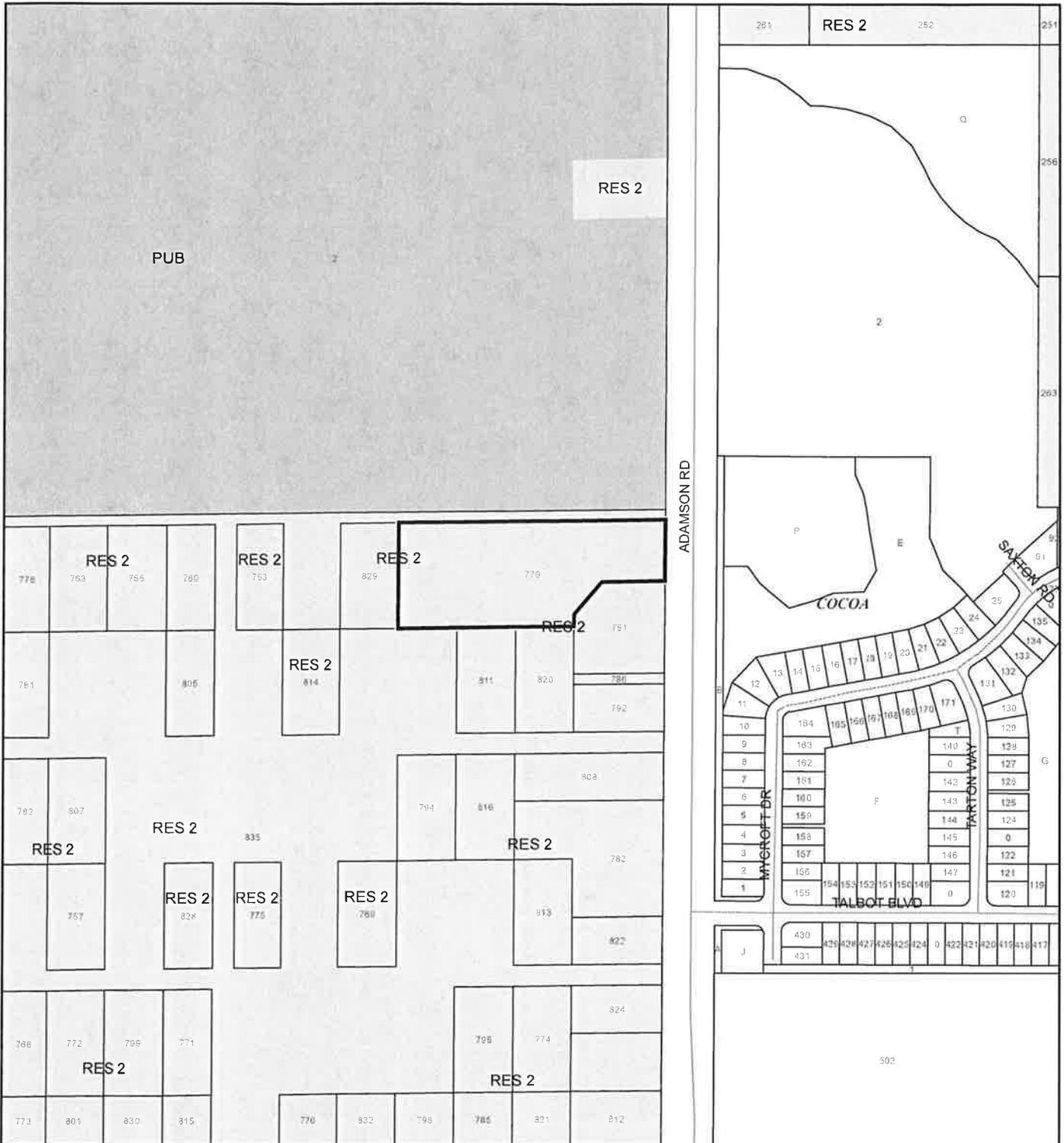
Produced by BoCC - GIS Date: 7/17/2019

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

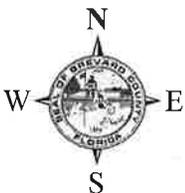
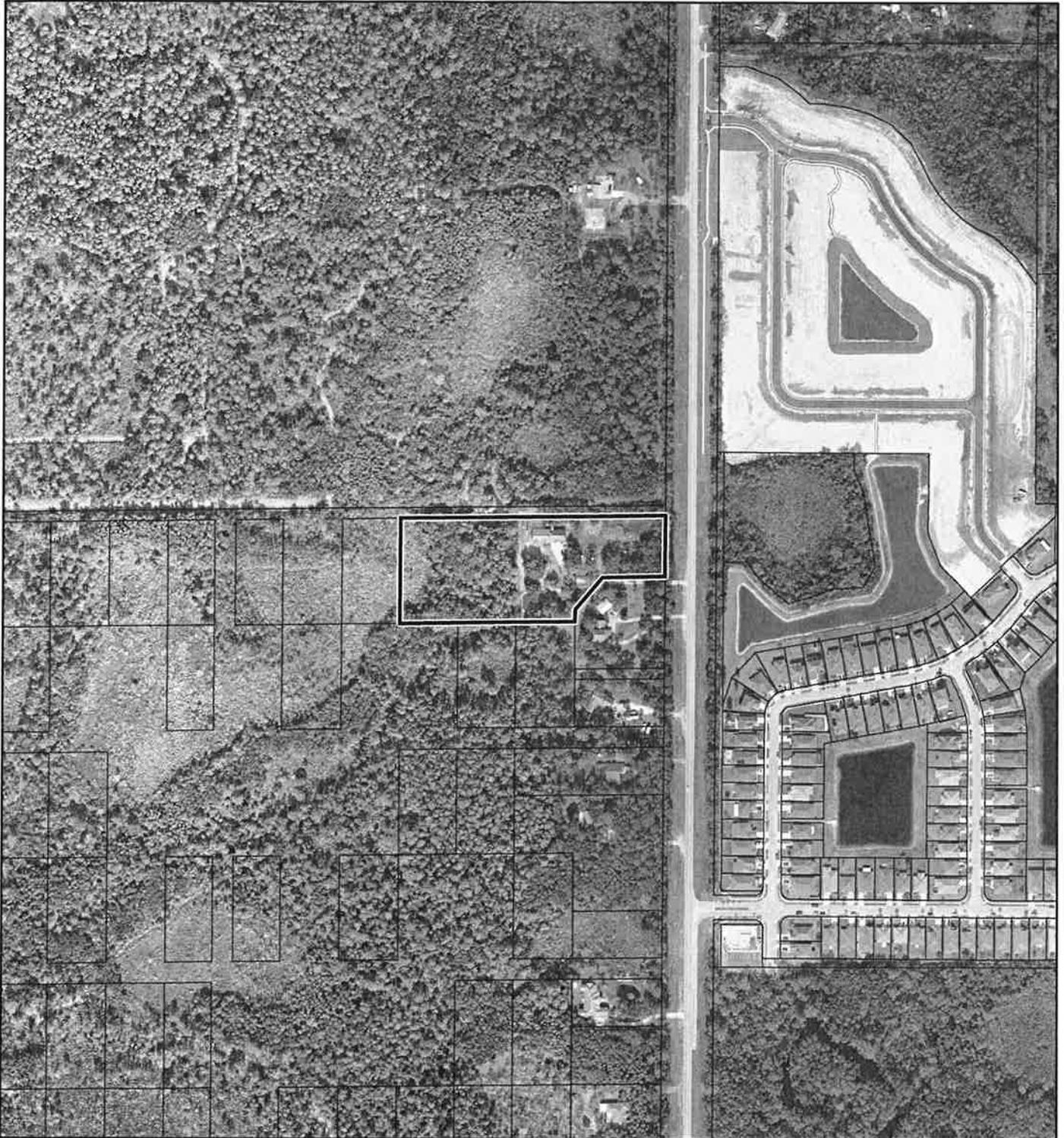
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AERIAL MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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Produced by BoCC - GIS Date: 7/16/2019

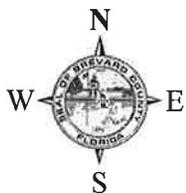
— Subject Property

□ Parcels

NWI WETLANDS MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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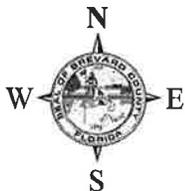
National Wetlands Inventory (NWI)

- | | | | |
|--|-----------------------------------|--|------------------|
| | 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

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

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

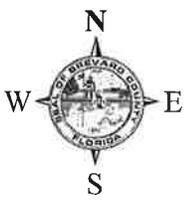
Subject Property

Parcels

USDA SCSSS SOILS MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

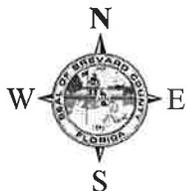
USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

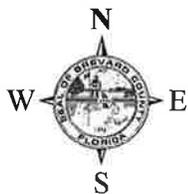
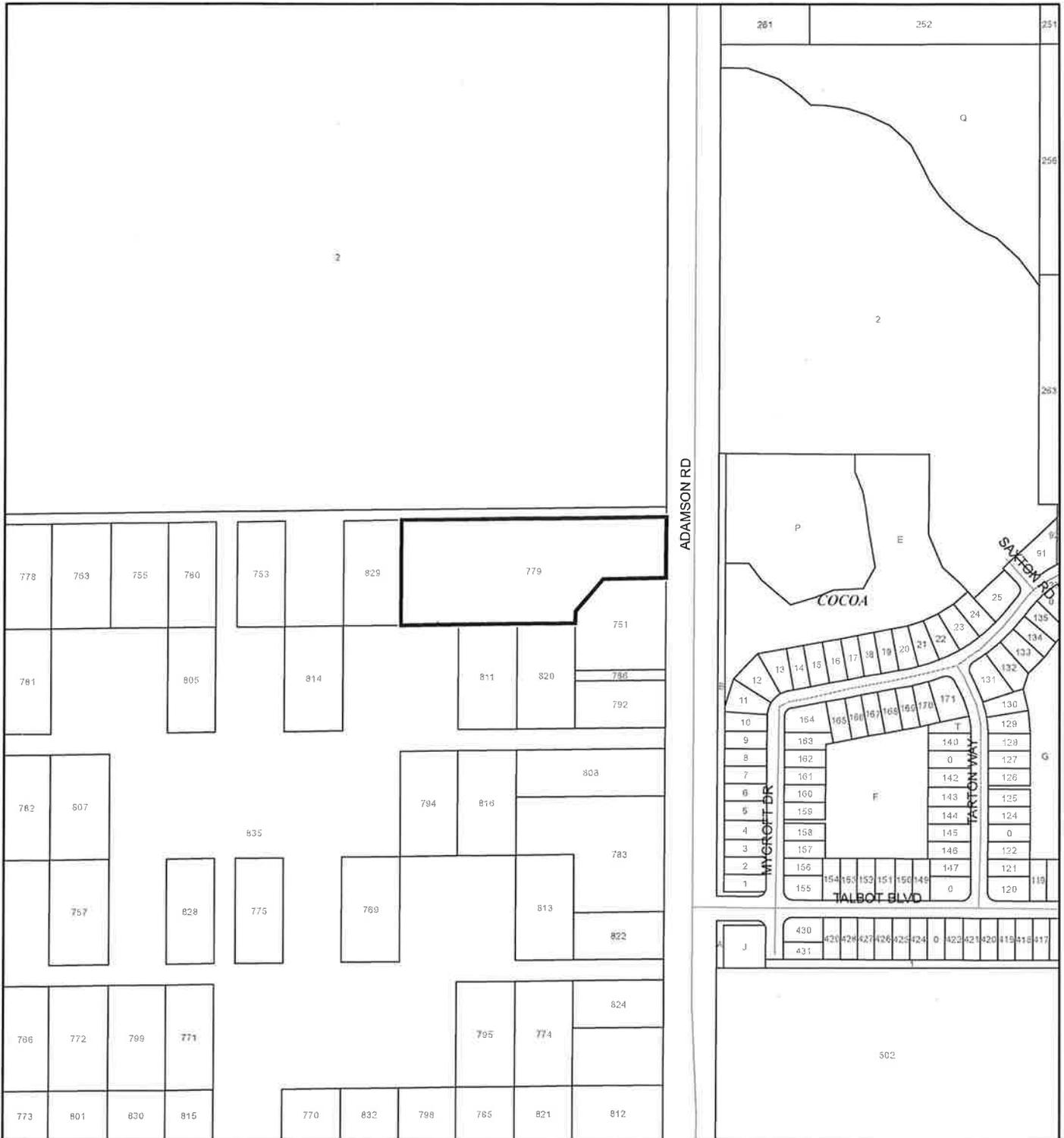
FEMA Flood Zones

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

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

 Subject Property

 Parcels

Septic Overlay

 40 Meters

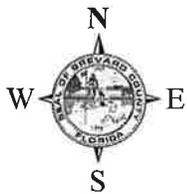
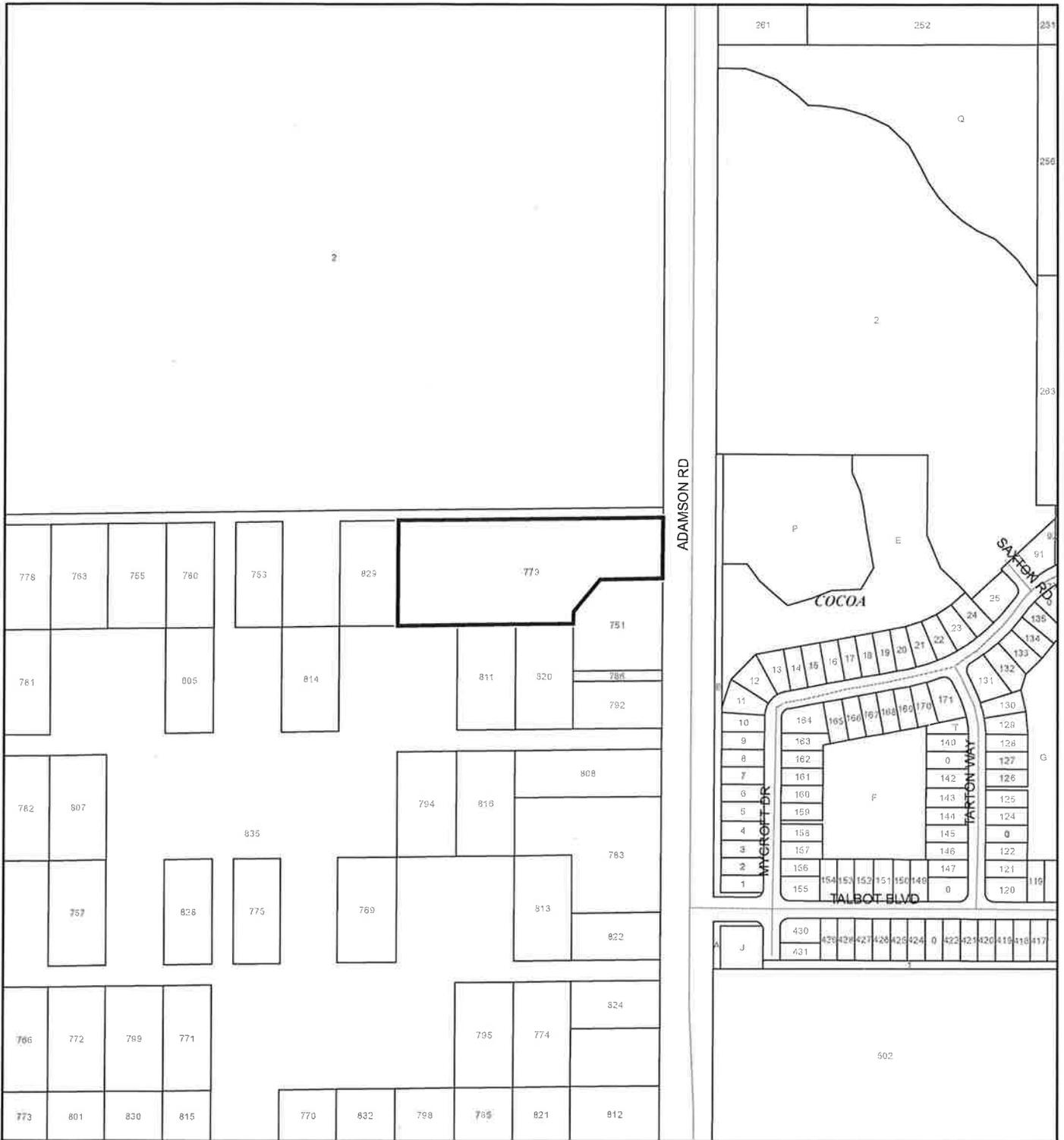
 60 Meters

 All Distances

EAGLE NESTS MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

-  Subject Property
-  Parcels
-  Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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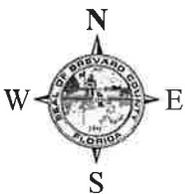
Produced by BoCC - GIS Date: 7/16/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SPINA, FRANCES P. AND THOMAS A.

19PZ00095



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/16/2019

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 MINUTES

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

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

Board members present were: Ron Bartcher; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; Peter Filiberto, Vice Chair; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

1. Frances P. and Thomas A. Spina, Co-Trustees:

A change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 4.72 acres, located on the west side of Adamson Road, approximately 0.50 mile north of Saratoga Lane. (1470 Adamson Road, Cocoa) (19PZ00095) (District 1)

Thomas Spina, 1470 Adamson Road, Cocoa, stated they had five separate pieces of property that they combined to make 4.72 acres, and they would like to rezone it to do agricultural pursuits when he retires.

No public comment.

Rochelle Lawandales asked if there are any limitations types or kinds of animals that would be allowed in the AU zoning classification.

George Ritchie replied they cannot have a hog farm without 10 acres and a Conditional Use Permit.

Ms. Lawandales asked if slaughtering and rendering is permitted. Mr. Ritchie replied no, you can raise and graze, but you can't slaughter animals without industrial zoning. Whatever is grown or raised on the property can be for personal consumption.

Motion by Rochelle Lawandales, seconded by Bruce Moia, to approve the requested change of zoning classification from GU and RR-1 to AU. The motion passed unanimously.