Agenda Report

2725 Judge Fran Jamieson Way
Viera, FL 32940

Public Hearing

H.5. 5/26/2022

Subject:

Heath and Shannon Morgan request a change of zoning classification from RU-1-9 to SR. The property is 0.69 acres, located on the north side of Miami Ave., approx. 200 ft. east of City Acres Rd. (22Z00011) (Tax Account 2863495) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from RU-1-9 to SR to establish consistency with the comprehensive plan for the purpose of constructing one single-family residence.

The proposed SR classification permits single family residences on a minimum half-acre lot, with a minimum width of 100 feet and a depth of 150 feet, and a minimum house size of 1,300 square feet. The SR zoning classification can be considered with RES 4 Future Land Use.

The existing zoning of RU-1-9 is not consistent with the current RES 4 Future Land Use designation. The lot was split in 2005, which relinquished any prior non-conforming status.

The developed character of the surrounding area is single-family residential on non-conforming lots with no central water or sewer. Most parcels in the immediate area are developed with single-family homes on lots less than one-acre in size. The subject property is surrounded to the north, east, and west by parcels developed with single-family residences zoned RU-1-9. To the south, across Miami Avenue is a parcel developed with a single-family residence and zoned RU-1-9 as well. The SR zoning classification is not in the immediate area. However, the proposed zoning classification would provide consistency with the FLU and zoning as outlined in 62-1255.

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

On May 9, 2022, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Corrected
Resolution 22Z00011

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

WHEREAS, Heath and Shannon Morgan, have requested a change of zoning classification from RU-1-9 (Single-Family Residential) to SR (Suburban Residential), on property described as Lot 51.01, Block 14, City Acres, as recorded in ORB 5504, Pages 7196 - 7197, of the Public Records of Brevard County, Florida. **Section 02, Township 28, Range 36**. (0.69 acres) Located on the north side of Miami Ave., approx. 200 ft. east of City Acres Rd. (No assigned address. In the West Melbourne area.); and

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

WHEREAS, the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved; 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 SR**, 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 May 26, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on May 26, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – May 9, 2022

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.**

Resolution 22Z00011

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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; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RR-1, 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 May 26, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on May 26, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

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ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

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

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

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

Administrative Policy 3

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

Criteria:

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

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

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

1. historical land use patterns;

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

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

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

Administrative Policy 4

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

Criteria:

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

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

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

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

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

Administrative Policy 5

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

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

Criteria:

A. Whether adopted levels of services will be compromised;

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

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

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

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

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

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

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

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

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

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

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

(c) General Standards of Review.

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

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

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

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

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

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

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

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

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

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

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

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

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

i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

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

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

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

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

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

BOARD OF COUNTY COMMISSIONERS

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

STAFF COMMENTS
22Z00011

Heath and Shannon Morgan

RU-1-9 (Single-Family Residential) to SR (Suburban Residential)

Tax Account Number: 2863495

Parcel I.D.s: 28-36-02-75-14-51.01
Location: North side of Miami Avenue, approximately .055 feet south of the intersection of Alma Drive and West New Haven Avenue (District 5)
Acreage: 0.69 acres

Planning & Zoning Board: 5/09/2022
Board of County Commissioners: 5/26/2022

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	SR
Potential*	0 SF unit	1 SF unit
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 applicants are seeking a change of zoning classification from RU-1-9 (Single-Family Residential) to SR (Suburban Residential) to establish consistency with the comprehensive plan for the purpose of constructing one single-family residence. This request is considered a down zoning. The parcel is currently undeveloped.

The subject parcel was recorded into the current configuration per Official Records Book 5504, Page 7196 on July 25, 2005. The original zoning on the property was RU-1-9.

Land Use

The subject property currently retains the FLU designation of Residential 4 (RES 4). The SR request is consistent with the Residential 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) 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.

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 proposes the development of a single-family home. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 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;

There are three (3) FLU designation (RES 4, CC, and NC) within 500-feet of this site. The latest FLU amendment was approved under 02S.13 which changed the FLU on 1.07 acres from RES 1:2.5 to CC on December 5, 2002.

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

There has not been any actual development within this area in the preceding three (3) years.

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

While there has not been any actual development within this area in the preceding three (3) years, one zoning action has been approved within one-half mile.

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 have been identified.

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

The developed character of the surrounding area is single-family residential on non-conforming lots with no central water or sewer. Most parcels in the immediate area are developed with single-family homes on lots less than one-acre in size. The subject property is surrounded to the north, east, and west by parcels developed with single-family residences zoned RU-1-9. To the south, across Miami Avenue is a parcel developed with a single-family residence and zoned RU-1-9 as well. SR zoning classification is not in the immediate area and could be considered spot zoning. However, the proposed zoning classification would provide consistency between the FLU and zoning, as outlined in 62-1255.

There has been one zoning action within a half-mile radius of the subject property within the last three years. **21Z00040**, approved February 3, 2022, was a request to change BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Commercial) to all BU-2 on 2.1 acres located on the north side of New Haven Avenue, approximately 0.28 miles west of Katherine Boulevard.

The current RU-1-9 classification of the subject parcel permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The existing RU-1-9 zoning does not comply with Section 62-1255, as the subject lot was split 7/18/2005, relinquishing any prior nonconformity to the RES 4 Future Land Use.

The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet. SR zoning is consistent with RES 4 Future Land Use.

Surrounding Area

	Existing Land Use	**Zoning**	**Future Land Use**
North	One SF residence	RU-1-9	RES 4
South	Across ROW (Miami Av): Two SF residences	RU-1-9	RES 4
East	Two SF residences	RU-1-9	RES 4
West	Three SF residences	RU-1-9	RES 4

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 192, between John Rodes to Wickham, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 73.16% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 73.18% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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.

The parcel has no access to central water or sewer. The closest Brevard County water and sewer lines to the parcel are approximately 9.4 miles to the north.

Environmental Constraints

- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils. A wetland delineation will be required prior to any land clearing activities or site plan application. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one unit per five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65 694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 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 land clearing, site plan design or permit submittal.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary

Item #22Z00011

Applicant: Morgan

Zoning Request: RU-1-9 to SR

Note: Applicant wants to build a single-family residence.

P&Z Hearing Date: 05/09/22; **BCC Hearing Date**: 05/26/22

Tax ID No: 2863495

- 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:

- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species
- Protected and Specimen Trees

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

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

Protected Species
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Protected and Specimen Trees
Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

MORGAN, HEATH AND SHANNON

22Z00011

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: 3/11/2022

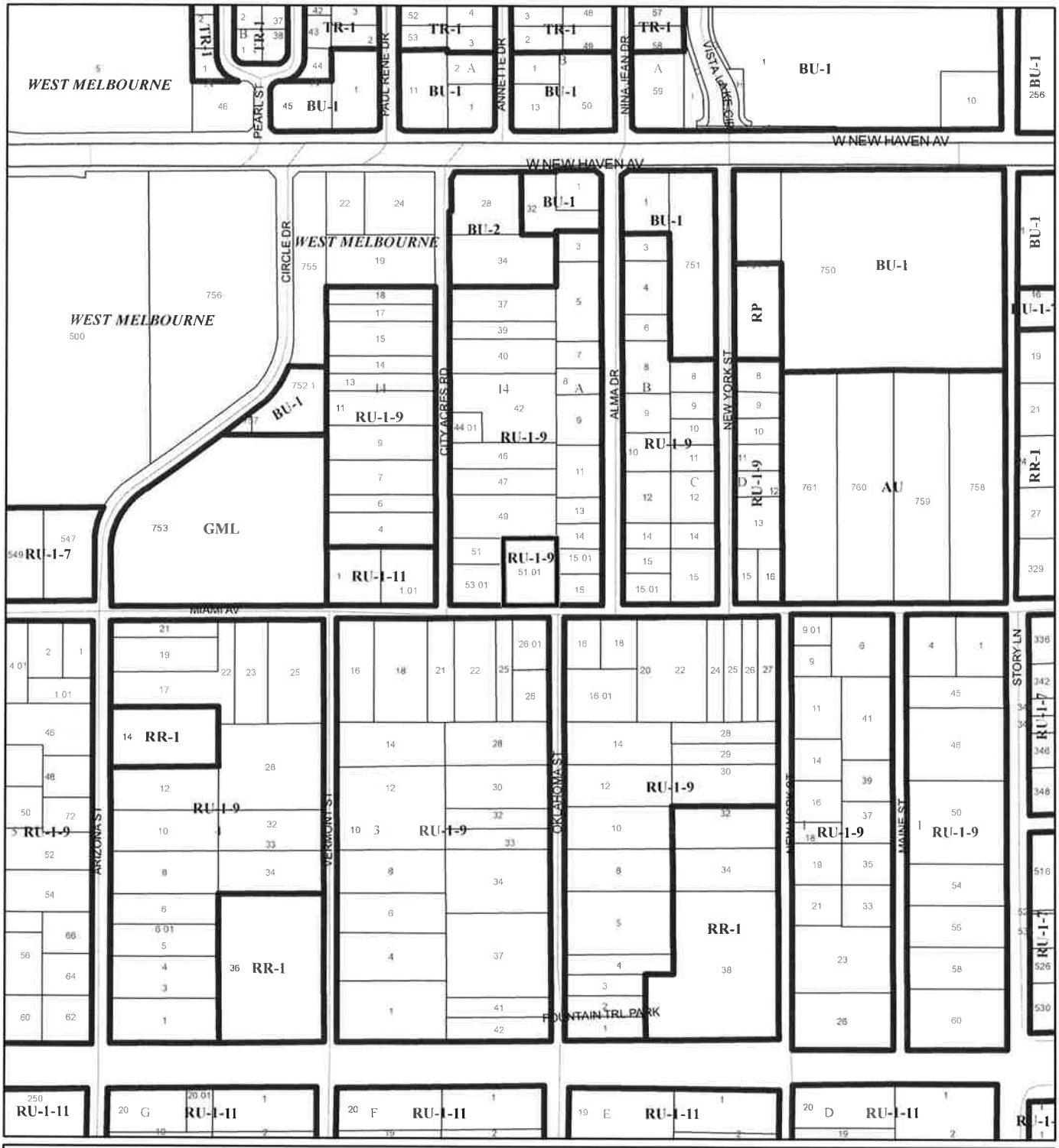
Buffer

Subject Property

ZONING MAP

MORGAN, HEATH AND SHANNON

22Z00011



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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Zoning

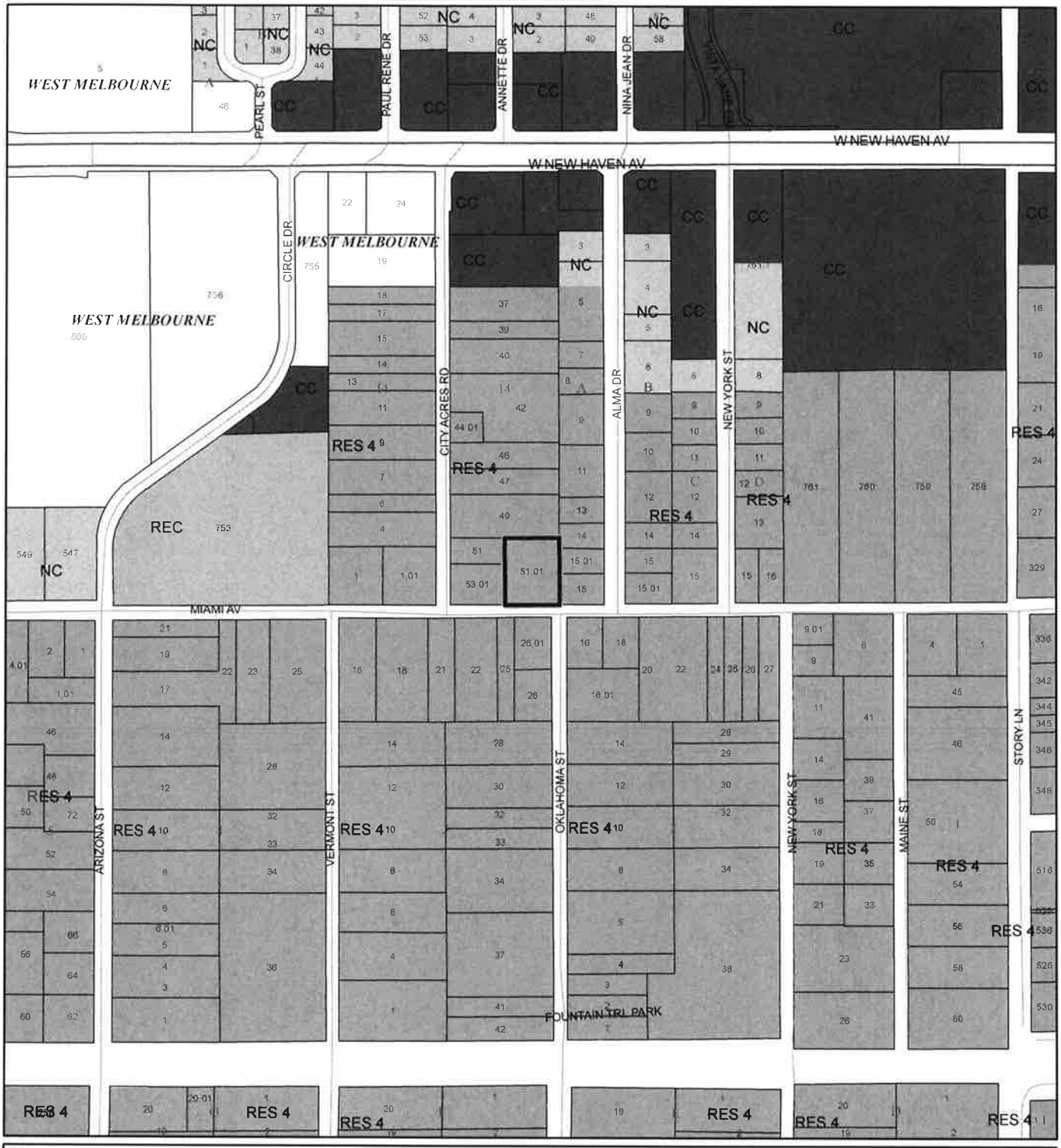
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/11/2022

FUTURE LAND USE MAP

MORGAN, HEATH AND SHANNON

22Z00011



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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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AERIAL MAP

MORGAN, HEATH AND SHANNON

22Z00011

N

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1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 3/11/2022

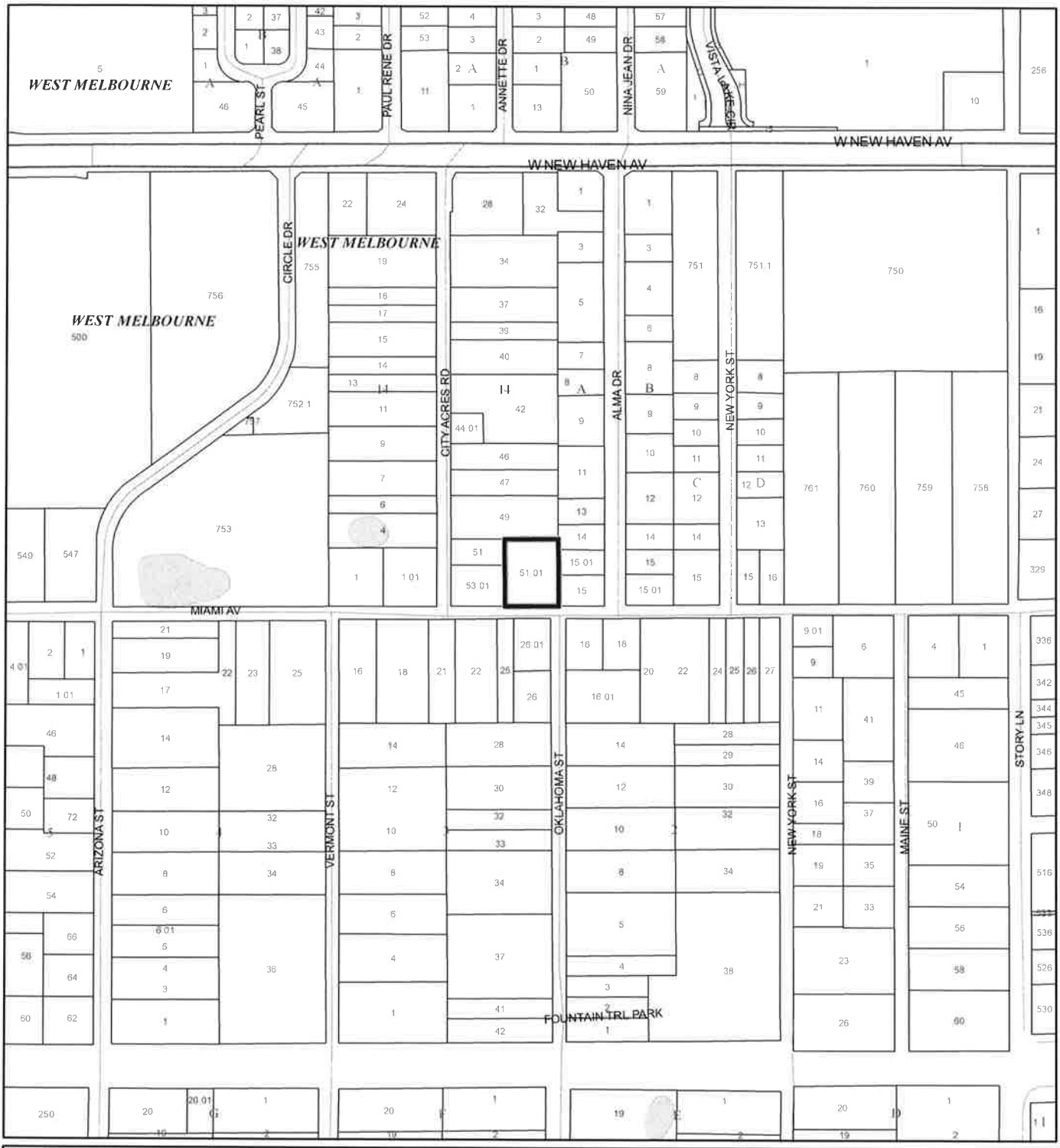
Subject Property

Parcels

NWI WETLANDS MAP

MORGAN, HEATH AND SHANNON

22Z00011



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Produced by BoCC - GIS Date: 3/11/2022

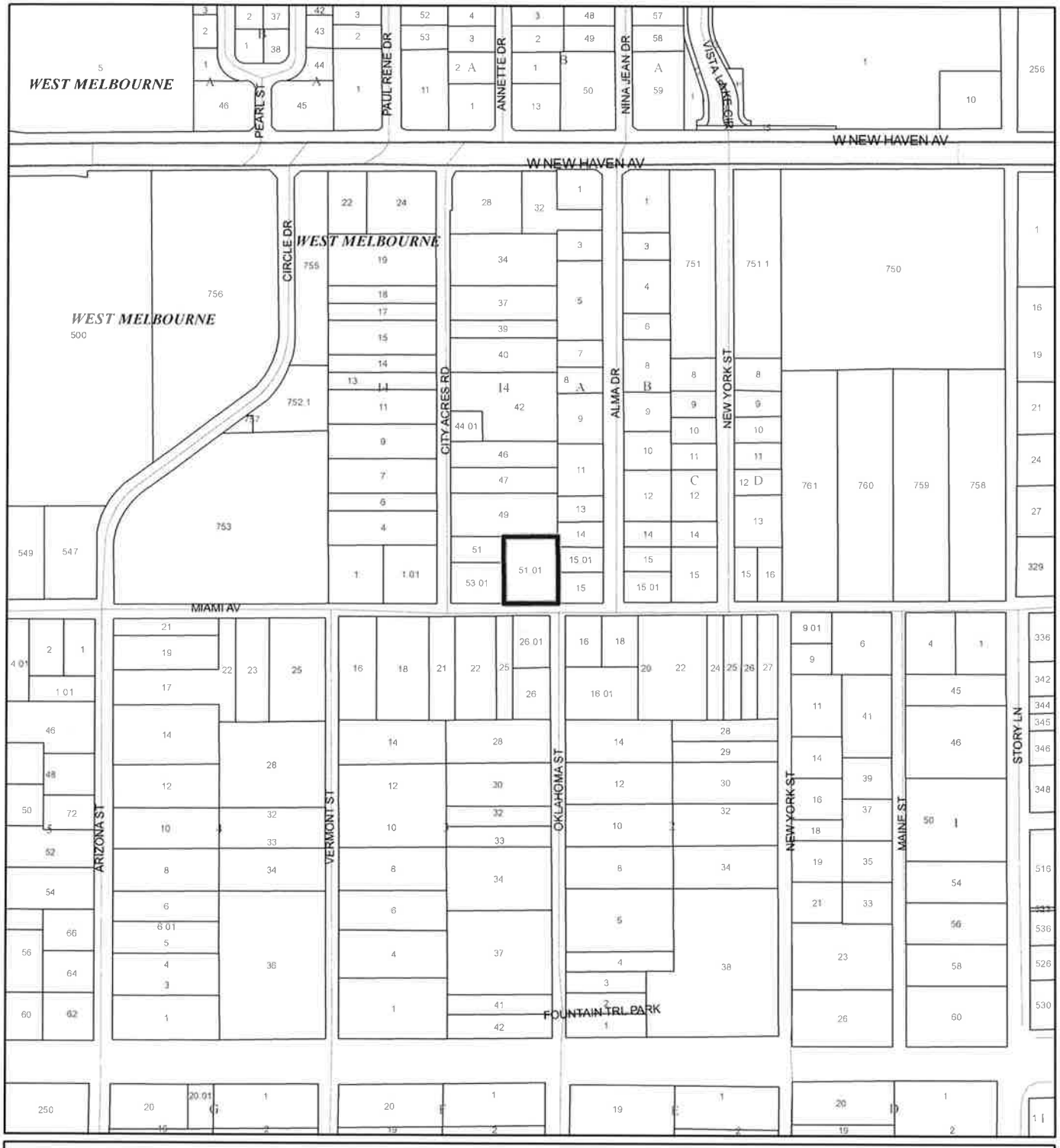
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MORGAN, HEATH AND SHANNON

22Z00011



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Produced by BoCC - GIS Date: 3/11/2022

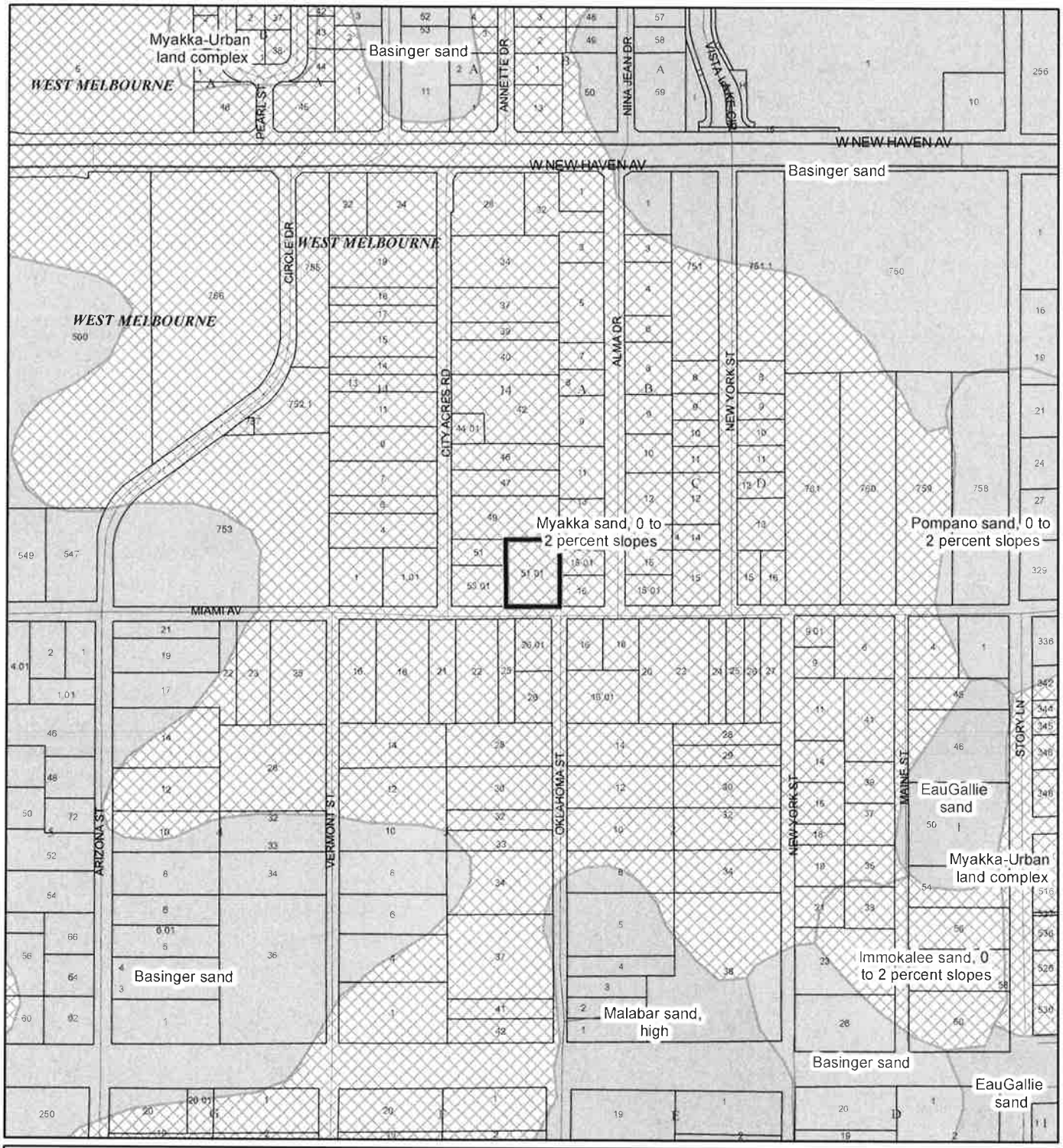
SJRWMD FLUCCS WETLANDS

- 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

MORGAN, HEATH AND SHANNON

22Z00011



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Produced by BoCC - GIS Date: 3/11/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

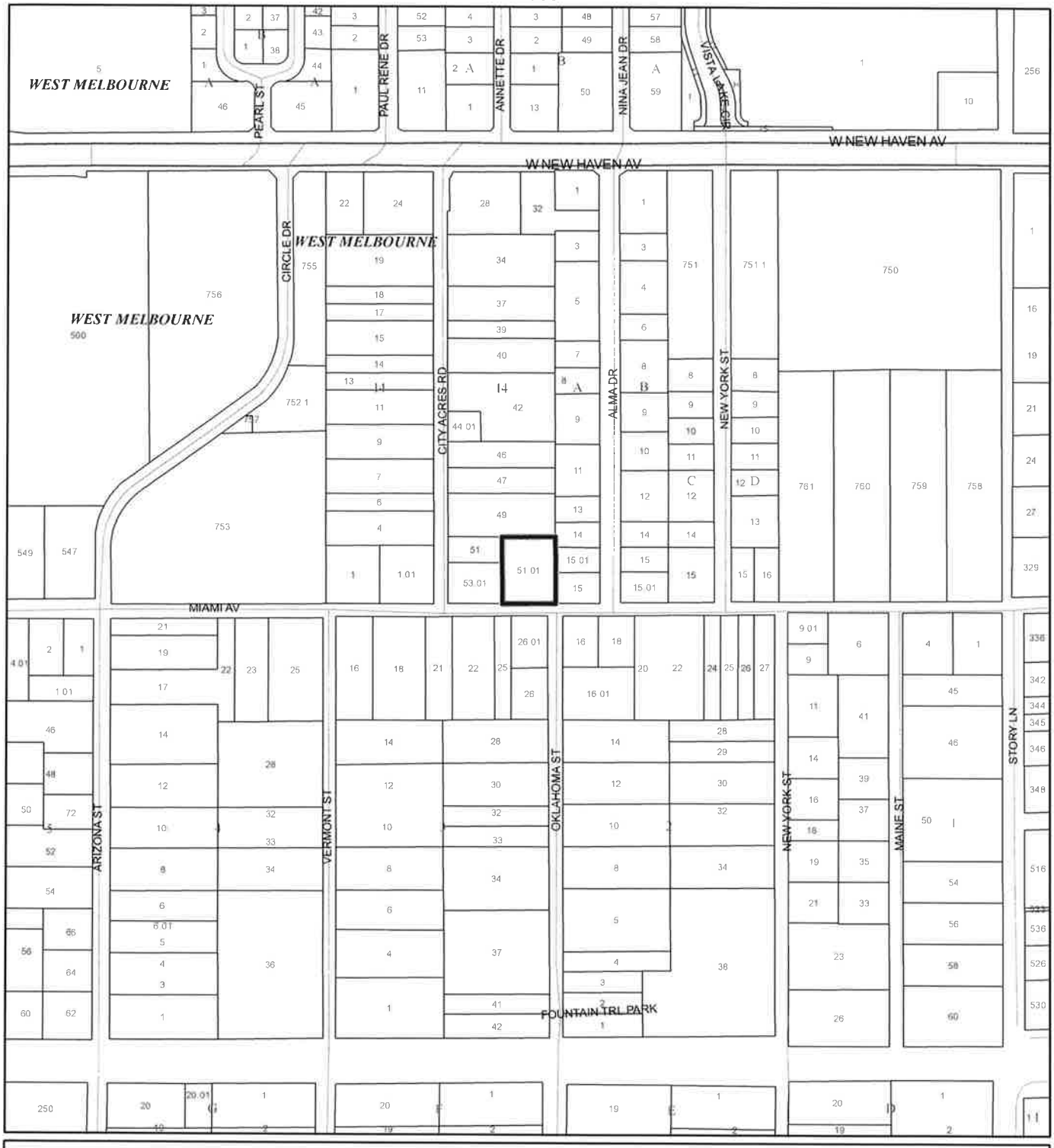
Subject Property

Parcels

FEMA FLOOD ZONES MAP

MORGAN, HEATH AND SHANNON

22Z00011



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1:4,800 or 1 inch = 400 feet

FEMA Flood Zones

A AO X

AE Open Water

AH VE

Subject Property Parcels

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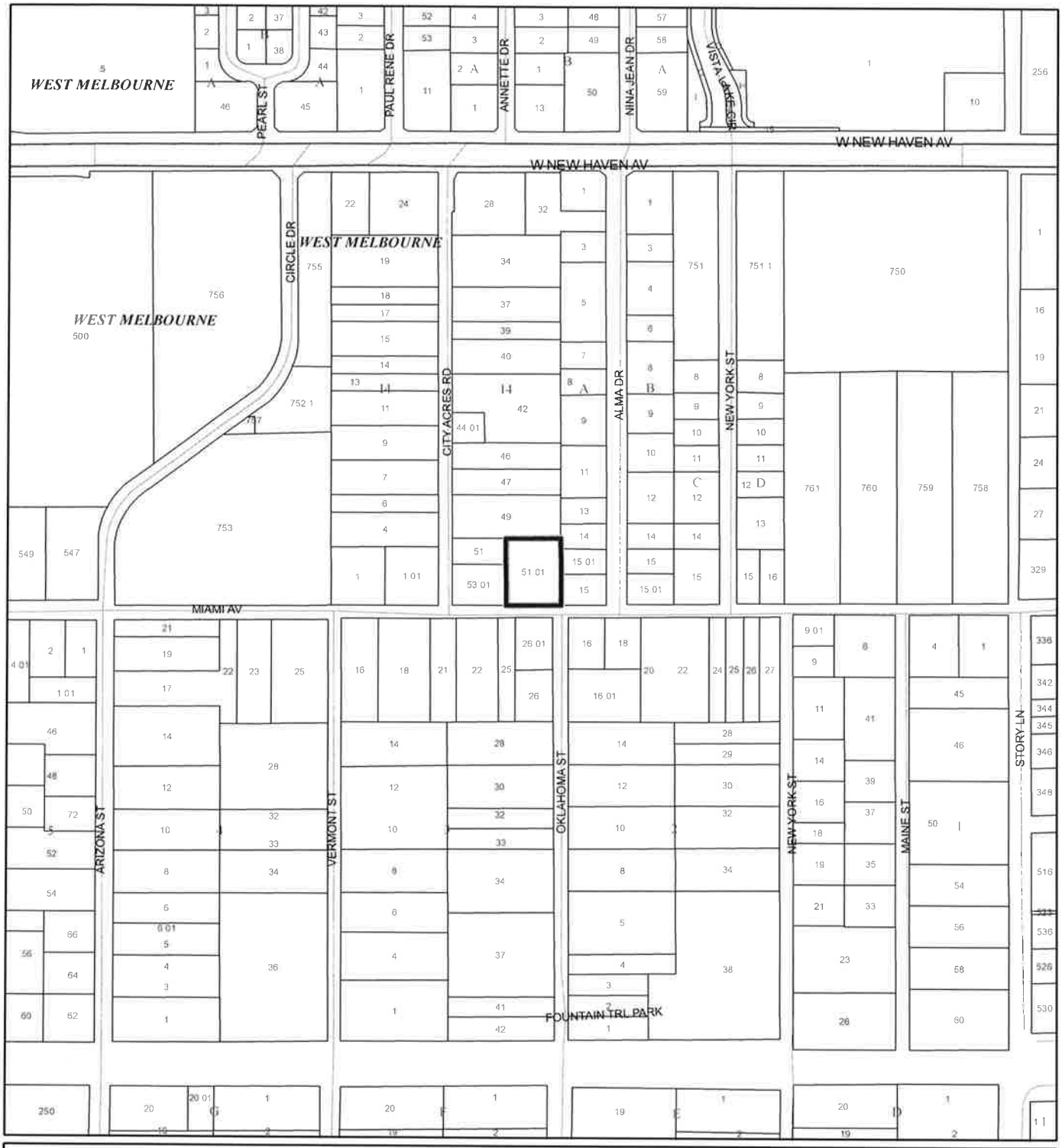
COASTAL HIGH HAZARD AREA MAP

MORGAN, HEATH AND SHANNON

22Z00011



N

W E

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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Coastal High Hazard Area

SurgeZoneCat1

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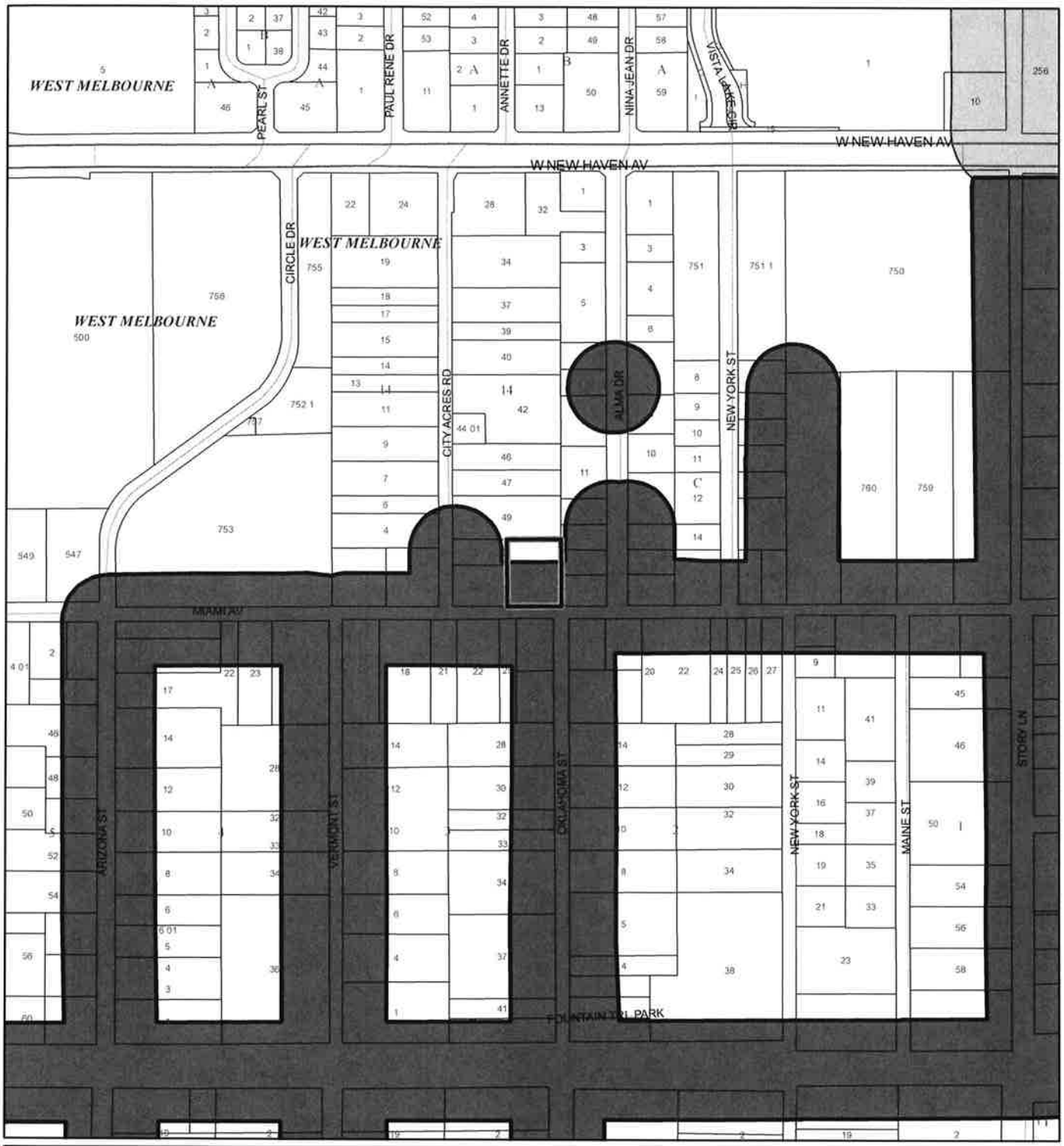
Produced by BoCC - GIS Date: 3/11/2022

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MORGAN, HEATH AND SHANNON

22Z00011



N

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Produced by BoCC - GIS Date: 3/11/2022

Subject Property

Parcels

Septic Overlay

40 Meters

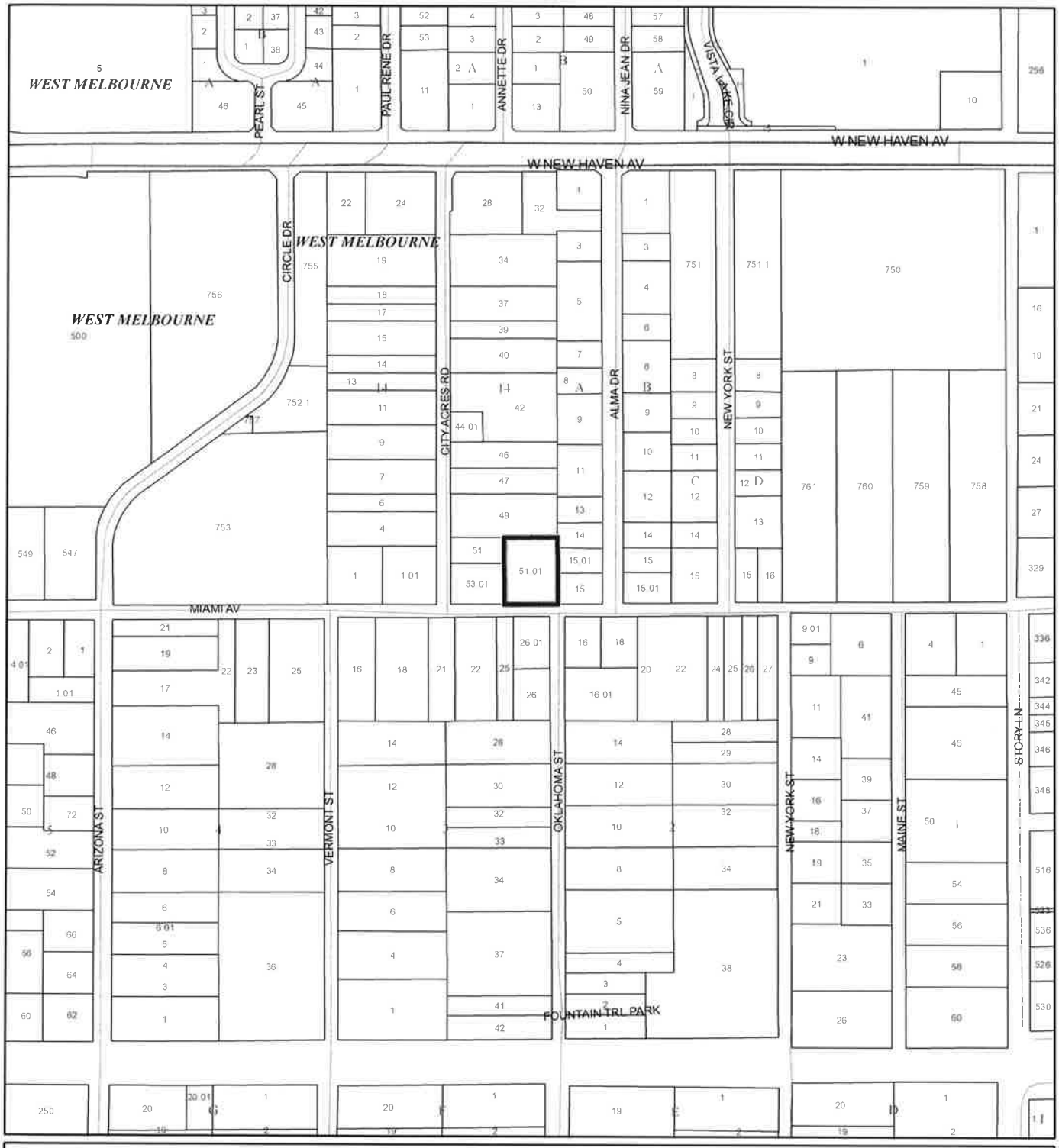
60 Meters

All Distances

EAGLE NESTS MAP

MORGAN, HEATH AND SHANNON

22Z00011



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Produced by BoCC - GIS Date: 3/11/2022

Subject Property

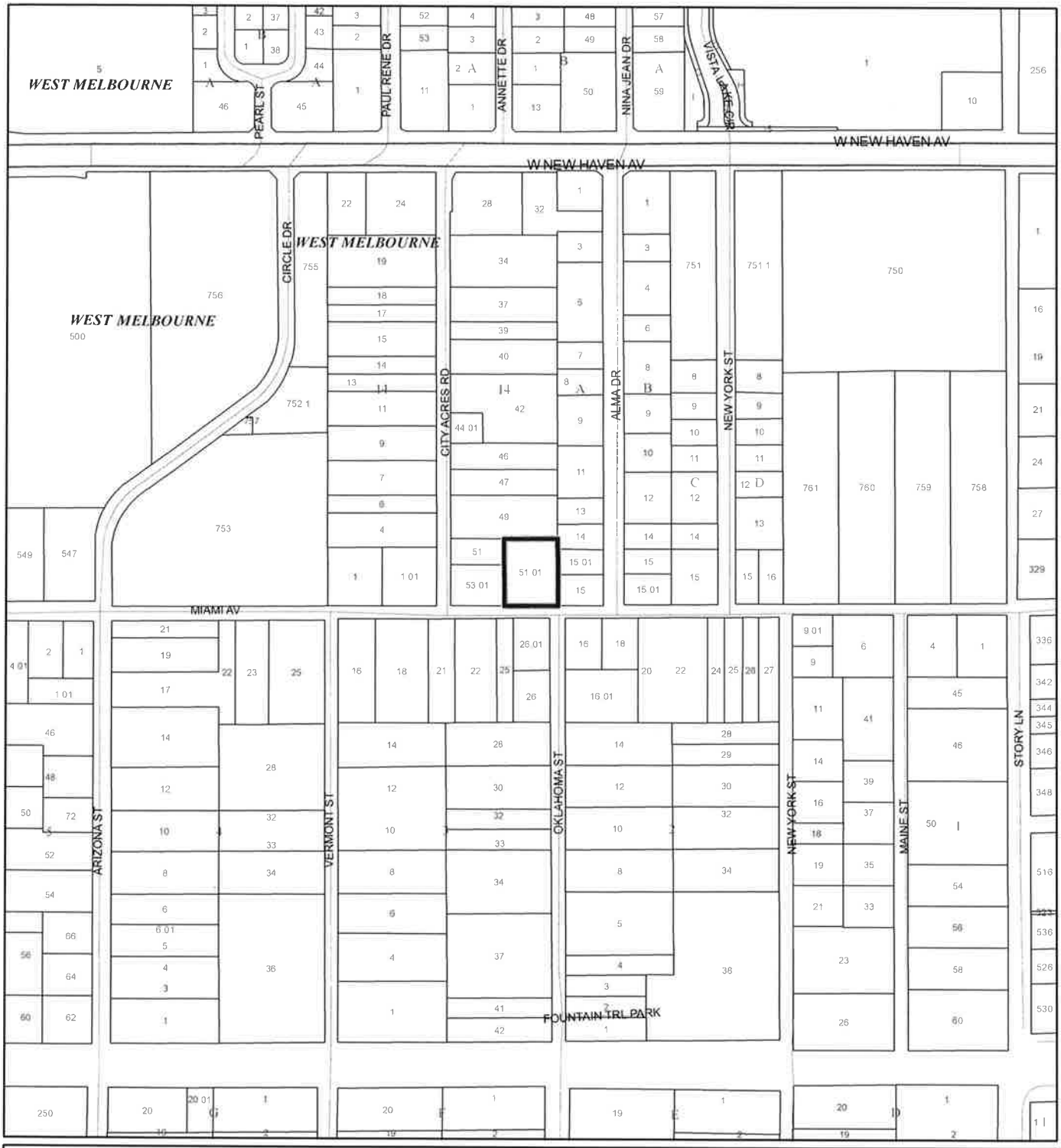
Parcels

Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

MORGAN, HEATH AND SHANNON

22Z00011



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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Scrub Jay Occupancy

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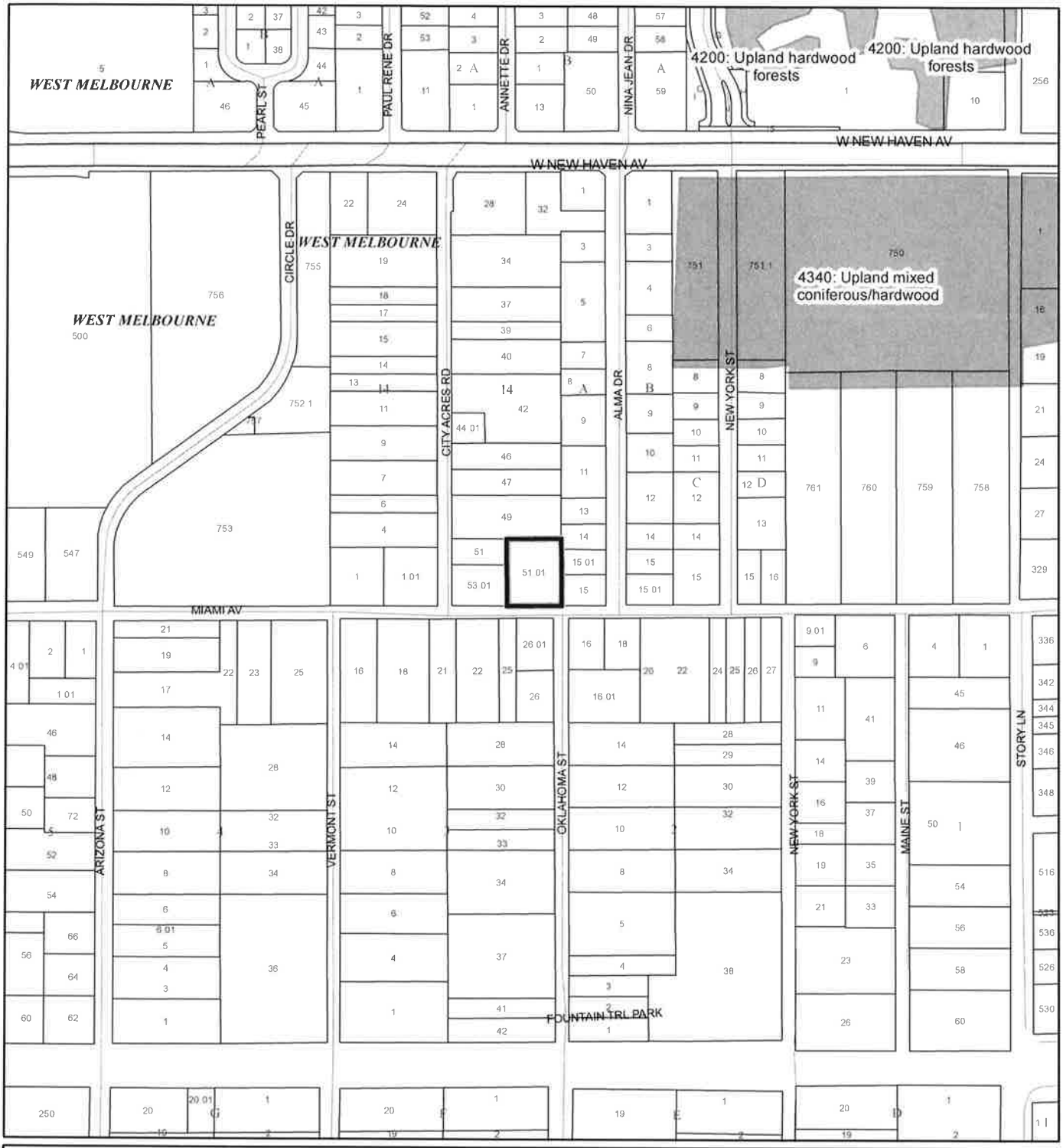
Produced by BoCC - GIS Date: 3/11/2022

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MORGAN, HEATH AND SHANNON

22Z00011



N

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Produced by BoCC - GIS Date: 3/11/2022

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

Objection
22Z00011
Morgan

From: ghight
To: Jones, Jennifer
Subject: ID# 22Z00011
Date: Sunday, May 1, 2022 3:07:26 PM

Dear Sirs, I do not want the zoning to change on property owned by Heath and Shannon Morgan, located on the north side of Miami ave,approx 200 ft east of City Acres Rd, West Melbourne.

I looked up Suburban Residential zoning and don't want any of these buildings like day care centers, and bed and breakfast business on .69 acres in single family residential.

I live at 4025 Miami Ave, West Melbourne, Fl which is right across the street from said property.

For example we do not need the dropping off and picking up of day care students.

Thank you, George A. Hight

Objection
22Z00011
Morgan

From: Arthur Cuda
To: Jones, Jennifer; ghight
Subject: Re: ID# 22Z00011
Date: Sunday, May 1, 2022 9:24:35 PM

I agree with my neighbor ghight about not wanting the zoning changed on the subject property. None of the facilities that the "suburban residential zoning allows would be beneficial to the neighborhood. I also believe that suburban residential zoning classification requires a minimum of 1 acre. The subject property is only .69 acres in size. My address is 2160 Oklahoma Street and is within 500 feet of the subject property.

On Sunday, May 1, 2022, 03:07:26 PM EDT, ghight <ghight@aol.com> wrote:

Dear Sirs, I do not want the zoning to change on property owned by Heath and Shannon Morgan, located on the north side of Miami ave,approx 200 ft east of City Acres Rd, West Melbourne.

I looked up Suburban Residential zoning and don't want any of these buildings like day care centers, and bed and breakfast business on .69 acres in single family residential.

I live at 4025 Miami Ave, West Melbourne, Fl which is right across the street from said property. For example we do not need the dropping off and picking up of day care students.
Thank you, George A. Hight

Sent from the all new AOL app for iOS

Objection
22Z00011
Morgan

From: Cindi Droney
To: Jones, Jennifer
Subject: RE: ID#22Z00011 rezoning
Date: Monday, May 2, 2022 6:21:58 PM

Dear Ms. Jones;
My name is Cynthia Droney, I live across the street at 4015 Miami Ave, from the property owned by Heath and Shannon Morgan. I am unable to attend any of the rezoning hearings that will be held for this property due to work. I would like to express my feeling for the rezoning. I do NOT want that property rezoned to suburban residential. We live in a neighborhood with families, not businesses. I do not want to have any kind of business built. The traffic that will be generated on this small road will be tremendous. I've read that a daycare or even a B&B could be built there if the rezoning went through. I don't want either one of them in front of my home. I moved here because this is a quiet friendly neighborhood. We have families walking in the street with kids and dogs, riding bikes. A single family home would be wonderful, any business would just be detrimental this this neighborhood.

During hurricane season there is a lot flooding out here. No toilets etc ...

What else could be done to prevent the rezoning? My elderly neighbor to the east of me is of the same mind. She is unable to go to the hearings and does not have a computer. Many of the folks walking by say how awful it would be to put any kind of business on the lot.

Thank you for listening. This is just a very nice place to live. I don't want to see it destroyed like every other green piece of land that is being dug up and built on.

Cynthia Droney
bc4015@hotmail.com

Sent from Mail for Windows

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, May 9, 2022,** at **3:00 p.m**., in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (Alt. D4); Bruce Moia (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Planner III; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Heath and Shannon Morgan
A change of zoning classification from RU-1-9 (Single-Family Residential) to SR (Suburban Residential). The property is 0.69 acres, located on the north side of Miami Ave., approx. 200 ft. east of City Acres Rd. (No assigned address. In the West Melbourne area.) (Tax Account 2863495) (District 5)

Heath Morgan, 203 Charles Drive, Melbourne, stated they purchased the property in 2005 with the intention of building a single-family home. The property had been parts of different lots and it was re-subdivided, and they learned they could not get a building permit because of the inconsistency between RU-1-9 and RES 4, and because the lots were subdivided it can't be grandfathered-in. He said they are trying to sell the lot and the potential new owners found out they could not get a building permit, so he is trying to rectify the situation.

No public comment.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from RU-1-9 to SR. The motion passed unanimously.