



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.14.

5/4/2023

Subject:

FMKT Mel Owner, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment (23S.02), to change the Future Land Use designation from PI and CC, to all CC. (23SS00002) (Tax Account 3011945) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Plan Amendment (23S.02), to change the Future Land Use designation from PI (Planned Industrial) and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is requesting to change the FLU (Future Land Use) designation on the 10 acre portion of the 11.48 acre parcel from PI to CC to establish a consistent FLU of CC for the entire 11.48-acre parcel. The subject property currently retains both PI (approximately 10 acres) and CC (approximately 1.5 acres) FLU designations and is developed (approved under County No. 14SP-00455) as four (4) commercial plazas, including The Fresh Market. According to 62-1255, PUD zoning is not consistent with the PI FLU designation.

A companion rezoning application accompanies this request to change the zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing and Wholesale Commercial) to PUD (Planned Unit Development).

The surrounding area is generally commercial along North Wickham Road. There are five (5) FLU designations within 500 feet of the subject site: NC, CC, RES 15 (Residential 15), IND (Industrial), and PI. The predominant FLU designation along this section of North Wickham Road is CC. North Wickham Road is an urban principal arterial roadway

On April 17, 2023, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once filed with the State, please return two copies of the Ordinance to Planning and Development.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 5, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Attention: Kimberly Powell

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 23-10, which was filed in this office on May 5, 2023.

Sincerely,

Anya Owens
Director
Administrative Code and Register

ACO/wlh



May 5, 2023

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director


RE: Item H.14., Small Scale Comprehensive Plan Amendment (23S.02)

The Board of County Commissioners, in regular session on May 4, 2023, conducted the public hearing and adopted Ordinance No. 23-10, setting forth the second Small Scale Comprehensive Plan Amendment (23S.02) to change the Future Land Use designation from PI and CC to all CC. (23SS00002). Enclosed are two fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

Encl. (2)

ORDINANCE NO. 23- 10

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SECOND SMALL SCALE PLAN AMENDMENT OF 2023, 23S.02, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2023 as Plan Amendment 23S.02; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 23S.02; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON MAY 5, 2023

WHEREAS, on April 17, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on May 4, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 23S.02; and

WHEREAS, Plan Amendment 23S.02 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.02 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 23S.02 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 23S.02, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 4th day of May, 2023.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


By: Rita Pritchett, Chair

As approved by the Board on May 4, 2023.

EXHIBIT A
23S.02 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

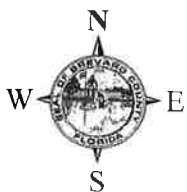
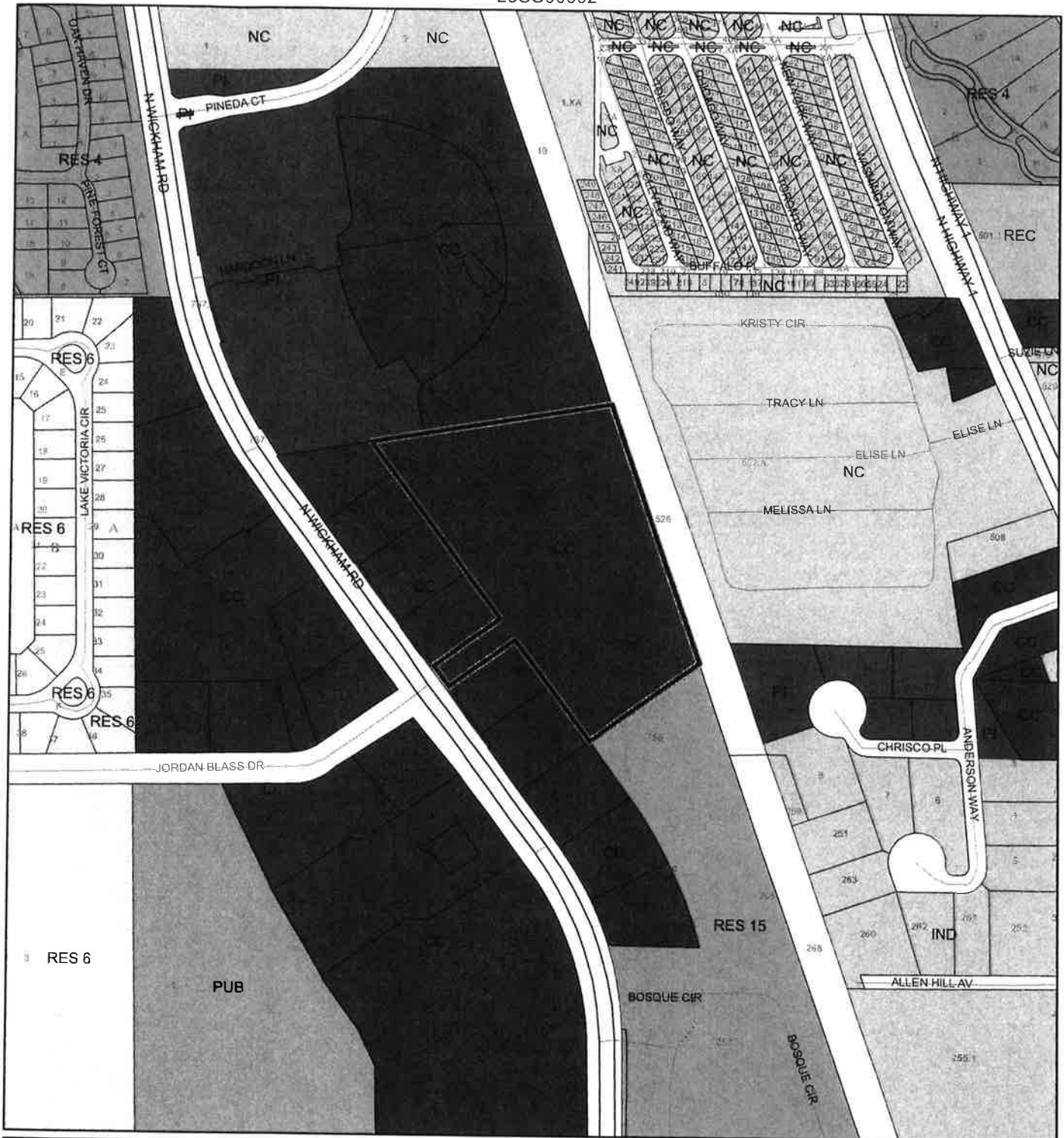
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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

Produced by BoCC - GIS Date: 3/24/2023

EXHIBIT B

Contents

1. Legal Description

 / View News

Public Hearing - Planning and Zoning Board / Local Planning Agency Meeting - April 17, 2023

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, APRIL 17, 2023, and THURSDAY, MAY 4, 2023.

DISTRICT 1

(22SS00013) Austin A. and Kailey R. Mahan request a Small Scale Comprehensive Plan Amendment (22S.15), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Tax Parcel 289, as recorded in ORB 9744, Pages 1859 - 1860, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35.** (.77 acres) Located on the north corner of U.S. Highway 1 and E.R. Smyth Dr., Mims. (No assigned address. In the Mims area.)

DISTRICT 1

(22Z00054) Austin A. and Kailey R. Mahan request a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 289, as recorded in ORB 9744, Pages 1859 - 1860, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35.** (.77 acres) Located on the north corner of U.S. Highway 1 and E.R. Smyth Dr., Mims. (No assigned address. In the Mims area.)

DISTRICT 1

(23Z00010) Matthew and Christine Morak request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Lot 7, Block 3, Indian River Park, as recorded in ORB 9527, Pages 442 - 443, of the Public Records of Brevard County, Florida. **Section 20, Township 20G, Range 35.** (2.22 acres) Located on the north side of Burkholm Rd., approx. 0.38 mile east of U.S. Highway 1 (3660 Burkholm Rd., Mims)

DISTRICT 3


(23Z00011) Rebecca and Allen Potter request a change of zoning classification from RR-1 (Rural Residential) and AU (Agricultural Residential) to all AU, on property described as Tax Parcel 265, as recorded in ORB 9676, Pages 823 - 825, of the Public Records of Brevard County, Florida. **Section 11, Township 30, Range 38.** (3.53 acres) Located on the east side of U.S. Highway 1, approx. 0.24 mile north of Barefoot Bay Blvd. (7660 U.S. Highway 1, Micco)

DISTRICT 1

(22Z00056) Melanie Rondeau and Zackry Corter request a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as the north 100 ft. of the south 290 ft. of the west 413 ft. of Tract 4, Block 7, Section 3, Township 20S, Range 34E, of Indian River Park, according to the Plat thereof, as recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida. (1 acre) Located on the east side of Blounts Ridge Rd., approx. 835 ft. north of Patty Ln. (No assigned address. In the Mims area.)

DISTRICT 1

(22SS00017) Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) requests a Small Scale Comprehensive Plan Amendment (22S.20), to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC (Community Commercial), on property described as Lots 10 - 13, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Pages 292 - 293, of the Public Records of Brevard County, Florida; Lot 14, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 289, of the Public Records of Brevard County, Florida; and Lot 16, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 288, of the Public Records of Brevard County, Florida. **Section 01, Township 24, Range 35.** (8.89 +/- acres) Located on the east side of Grissom Parkway, approx. 0.68 miles south of Canaveral Groves Boulevard. (No assigned address. In the Cocoa area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.20: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

(22Z00073) Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) requests a change of zoning classification from GU (General Use) to BU-2 (Retail Warehousing, and Wholesale Commercial), on property described as Lots 10 - 13, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Pages 292 - 293, of the Public Records of Brevard County, Florida; Lot 14, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 289, of the Public Records of Brevard County, Florida; and Lot 16, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 288, of the Public Records of Brevard County, Florida. 

the Public Records of Brevard County, Florida. **Section 01, Township 24, Range 35.** (8.89 +/- acres) Located on the east side of Grissom Parkway, approx. 0.68 miles south of Canaveral Groves Boulevard. (No assigned address. In the Cocoa area.)

DISTRICT 1

(22SS00014) Norman Leigh Sherman, Jr., and Karen Denise Turowski request a Small Scale Comprehensive Plan Amendment (22S.17) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1:2.5 (Residential 1:2.5), on property described as Lot 4.02, Block 2, Indian River Park, as recorded in ORB 9701, Pages 600 - 603, of the Public Records of Brevard County, Florida (3.53 +/- acres); and AGRIC to RES 1 (Residential 1), on property described as Lot 4.03, Block 2, Indian River Park, as recorded in ORB 9701, Pages 604 - 607, of the Public Records of Brevard County, Florida (1 acre). **Section 22, Township 20G, Range 34.** (4.53 +/- acres total) Located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 1

(23Z00016) Norman Leigh Sherman and Karen Denise Turowski request a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential), on property described as Lot 4.02, Block 2, Indian River Park, as recorded in ORB 9701, Pages 600 - 603, of the Public Records of Brevard County, Florida. **Section 22, Township 20G, Range 34.** (3.53 +/- acres) Located on the south side of Pine Needle St., approx. 300 ft. east of Hog Valley Rd. (4791 Pine Needle St., Mims)

DISTRICT 1

(23Z00006) David C. Ramage and Cynthia R. Ramage Trust (Jack Kirschenbaum) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 298, as recorded in ORB 8486, Pages 1787 - 1791, of the Public Records of Brevard County, Florida. **Section 17, Township 21, Range 35.** (4.83 acres) Located on the east side of U.S. Highway 1, approx. 0.23 mile north of E. Main St. (2615 U.S. Highway 1, Mims)

DISTRICT 4

(23Z00009) Ranger Storage, LLC (Jim Trauger) requests an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Lots 1 - 6, Block 20, plus the N ½ of the vacated streets on the south, Plat of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida. AND Lots 7 - 16, inclusive, Block 20, Plat of Town of Pineda, as per plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida. **Section 12, Township 26, Range 36.** (2.21 +/- acres) Located on the south side of Freeman Lane, approx. 480 ft. east of Waelti Dr. (3335 Freeman Lane, Melbourne)

DISTRICT 4

(23SS00002) FMKT Mel Owner, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment (23S.02), to change the Future Land Use designation from PI (Planned Industrial) and CC (Community Commercial), to all CC, on property described as a part of Lot 7, Pineda Landings, according to the Plat thereof, as recorded in Plat Book 61, Pages 45 - 48, of the Public Records of Brevard County, Florida, more particularly described as follows: commence at the intersection of the NW corner of Lot 6 of said Plat of Pineda Landings and the easterly right-of-way line of Wickham Rd.; thence run N80deg32'04"E along the north line of said Lot 6, a distance of 278.20 ft. to the NW corner of said Lot 7 for the point of beginning; thence the next 10 courses and distances run along the boundary of said Lot 7; run N80deg32'04"E, a distance of 699.66 ft.; thence run S18deg50'32"E, a distance of 792.27 ft.; thence run S53deg54'42"W, a distance of 390.59 ft.; thence run N36deg05'18"W, a distance of 362.50 ft.; thence run S53deg54'52"W, a distance of 223 ft.; thence run N36deg05'18"W, a distance of 1.29 ft.; thence run S53deg54'42"W, a distance of 12 ft.; thence run N36deg05'18"W, a distance of 73.71 ft.; thence run N53deg54'42"E, a distance of 235 ft.; thence run N36deg05'18"W, a distance of 632.68 ft. to the point of beginning. **Section 13, Township 26, Range 36.** (11.48 acres) Located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.)

DISTRICT 4

(23Z00008) FMKT Mel Owner, LLC (Bruce Moia) requests a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to PUD (Planned Unit Development) on property described as a part of Lot 7, Pineda Landings, according to the Plat thereof, as recorded in Plat Book 61, Pages 45 - 48, of the Public Records of Brevard County, Florida, more particularly described as follows: commence at the intersection of the NW corner of Lot 6 of said Plat of Pineda Landings and the easterly right-of-way line of Wickham Rd.; thence run N80deg32'04"E along the north line of said Lot 6, a distance of 278.20 ft. to the NW corner of said Lot 7 for the point of beginning; thence the next 10 courses and distances run along the boundary of said Lot 7; run N80deg32'04"E, a distance of 699.66 ft.; thence run S18deg50'32"E, a distance of 792.27 ft.; thence run S53deg54'42"W, a distance of 390.59 ft.; thence run N36deg05'18"W, a distance of 362.50 ft.; thence run S53deg54'52"W, a distance of 223 ft.; thence run N36deg05'18"W, a distance of 1.29 ft.; thence run S53deg54'42"W, a distance of 12 ft.; thence run N36deg05'18"W, a distance of 73.71 ft.; thence run N53deg54'42"E, a distance of 235 ft.; thence run N36deg05'18"W, a distance of 632.68 ft. to the point of beginning. **Section 13, Township 26, Range 36.** (11.48 acres) Located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.)

DISTRICT 5

(23Z00007) Mehran Ghaeenzadeh (Scott Glaubitz) requests a change of zoning classification from BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of the existing BDP, on property described as Tax Parcel 750, as recorded in ORB 8423, Pages 2213 - 2214, of the Public Records of Brevard County, Florida. **Section 02, Township**

28, Range 36, (8.87 acres) Located on the south side of W. New Haven Ave., approx. 250 ft. east of New York St. (3865 W. New Haven Ave., Melbourne)

Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on **MONDAY, APRIL 17, 2023, at 3:00 p.m.** A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on **THURSDAY, MAY 4, 2023, at 5:00 p.m.** All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

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Brevard County Board of County Commissioners

2725 Judge Fran Jamieson Way
Viera, FL 32940

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ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 23S.02 (23SS00002)
Township 26, Range 36, Section 13

Property Information

Owner / Applicant: **FMKT Mel Owner, LLC**

Adopted Future Land Use Map Designation: Planned Industrial (PI) and Community Commercial (CC)

Requested Future Land Use Map Designation: all Community Commercial (CC)

Acreage: 11.48

Tax Account #: 3011945

Site Location: East side of Wickham Road approximately 0.2 miles south of Pineda Ct

Commission District: 4

Current Zoning: BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing and Wholesale Commercial)

Requested Zoning: PUD (Planned Unit Development) (23Z00008)

Background & Purpose

The applicant is requesting to change the Future Land Use designation on approximately 10 acres from Planned Industrial (PI) to Community Commercial (CC) to establish a consistent FLU of CC for the entire 11.48-acre parcel. The subject property currently retains both PI (approximately 10 acres) and CC (approximately 1.5 acres) FLU designations and is developed (approved under County No. 14SP-00455) as four (4) commercial plazas, including The Fresh Market.

A companion rezoning application was submitted accompanying this request to change the zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing and Wholesale Commercial) to PUD (Planned Unit Development) (**23Z00008**).

The proposed PUD zoning classification may be considered consistent with the existing CC FLU, however, PUD zoning cannot be considered consistent with the existing PI FLU designation, as provided in Sec. 62-1255.

If approved, this request would establish a consistent FLU of CC for the entire 11.48-acre parcel. The proposed PUD zoning classification may be considered consistent with the requested CC Future Land Use designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

FLUE 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 to rezone 11.48 acres to the PUD zoning to allow for the development of an additional parcel (1.27 +/- acres) within Lot 7 of the Pineda Landings platted development. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.

- 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;

The surrounding area is generally commercial along North Wickham Road. There are five (5) FLU designations within 500 feet of the subject site: NC, CC, RES 15, IND, and PI. The predominant FLU designation along this section of North Wickham Road, an urban principal arterial roadway, is CC.

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

19BC23447 was a building permit for a Commercial Addition-Alteration on 5.94-acres located adjacent to the north of the subject parcel.

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

Two zoning actions has been approved within one-half mile:

- **21Z00003, approved by the Board on April 15, 2021, was a request to rezone from BU-1 to BU-2 on 1.34 acres located approximately 832 feet west of the subject property on N. Highway 1.**
- **20Z00014, approved by the Board on October 1, 2020, was a request to rezone from PIP and PUD to all PUD, retaining an existing CUP for alcoholic beverages for on-premises consumption on 16.34 acres located adjacent to the north of the subject property on N. Wickham Road.**

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

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 of the Comprehensive Plan has been identified.

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

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

Criteria:

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

The developed character of the surrounding area is commercial with a multi-family residential development located immediately south of the subject property.

The commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

Role of the Comprehensive Plan in the Designation of Commercial Lands

FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject property has frontage on North Wickham Road, an urban principal arterial roadway operating at 65.70% of Maximum Acceptable Volume (MAV).

B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

There are CC future land use map designations adjacent to the subject property along North Wickham Road.

C. Existing commercial development trend in the area;

Existing commercial development in the immediate area includes a commercial medical plaza (Brevard Medical City), retail, restaurants, and a financial institution.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

E. Availability of required infrastructure at/above adopted levels of service;

A preliminary concurrency analysis did not indicate that the maximum development potential from the proposed Future Land Use designation would cause a deficiency in the transportation adopted level of service.

The parcel is within the City of Cocoa utilities service area for public water and within the Brevard County utilities service area for sanitary sewer.

F. Spacing from other commercial activities;

The closest Community Commercial activities are located immediately to the west of the subject site with frontage on North Wickham Road and abutting the subject site to the north.

G. Size of proposed commercial designation compared with current need for commercial lands;

The 11.48-acre subject property is currently designated PI and CC. The request for CC across the entire parcel represents an increase of approximately ten (10) acres of CC.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

The subject property is currently developed and future development activities would be considered infill and not an expansion of strip development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations

FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

Locational and Development Criteria for Community Commercial Uses

FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are

acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The subject property is located on N. Wickham Road, an urban principal arterial roadway, at the intersection of Jordan Blass Drive, a local roadway.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

There are approximately 22 acres of Community Commercial designated properties adjacent to the subject site on the east side of Wickham Road. This request, if approved, would represent an increase of approximately ten (10) acres of CC.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

N. Wickham Road, an urban principal arterial roadway, is a commercial corridor serving the local community and the surrounding region. As such, this area presents an historical strip development pattern and does not lend itself to cluster commercial analysis.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

This criterion will be addressed at the site plan review stage of development.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The overall subject site has the potential for a 500,069 sq. ft. building. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial	PUD; PIP	CC; PI
South	Residential (multi-family)	RU-2-15	RES 15
East	Residential (mobile home park)	TR-3	NC
West	Commercial	BU-1	CC

To the north is a developed commercial complex (Brevard Medical City) with CC FLU (approximately 13.3 acres) and PI FLU designations (approximately 10.0 acres).

To the south is a 26.76-acre parcel with RES 15 FLU developed as multi-family condominiums.

To the east, across Florida East-Coast Railway, is a residential mobile home park with NC FLU.

To the west, across N. Wickham Road, is a 1.0-acre parcel with CC FLU developed as a commercial bank and a 0.98-acre parcel with CC FLU developed as a commercial fast-food restaurant.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Wickham Road (an urban principal arterial roadway), from Pineda Causeway to Jordan Blass Drive, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 65.70% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.0%. The corridor is anticipated to operate at 65.70% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

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

The parcel is within the City of Cocoa utilities service area for public water and within the Brevard County utilities service area for sanitary sewer.

Environmental Constraints

- Site impacted under previous development orders.

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

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00008**

Applicant: MBV PUD

Zoning Request: BU-1 & BU-2 to PUD

Note: Require zero frontage to sell a piece of the property.

P&Z Hearing Date: 04/13/23; **BCC Hearing Date:** 05/04/2023

Tax ID No: 3011945

- 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:

- Site impacted under previous development orders.

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

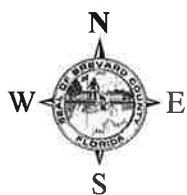
Land Use Comments:

Site impacted under previous development orders. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

LOCATION MAP

FMKT MEL OWNER LLC

23SS00002



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.

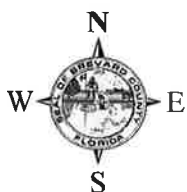
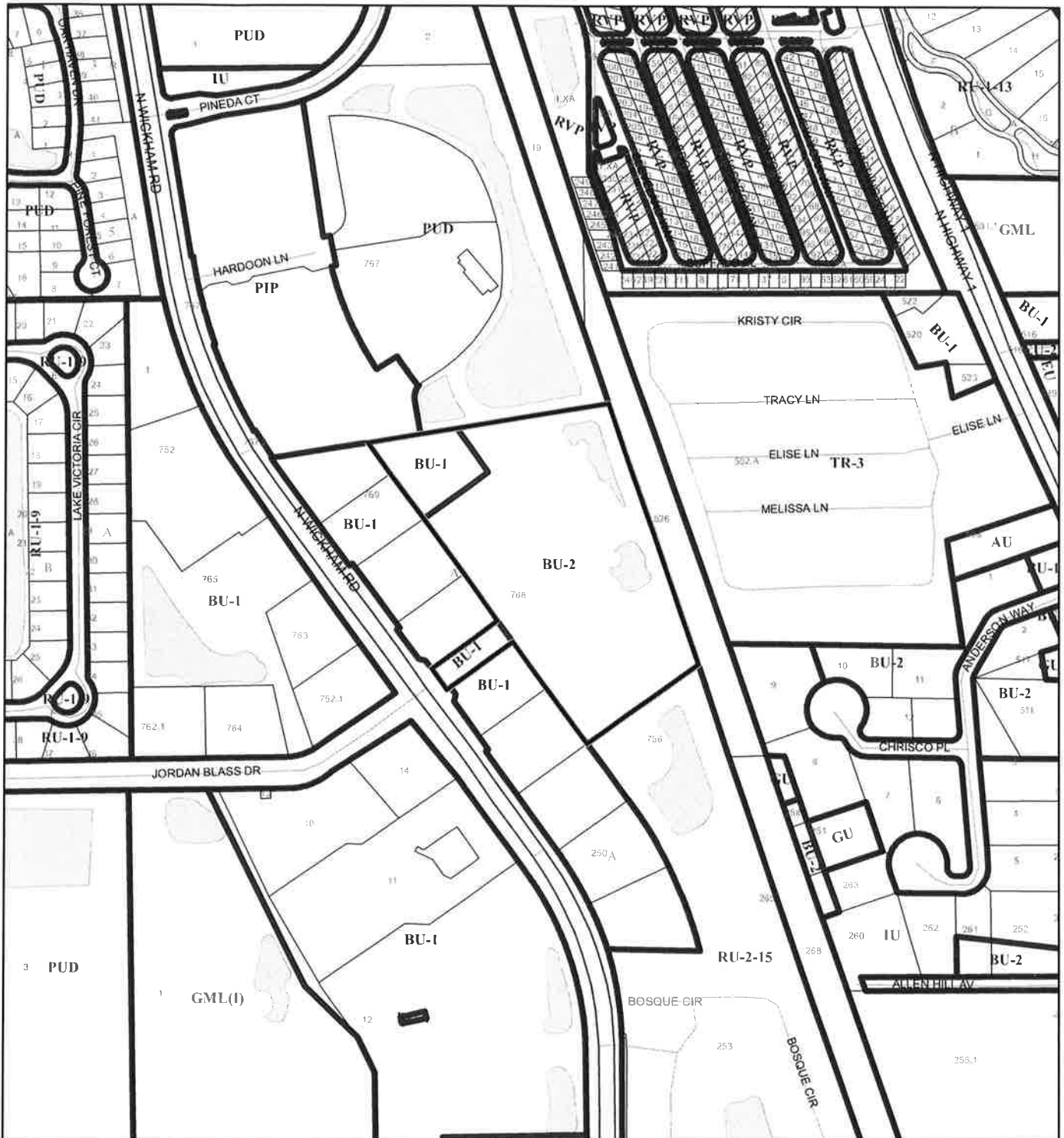
Produced by BoCC - GIS Date: 3/24/2023

— Buffer
 ■ Subject Property

ZONING MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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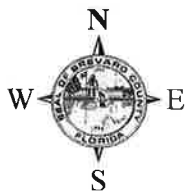
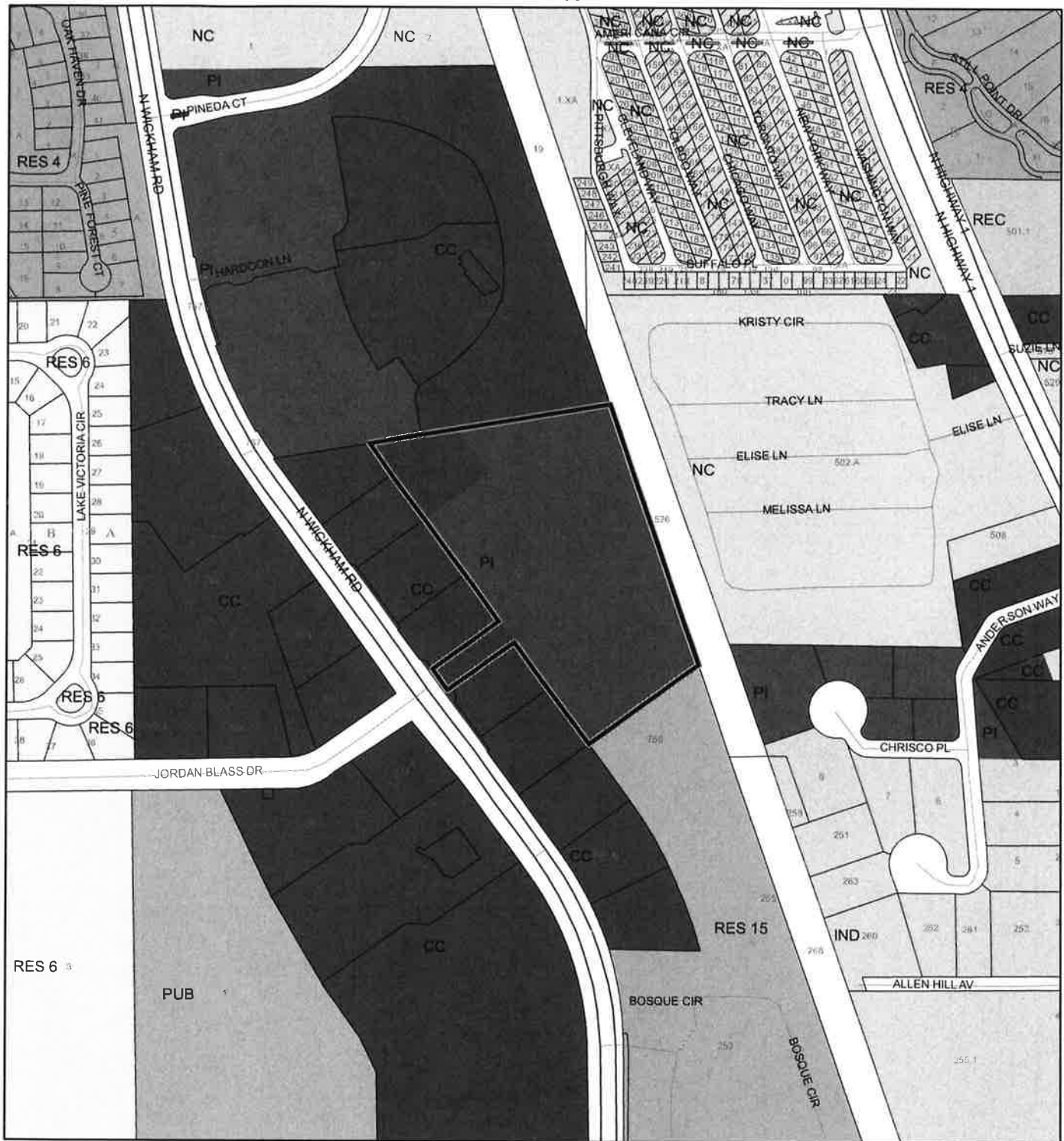
Produced by BoCC - GIS Date: 3/24/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

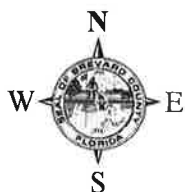
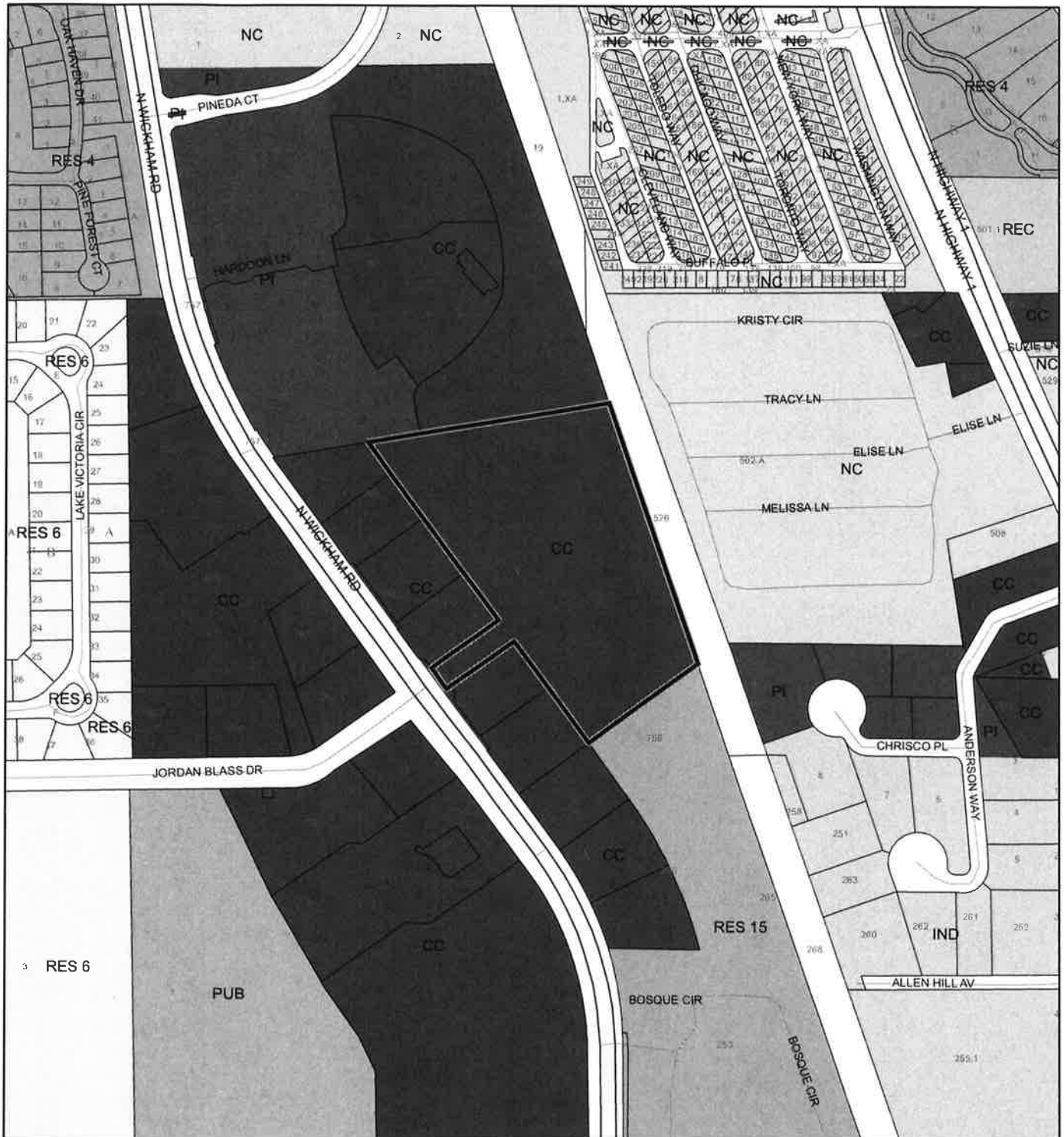
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PROPOSED FUTURE LAND USE MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

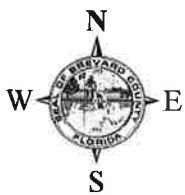
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AERIAL MAP

FMKT MEL OWNER LLC

23SS00002




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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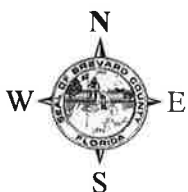
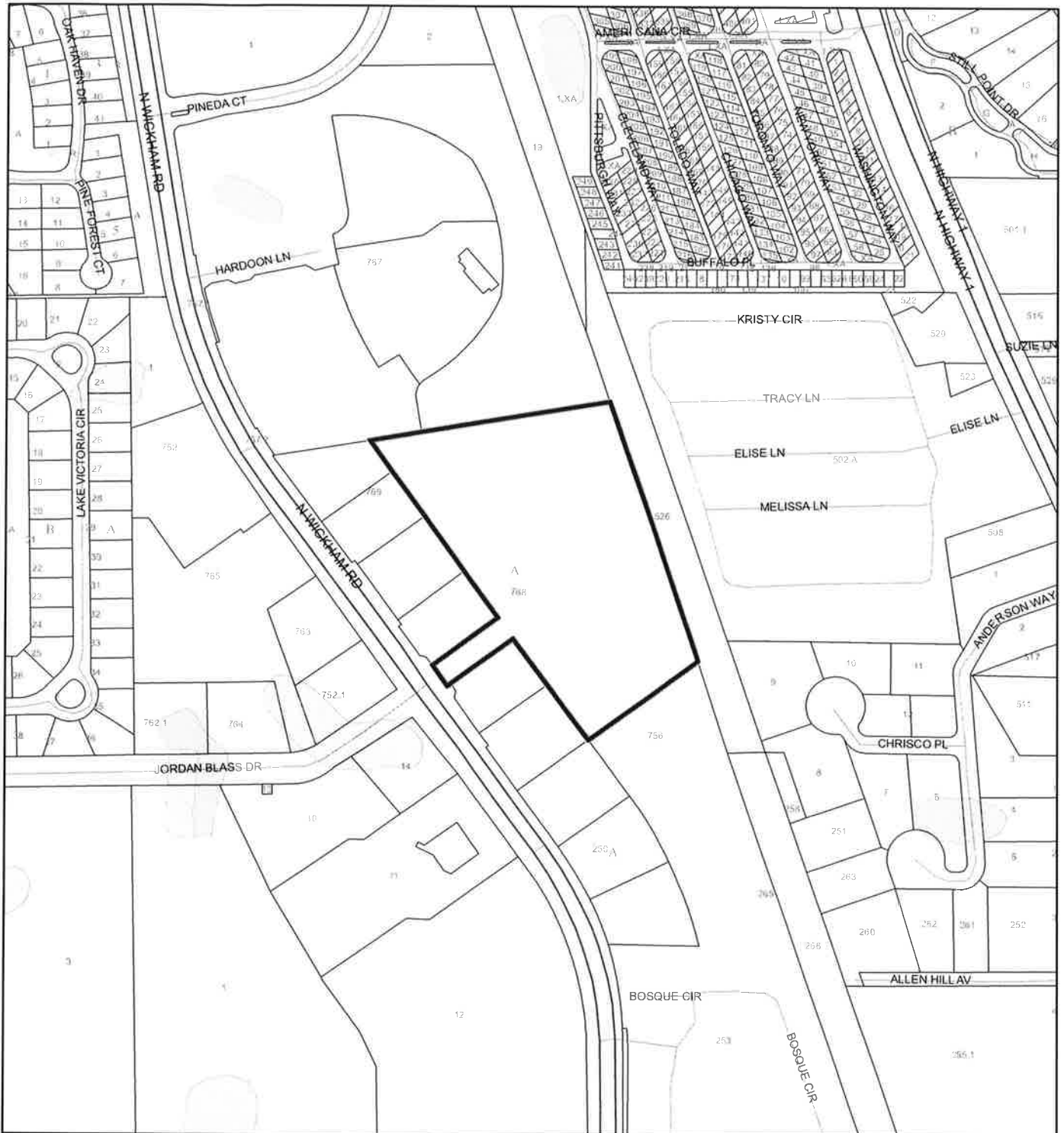
 Subject Property

 Parcels

NWI WETLANDS MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/24/2023

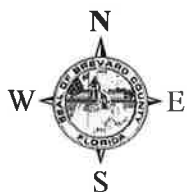
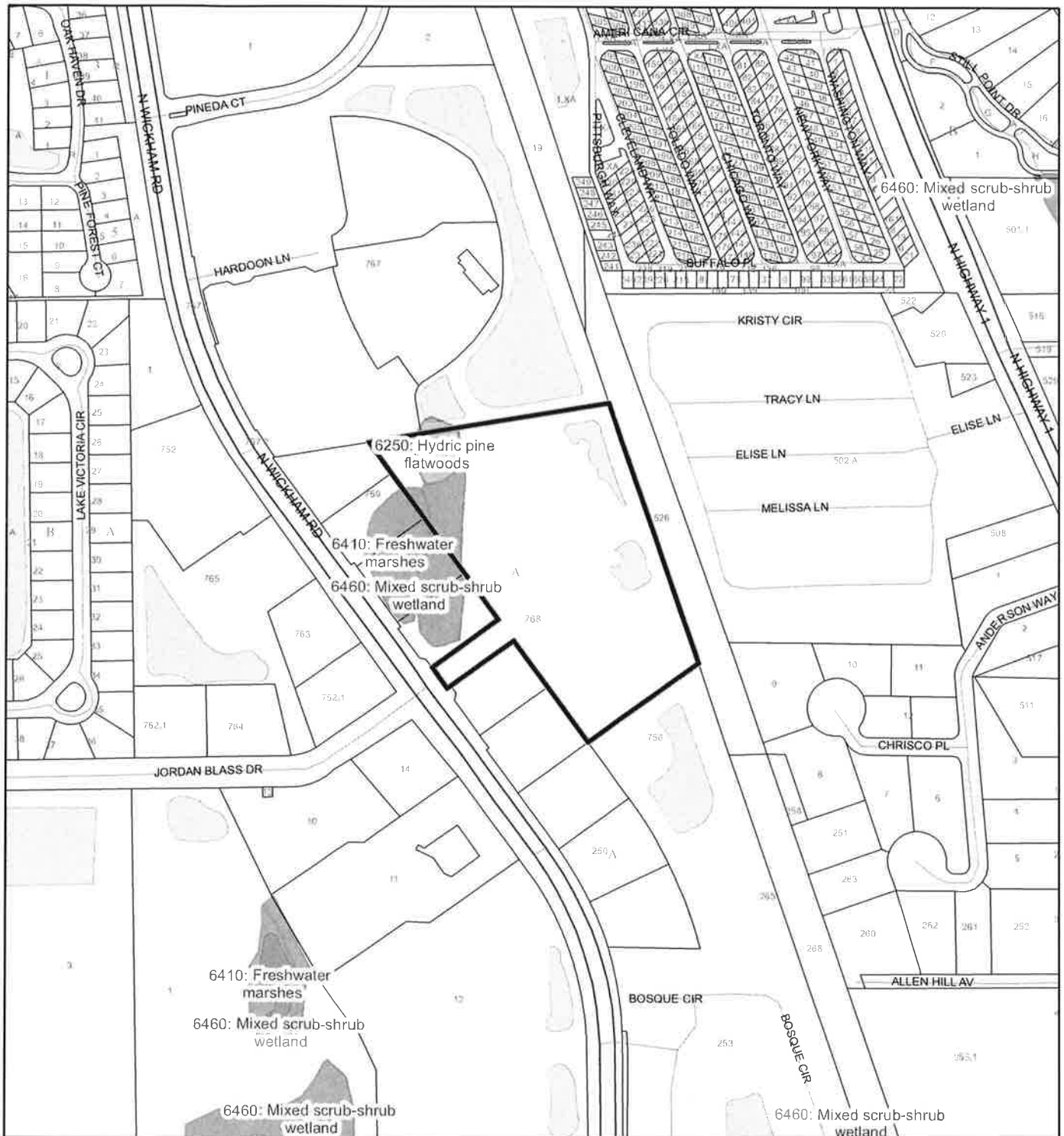
National Wetlands Inventory (NWI)

	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

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 3/24/2023

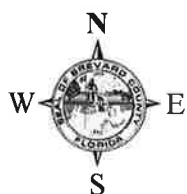
SJRWMD FLUCCS WETLANDS

- 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

23SS00002



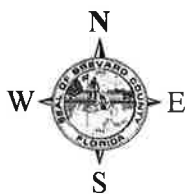
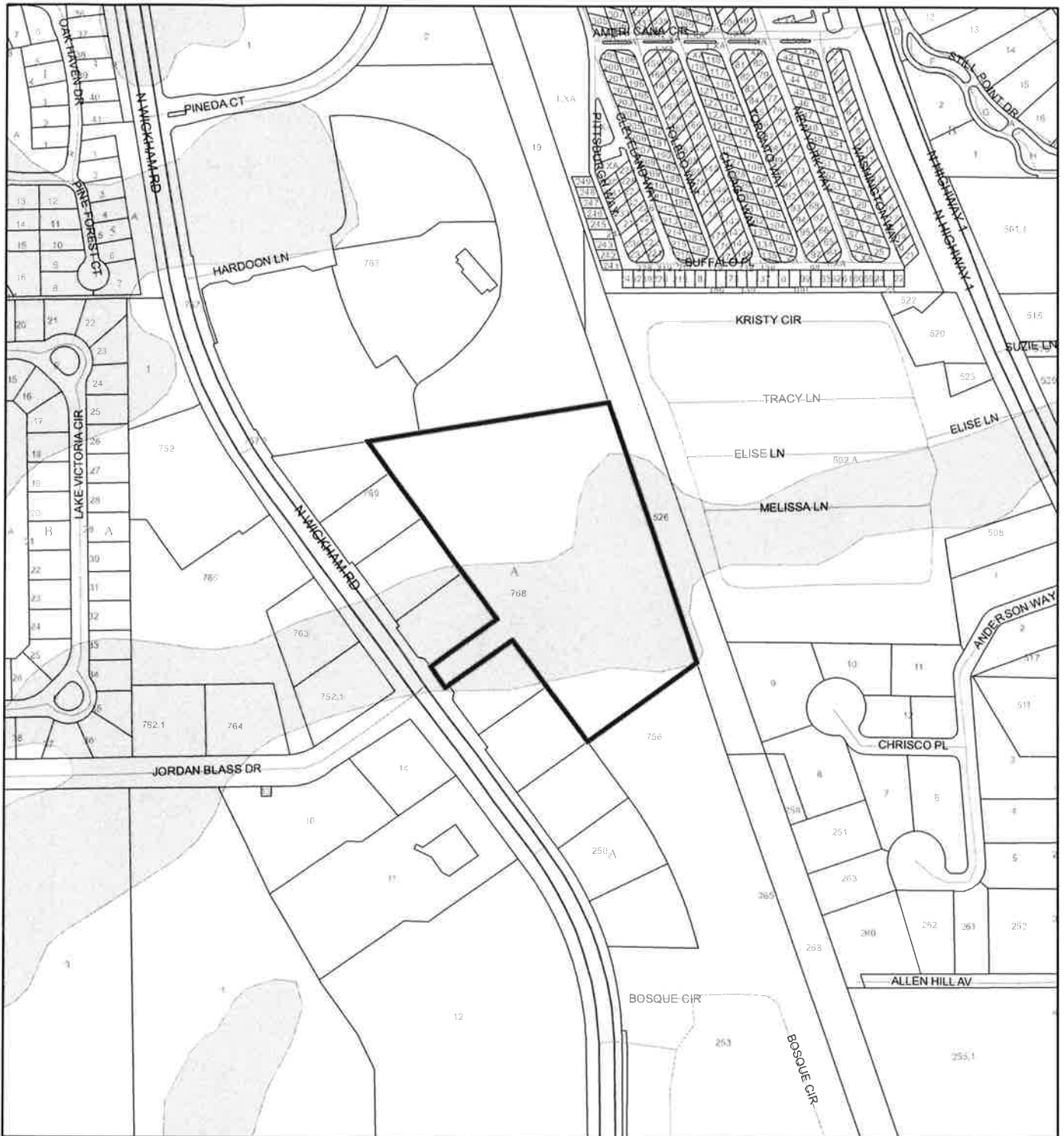
Produced by BoCC - GIS Date: 3/24/2023

☐ Parcels

FEMA FLOOD ZONES MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 3/24/2023

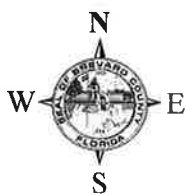
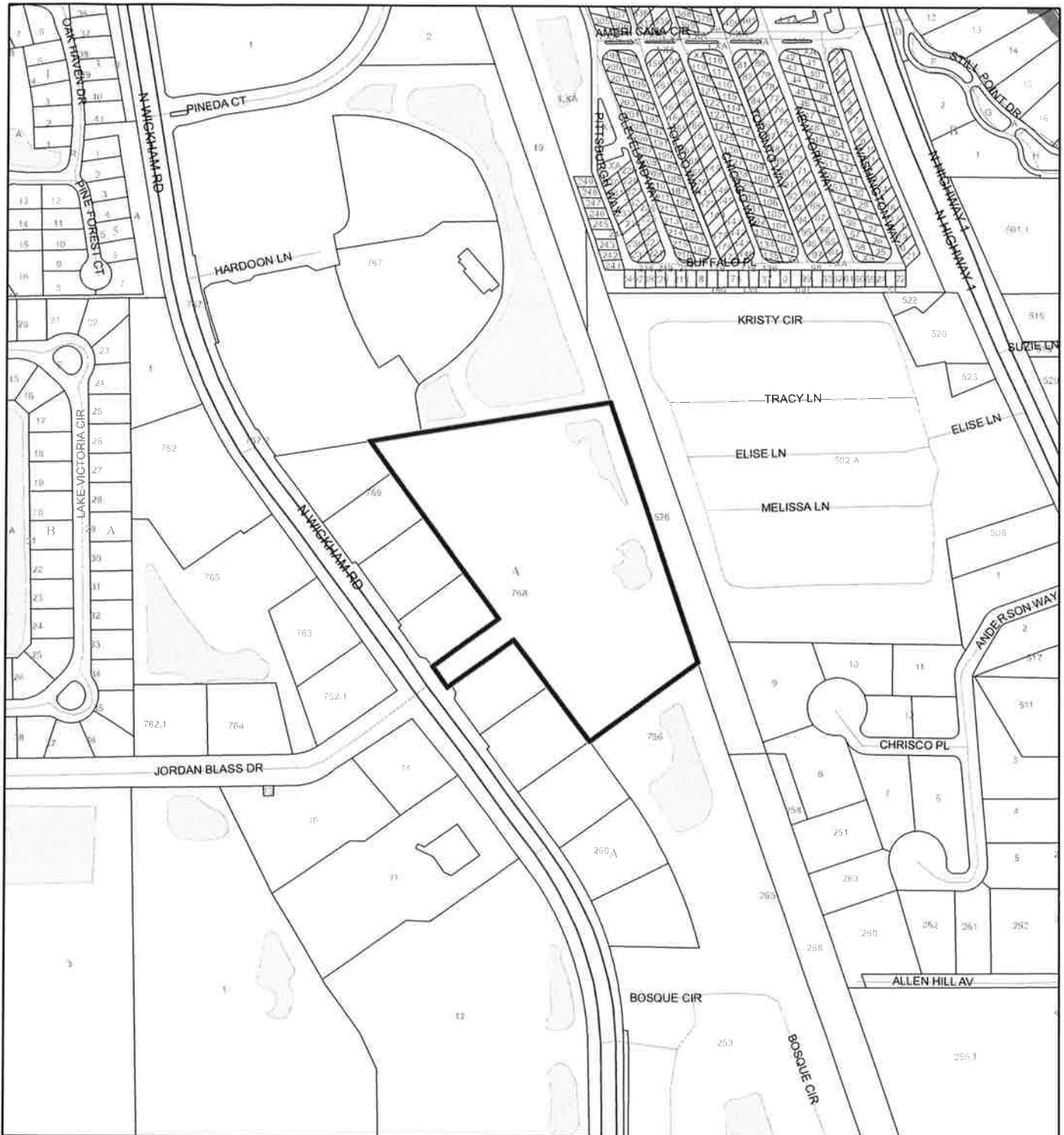
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/24/2023

— Subject Property

□ Parcels

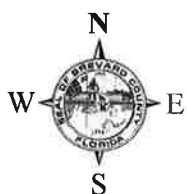
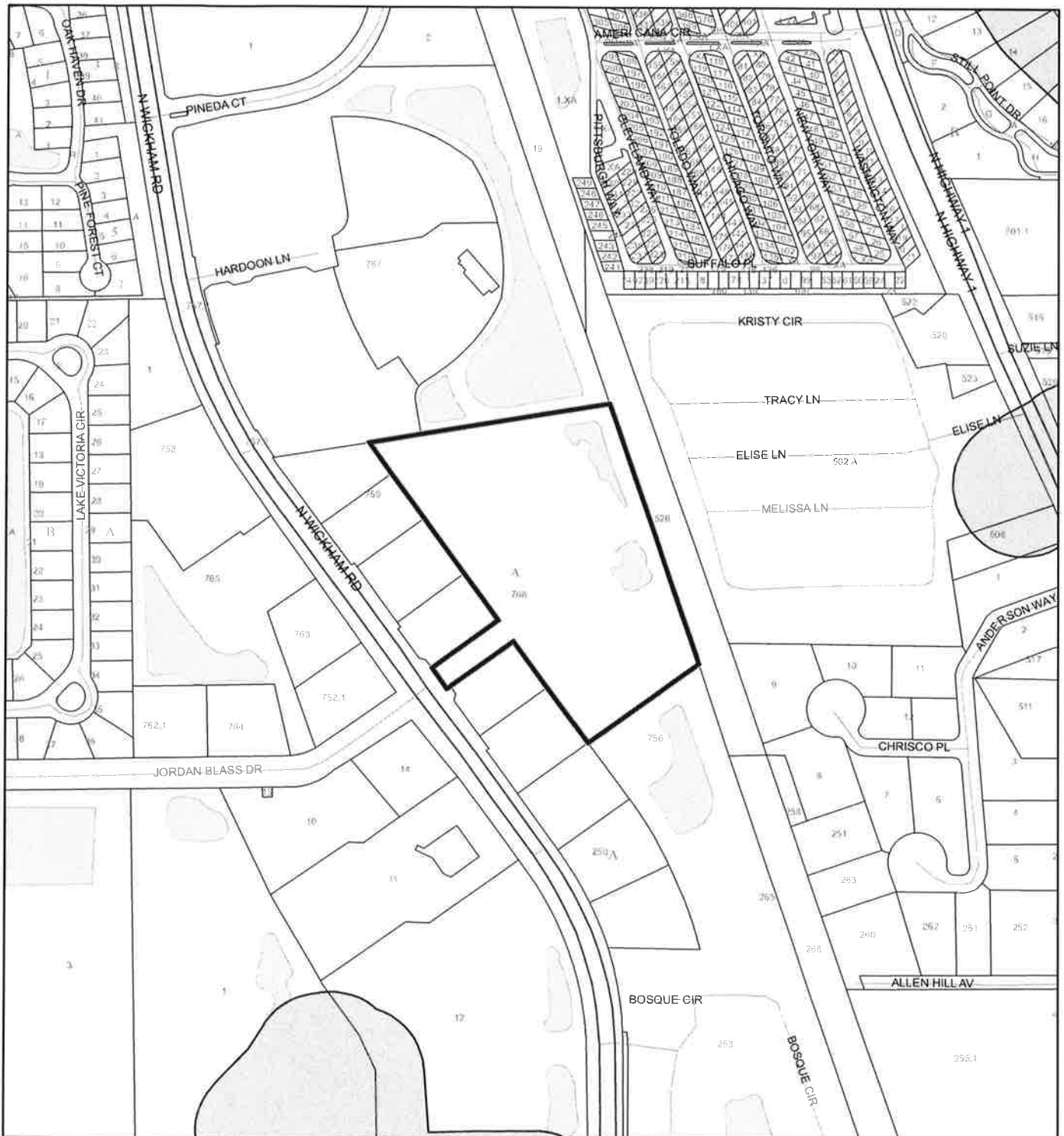
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FMKT MEL OWNER LLC

23SS00002



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Subject Property

Parcels

Septic Overlay

40 Meters

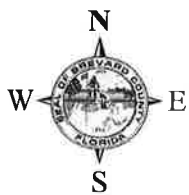
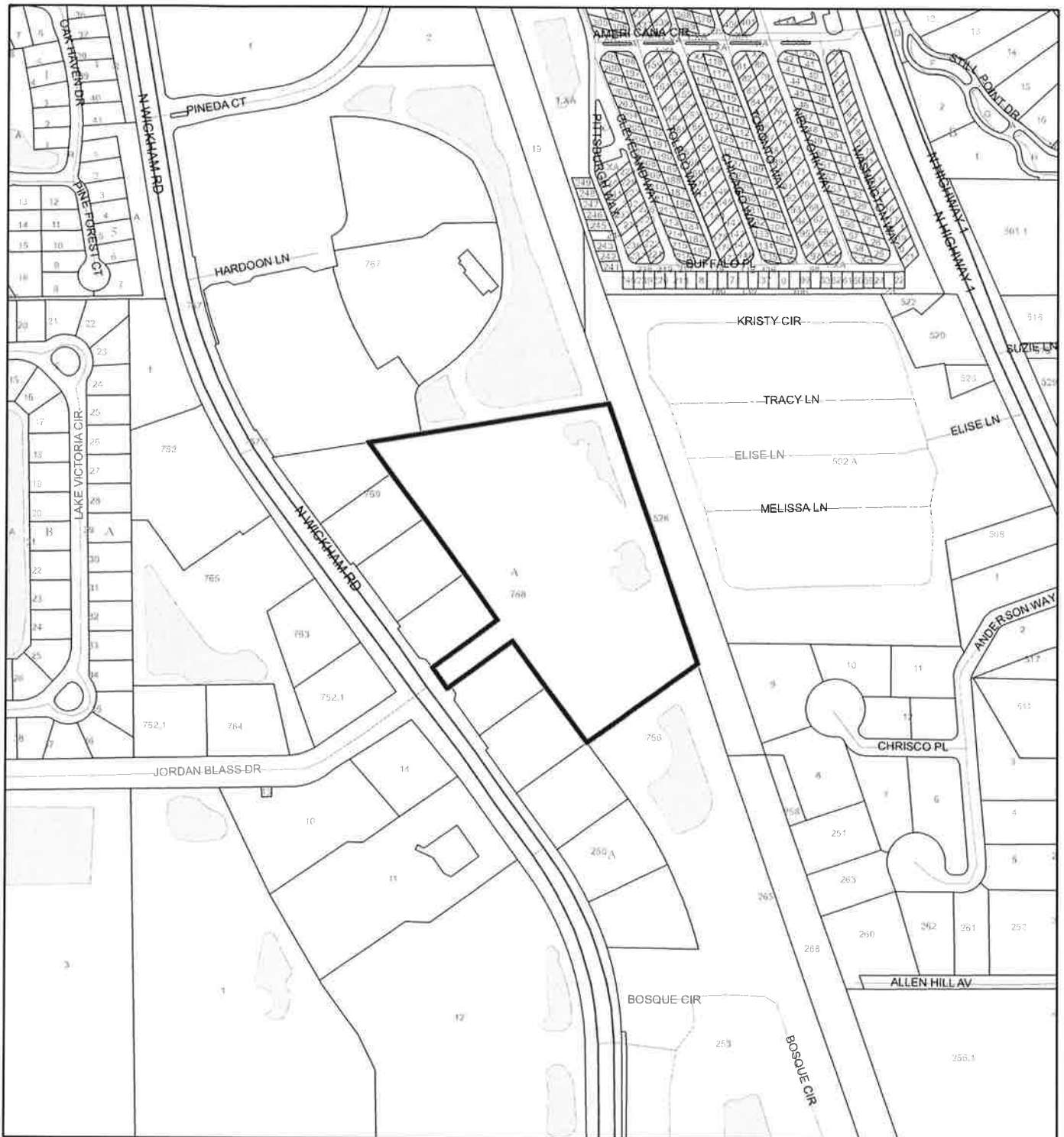
60 Meters

All Distances

EAGLE NESTS MAP

FMKT MEL OWNER LLC

23SS00002



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 Subject Property

 Parcels

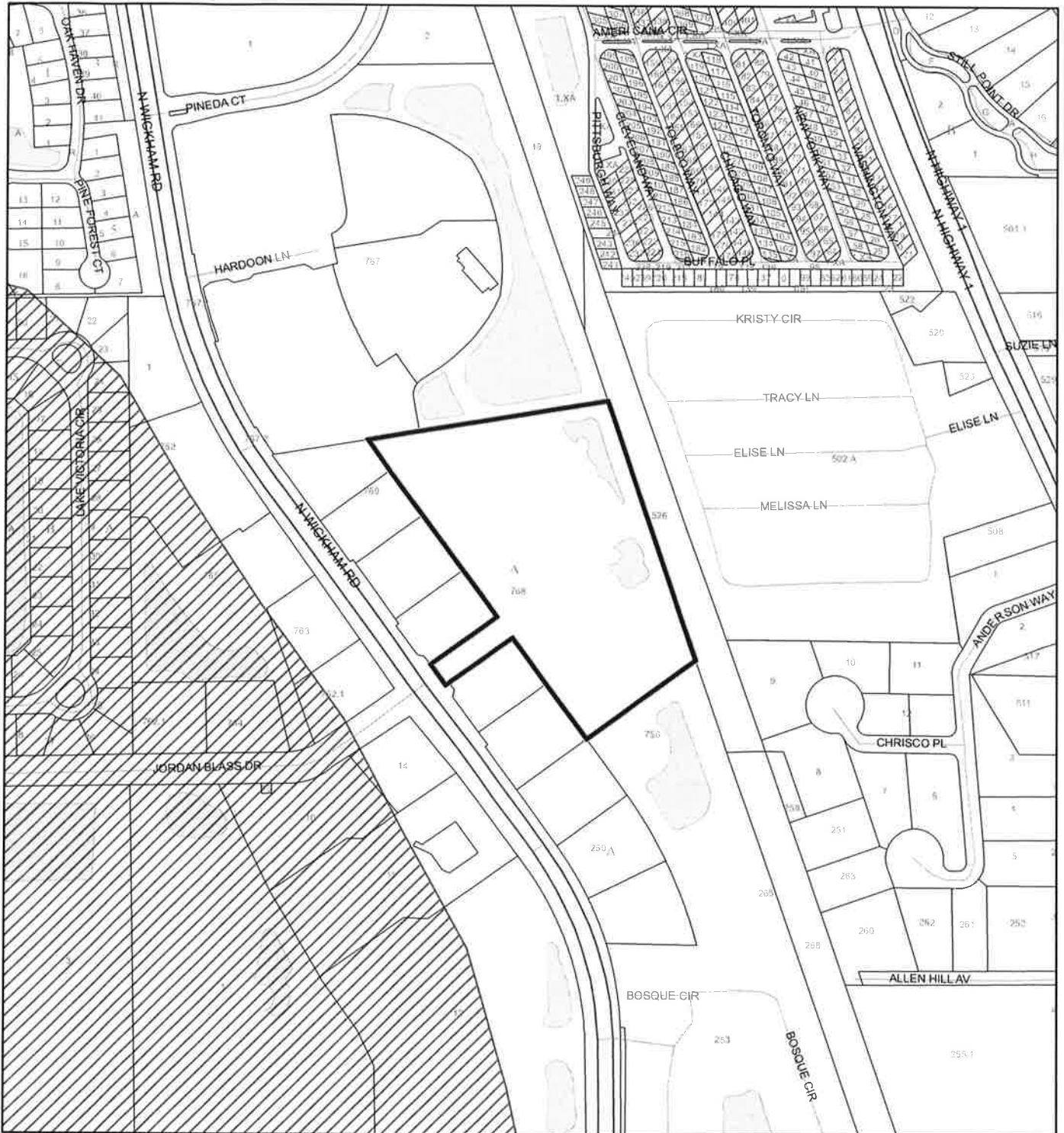


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

FMKT MEL OWNER LLC

23SS00002



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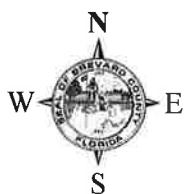
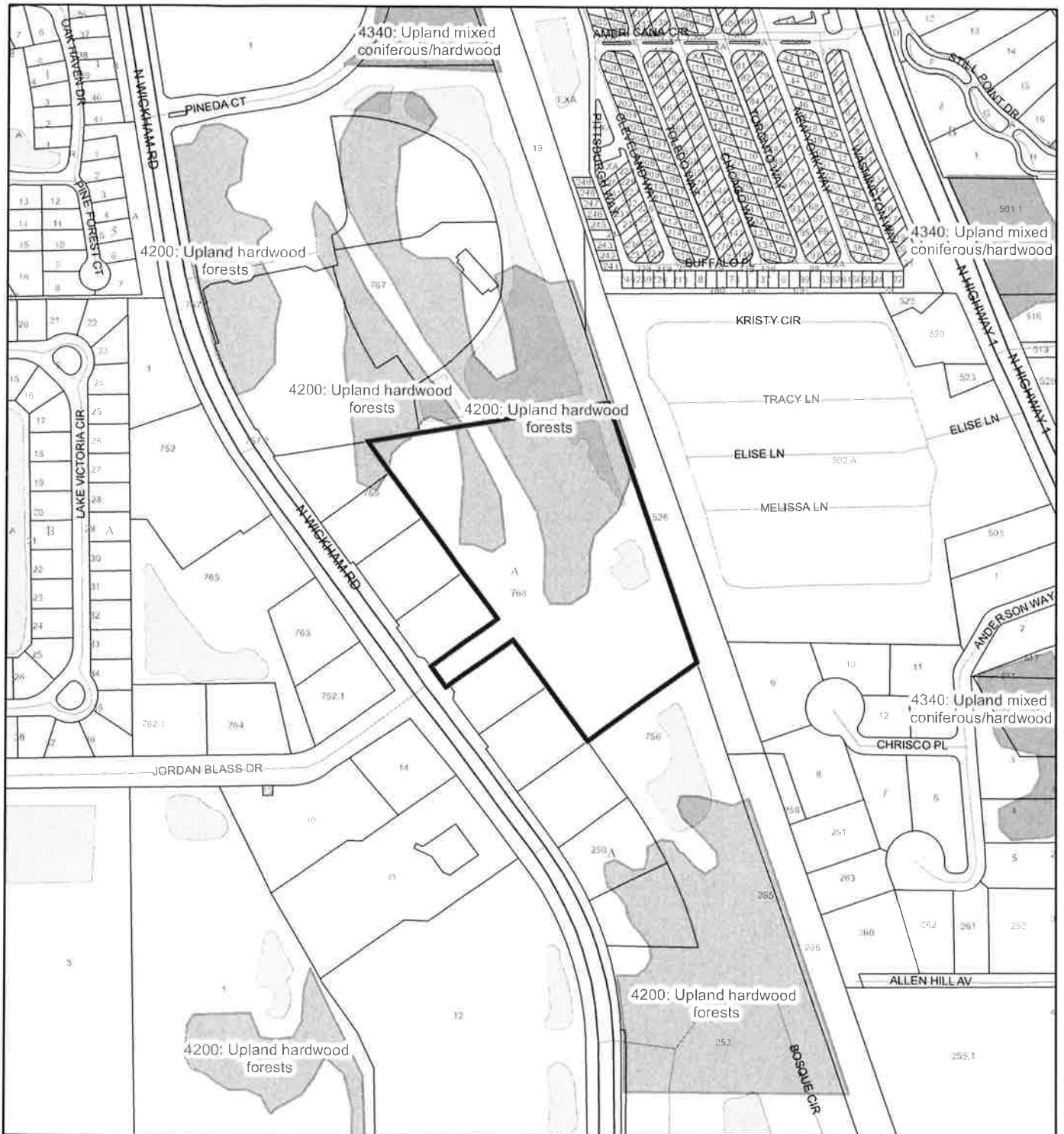
Produced by BoCC - GIS Date: 3/24/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FMKT MEL OWNER LLC

23SS00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/24/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

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

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

Board members present were: Board members present were: Ron Bartcher (D1); Robert Sullivan (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); and John Hopengarten (BPS). Robert Brothers' presence was noted at 3:09 p.m.

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

Excerpt of Complete Agenda

FMKT Mel Owner, LLC (Bruce Moia)

A Small Scale Comprehensive Plan Amendment (23S.02), to change the Future Land Use designation from PI (Planned Industrial) and CC (Community Commercial), to all CC, on 11.48 acres, located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.) (23SS00002) (Tax Account 3011945) (District 4)

FMKT Mel Owner, LLC (Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to PUD (Planned Unit Development) on 11.48 acres, located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.) (23Z00008) (Tax Account 3011945) (District 4)

Bruce Moia, MBV Engineering, stated the subject property is in the Fresh Market shopping center, which has several outparcels. When the plat was created, all of the access was through the main driveway, but the main driveway is fairly narrow and there is one part of the property that has not yet been developed. It has already been designed and permitted, and there is one building left to be built in what is the one big lot that has the shopping center. He said the desire of the developer is to have the ability to sell the property. He stated another plat and lot was created, but it was discovered that the only way to get approval because of the narrow frontage is to ask for PUD zoning; however, the PUD zoning is not compatible with the existing land use, so they are also asking for a land use change so that the PUD can be compatible with the land use, the plat can be recorded, and the lot can be sold to a potential buyer. He noted it will look the same as when it was approved, but there will be a lot line and they will have the ability to sell the property rather than have it be a part of the existing shopping center.

No public comment.

Motion by Robert Sullivan, seconded by Debbie Thomas, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI and CC to all CC. The motion passed unanimously.

Motion by Debbie Thomas, seconded by Logan Luse, to recommend approval of the change of zoning classification from BU-1 and BU-2 to PUD. The motion passed unanimously.