



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.3.

12/3/2020

### Subject:

Jason A. and Christina N. Spina request a change of zoning classification from GU and AU to all AU. (20Z00026) (Tax Account 2314129) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) and AU (Agricultural Residential) to all AU.

### Summary Explanation and Background:

The applicant requests a change of zoning classification from AU and GU to all AU for the purpose of having the entire parcel consistent with the AU-zoned southern portion of the parcel and to build an accessory building larger than GU zoning permits. The parcel is two combined lots, Lot 10 and 11, Block 19, 4.76 total acres, located at 5035 Pine St. in Canaveral Groves. The AU portion of the parcel currently is developed with a 2,948 square-foot single-family residence along with residential and agricultural amenities.

The GU classification allows single-family residences on five-acre lots with a minimum width and depth of 300 feet, and a minimum house size of 750 square feet. The AU zoning classification permits single-family residences and agricultural uses on 2.5-acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU classification permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, as well as the raising/grazing of animals, fowl, beekeeping, and plant nurseries.

The subject property is consistent with the current Residential 1:2.5 Future Land Use designation.

The parcel abuts GU zoning along its northern, eastern, and southern boundaries. The abutting parcels are developed with single-family residences.

The parcel is not serviced by Brevard County sewer. The closest available sewer line is approximately 2.8 miles southerly of the subject property on the west side of Adams Road. The parcel is serviced by City of Cocoa water.

The Board may wish to consider whether this request for AU zoning is consistent and compatible with the

surrounding neighborhood which has AU and GU zoning. In addition, the Board may wish to consider potential impacts of agritourism on the surrounding properties.

On November 9, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

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

**Resolution 20Z00026**

On motion by Commissioner Lober, seconded by Commissioner Zonka, the following resolution was adopted by a unanimous vote:

**WHEREAS, Jason A. and Christina N. Spina** have requested a change of zoning classification from GU (General Use) and AU (Agricultural Residential to all AU, on property described as Lots 10 & 11, Block 19, Canaveral Groves Subdivision, as recorded in Survey Book 2, Page 55, of the Public Records of Brevard County, Florida. **Section 33, Township 23, Range 35.** (4.76 acres) Located on the east side of Pine St., approx. 630 ft. north of Areca Palm St. (5035 Pine St., Cocoa); and

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

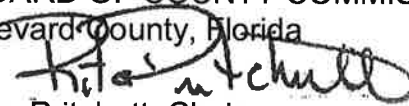
**WHEREAS,** the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from GU and AU to all AU 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 December 3, 2020.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on December 3, 2020.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – November 9, 2020

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.**



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or  
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 202 00026

Existing FLU: Res 1:2.5 Existing Zoning: G4 + A4

Proposed FLU: NA Proposed Zoning: ALL A4

**PROPERTY OWNER INFORMATION**

If the owner is an LLC, include a copy of the operating agreement.

**Jason & Christine Spina**

Name(s)		Company	
<u>5035 Pine street</u>	<u>Cocoa</u>	<u>FL</u>	<u>32927</u>
Street	City	State	Zip Code
<u>jason@fastprotectionsys.com</u>		<u>3214038895</u>	
Email	Phone	Cell	

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Name(s)		Company	
Street	City	State	Zip Code
Email	Phone	Cell	

## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 4.76

Reason for Request:

my parcel the house is on is zoned AU, the property next door I bought isn't, I would like all ~~3~~<sup>4.76</sup> acres to be AU as I want to build a garage/shed on it in the future.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

[Signature]  
Signature of Property Owner or  
Authorized Representative

8/14/20  
Date

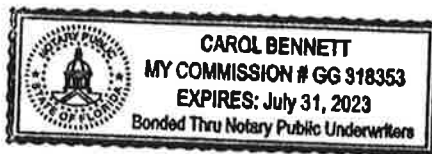
State of FLORIDA

County of BREVARD

Subscribed and sworn to me before me this 14<sup>th</sup> day of, Aug, 20 20,  
personally appeared Jason Spina, who is personally known to me or  
produced \_\_\_\_\_ as identification, and who did / did not take an oath.

[Signature]  
Notary Public Signature

Seal



Office Use Only:

Accela No. 202 00026 Fee \$588.00 Date Filed 8-17-2020 District No. 1

Tax Account No. (list all that apply) 231412 9

Parcel I.D. No.

23 35 33 01 19 11  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: PB Notification Radius: 500 ft

MEETINGS

DATE

TIME

<input checked="" type="checkbox"/> P&Z	<u>November 9, 2020</u>	<u>3:00pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>December 3, 2020</u>	<u>5:00pm</u>

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials PB

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes ☐ No If yes, list \_\_\_\_\_

Location of subject property: East side of Pine St., 630 ft North of Arca Palm St.

Description of Request: Rezone from GU + A4 to ALL A4

ACCELA # 20Z 00026

## DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Authorization to Act Form <sup>1</sup>	Recorded Property Deeds	Legal Description of Request <sup>2</sup>	Certified Survey <sup>3</sup>	Property Appraisers Map	Concurrency	School Concurrency <sup>3</sup>	Wetland Survey <sup>4</sup>	CUP Worksheet & Sketch <sup>5</sup>	Comp Plan Information <sup>6</sup>	Notice to Applicants	Neighbors Affidavit <sup>7</sup>	Letter to Zoning Official	Variance Hardship Worksheet <sup>9</sup>	*Additional Documentation	Fees
	NUMBER OF COPIES REQUIRED																
Staff to check indicating receipt	✓	✓	✓	✓	NA	✓		NA	NA			✓					✓
Comprehensive Plan Amendment <sup>6</sup>	1	1	1	2	2	1		1			1					*	Y
Zoning request	1	1	1	1	1 <sup>8</sup>	1	1	1	1			1				*	Y
Conditional Use Permit (CUP)	1	1	1	1	1 <sup>8</sup>	1				1		1					Y
AA – Waiver	1	1			1	1							1	1			Y
AA – Easement or Flag lot	1	1	1	1	1	1											Y
Variance	1	1	1	1	1	1									1	*	Y

<sup>1</sup>If the property is not owned in entirety by the applicant, either an Authorization to Act form or a notarized letter from each/all property owners of the subject property is required.

<sup>2</sup>Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup>School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup>Wetland Survey required on Commercial or Industrial property.

<sup>5</sup>CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup>Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup>Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup>Survey must be submitted if requested by staff.

<sup>9</sup>Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

**\*Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

**Traffic Impact Analysis (TIA):** TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

**Environmental Impact Analysis:** The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

**Water and Sewer Demand:** Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.



# CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

PUBLIC HEARING APPLICATION FEES	BASE FEE	ACREAGE FEE	UNIT FEE	SUB-TOTAL
<b>REZONING</b>				
Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00*	( -5) x 24**		<u>\$288.00</u>
Single-Family Residential	849.00*	( -5) x 24**		
Single-Family Mobile Home	849.00*	( -5) x 24**		
Commercial/Planned Commercial	1,184.00	( ) x 24		
Tourist Commercial	1,855.00	( ) x 45		
Industrial/Planned Industrial	1,855.00	( ) x 45		
Planned Unit Development	5,661.00	( ) x 45		
Single-Family Attached Residential	960.00	( ) x 24		
Multiple-Family Residential	960.00	( ) x 24		
Recreational Vehicle Park	1,408.00	( ) x 24		
Mobile Home Park/Mobile Home Co-op	1,408.00	( ) x 24		
<b>CUP'S OR ROU APPLICATIONS</b>				
Fee per request (with rezoning)	447.00			
Fee per request (without rezoning)	849.00			
<b>OTHER APPLICATION FEES</b>				
Consultant fee Retainer per Tower Application	6,934.00			
Transfer of Development Rights	1,520.00			
Comprehensive Plan Appeals (Vested Rights)				
One (5.0 acres or less) Single-family residential	433.00			
All other Appeals	1,733.00			
Variance/Appeals of Administrative Interpretation				
Base Fee	598.00			
Fee for each additional request	182.00			
Special Hearing Fee for P & Z / LPA	3,692.00			
Special Hearing Fee for BOA	1,872.00			
All Other Unlisted Zoning Applications	849.00			
Miscellaneous				
<b>COMPREHENSIVE PLAN AMENDMENTS</b>				
Small Scale Amendment	919.00			
Large Scale Amendment	1,785.00	\$43 per acre		
Maximum Fee on a Single Application	17,334.00			
SUB-TOTAL ****				<u>\$288.00</u>
<b>FEES COLLECTED FOR ADMINISTRATIVE ACTIONS</b>				
Office of Natural Resources zoning review (if applicable)	300.00			<u>300.00</u>
flag lot &/or easement review	360.00			
Land Development PUD review	100.00			
flag lot &/or easement review	150.00			
Address Assignment review of flag lot &/or easement	100.00			
Zoning fee	277.00			
<b>BASE FEE ADJUSTMENTS</b>				
* If area for these requests have the potential for only one more lot, the fee is	288.00			
** Maximum acreage fees for these requests shall be	2,240.00			
*** Maximum Planned Unit Development Fee shall be	13,432.00			
**** Maximum fee for all other zoning requests shall be	8,955.00			
TOTAL				<u>\$588.00</u>



Planning & Development  
Central Cashier  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Melbourne, FL 32940

## RECEIPT OF PAYMENT

Payment Date: 8/17/2020  
Receipt #: 575935  
Transaction Id# 79821645

Payment Method	Payment Reference #	Amount Paid	Comments
Credit Card	79821645	\$588.00	
		\$588.00	Total
<b>5035 PINE ST, COCOA, FL 32927</b>			
Zoning Rezoning		\$588.00	
<b>20Z00026</b>			
<b>Fee</b>	<b>Invoice #</b>	<b>Amount</b>	
NRMO	676733	\$300.00	
Zoning/Variance	676733	\$288.00	
<b>Grand Total</b>			<b>\$588.00</b>

Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.  
To verify fees please visit the Brevard County Planning & Development Search.

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)  
P (321) 633-2068 F (321) 633-2052



**Zoning Information Worksheet**

Owner(s): Jason A Spina and Christine N. Spina  
(Does this match the warranty deed?)

Applicant(s): Jason A Spina  
(Does this person have authorization from everyone listed on the warranty deed?)

Parcel ID#: 23-35-33-01-19-11  
(If more than one parcel, they must share a property line to be on the same application.)

Present Zoning: GU + AU

Is there a BDP or a CUP on the property? Yes/No: (No) (If yes, attach BDP)

Existing BDP states: \_\_\_\_\_

Requested Zoning/CUP: To ALL AU

BDP Requested? Yes/No: (No)

If CUP Request, do you have a CUP worksheet filled out by the applicant? Yes/No

Previously Approved Zoning Actions on lot:

Original zoning on GU portion  
Z-10505 on AU portion

Is this a non-conforming lot of record? Yes/No: Why?

Non-Conforming to: Lot size of GU in Canaveral Groves  
Survey Book 2, Page 55, August 1960

Is this a substandard lot? Yes/No: Why?

Lot size is substandard to GU. Lot in Canaveral  
Groves Survey Book 2, Page 55.

What is the FLU Designation of the property?: Res 1:25

- Is the requested zoning consistent with the FLU? Yes/No: (No) (See compatibility table)
- If no, what is the requested **small scale plan amendment**? (Must be 10 acres or less)

Character of the Area – List the recent zoning changes in same section? (Last 3 years)

Action #, Date of action and State what changed?

Z# 16 PZ 00079, 18 PZ 00145, 19 PZ 00132

If this is a CUP request, list all CUP's on adjacent properties: NA

Abutting property zoning: N G4 S AU E Road W G4

JPA/Special Board/Special Section? Yes ☒ No ☐ (Circle one and make a note on the application) PSJ, NMI, MIRA  
ROCKLEDGE, MELBOURNE, PALM SHORES, TITUSVILLE, PALM BAY or within 500' of PALM BAY EXTENSION

Reason for Rezoning Request: Owns Abutting Lot to South zoned  
AU. Wants same AU zoning for all of parcel  
To be able to build larger Garage than G4 allows.

- If proposing single-family or multi-family how many units? 0
- If proposing a CUP for alcohol, how many seats? NA Bar or Restaurant? NA
  - Do you have a certified survey indicating there are no churches or schools within 400'? Yes/No
  - Do you have a site plan showing the layout and parking configuration? Yes/No
  - Do you have a CUP worksheet filled out by the applicant? Yes/No
- If the request is for commercial zoning, do you have a wetland survey that includes a legal description of the wetland? Yes/No (If no, NR must have checked no on the front of the application)

Existing structures/uses on the property? Vacant Parcel

Describe the character of the area based upon Administration Policy 3 of FLUE (attached):

Area is RES 1:25 with AU & G4 zoning

Concerns raised as part of request: Can several Grove Lots in  
Survey Book 2, page 55, Nonconforming Lots  
of Record.

Other options discussed with applicant: Rezoning to AU(L). Applicant  
wants same AU as their Lot to South is zoned

Did you print out the Property Appraiser's Map for this property?  
Did you mark the map?  
Did you stamp the deed(s)?

Paul Body  
Planner Signature

8-17-2020  
Date

### **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 foresee ably 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 an 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.

## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

asou@pastprotection.org  
e-mail address

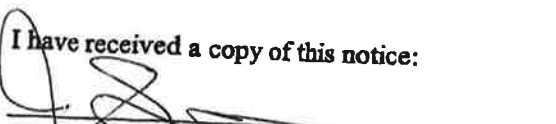
( )

fax number

or U.S. Mail

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)

**WARRANTY DEED**

NDIVID. TO INDIVID.

Record and Return to:

Name: **International Title and Escrow Co., LLC**

Address: 226 North Atlantic Avenue  
Cocoa Beach, Florida 32931

File Number: **2018-1169**

This Instrument Prepared by:

Attn.: **DONNA HARRIS**

Name: **International Title and Escrow Co., LLC**

Address: 226 North Atlantic Avenue  
Cocoa Beach, Florida 32931

Property Appraisers Parcel Identification

Folio Number(s): 23-35-33-01-19-10

THIS INSTRUMENT CONTAINS THE OFFICIAL  
RECORD BOOK AND PAGE NUMBERS DESCRIBING  
THE PARCELS TO BE ADVERTISED.

  
SIGNATURE

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

**This Warranty Deed**, Made and executed the **23rd** day of **February, 2018**, by **CARISSA C. HARRACK K/A CARISSA C. DOUGLAS, Married**, whose post office address is 1850 Henry Ave W. Melbourne, FL 32904, hereinafter called the Grantor, to **JASON A. SPINA and CHRISTINE N. SPINA, Husband and Wife**, whose post office address is 5035 Pine St. Cocoa, FL 32927, hereinafter called the Grantee.

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires)

**Witnesseth**, That the Grantor, for and in consideration of the sum of \$10.00 (Ten and 00/100 Dollars) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land, situate in **Brevard County, State of Florida**, viz:

**The South 1/2 of the North 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 33, Township 23 South, Range 35 East, Brevard County, Florida, less the West 30 feet for road. A/K/A Tract 10, Block 19, Canaveral Groves, unrecorded subdivision, Brevard County, Florida,**

**"THE SUBJECT PROPERTY IS VACANT LAND AND NOT THE HOMESTEAD OF THE GRANTOR HEREIN"**

**Together**, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. **To Have and to Hold**, the same in fee simple forever.

**And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except:** Taxes for 2018 and subsequent years; restrictions recorded in the public records as of the date hereof; reservations and easements of record; and county zoning regulations

**In Witness Whereof**, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

#1 Witness Signature

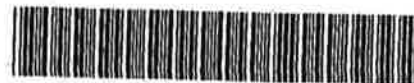

#1 Witness Printed Name

#2 Witness Signature

  
**CARISSA C. HARRACK K/A**  
**CARISSA C. DOUGLAS**

This Instrument prepared by **Secure Title, Inc.**  
34931 US HWY 19  
Palm Harbor, Florida 34684  
Incidental to the issuance of a title insurance policy  
File Number: INC-05-0089  
Commitment Number: 49250267LA

#Pgs: 1 #Names: 3  
Trust: 1.00 Rec: 9.00 Serv: 0.00  
Deed: 1,806.00 Excise: 0.00  
Mtg: 0.00 Int Tax: 0.00



CFN:2005095657 03-21-2005 10:10 am  
OR Book/Page: 5438 / 5577

**WARRANTY DEED  
(INDIVIDUAL)**

This WARRANTY DEED, dated 02/16/05, by **Barbara Holder**,<sup>\*</sup> whose post office address is:

\* A SINGLE WOMAN 5035 Pine St., Cocoa, FL 32927  
hereinafter called the GRANTOR, to **Jason A. Spina, and Christine N. Spina, husband and wife** whose  
post office address is: 5035 Pine Street, Cocoa, FL, 32927 hereinafter called the GRANTEE;  
(Wherever used herein the terms "Grantor" and "Grantee" include all parties to this instrument and the  
heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable  
considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises,  
releases, conveys and confirms unto the GRANTEE, all that certain land situate in Brevard County,  
Florida, viz:

**THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST QUARTER OF THE  
SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33,  
TOWNSHIP 23 SOUTH, RANGE 35 EAST, LYING AND BEING IN-BREVARD  
COUNTY, FLORIDA.A/K/A TRACT 11, BLOCK 19, CANAVERAL GROVES,  
UNRECORDED, AS DESCRIBED IN SURVEY BOOK 2, PAGES 55 AND 1/2 OF  
ADJACENT ROADS PER O.R. BOOK 1646, PAGE 130.**

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of  
record, if any; taxes and assessments for the year 2004 and subsequent years; and to all applicable zoning  
ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise  
appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR  
is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell  
and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the  
same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has signed and sealed these presents the date set forth above.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES:

WITNESSES:

Signature: *Jacqueline Stevens*

Print Name: *Jacqueline Stevens*

Signature: *Lindsay M. Doyle*

Print Name: *Lindsay M. Doyle*

*Barbara Holder*  
Barbara Holder

STATE OF FLORIDA  
COUNTY OF Brevard

This instrument was sworn to and acknowledged before me on this Date: 02/16/05, by Barbara Holder, who is/are personally





BOARD OF COUNTY COMMISSIONERS

Planning & Development Department  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

# AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, Christine Spina being the owner of 5035 Pine street

Authorize Tason Spina to act on my behalf which may include, representing me in Public Hearings before Brevard County pertaining to the submittal of the attached application.

- ☒ Comprehensive Plan Amendment
- ☒ Rezoning
- ☒ Variance
- ☒ Administrative Action
- ☒ Development Plan

C Spina  
Signature

owner  
Title

State Of FLORIDA

County Of BREVARD

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of Aug 20 20

By Christine Spina who is personally known to me or has produced

As identification and who did (did not) take an oath.

Carol Bennett  
Signature of Notary Public



July 31, 2023  
Commission Expires

Phone (321) 633-2070

Website: [www.brevardcounty.us/PlanningDev/](http://www.brevardcounty.us/PlanningDev/)

Home

Rev 12/21/2017

P&Z Authorization to Act



# Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

## PROPERTY DETAILS

Account 2314129  
 Owners Spina, Jason A; Spina, Christine N  
 Mailing Address 5035 Pine St Cocoa FL 32927  
 Site Address 5035 Pine St Cocoa FL 32927  
 Parcel ID 23-35-33-01-19-11  
 Property Use 0110 - Single Family Residence  
 Exemptions HEX1 - Homestead First  
 HEX2 - Homestead Additional  
 Taxing District 1900 - Unincorp District 1  
 Total Acres 4.76  
 Subdivision --  
 Site Code 0001 - No Other Code Appl.  
 Plat Book/Page 00-/-  
 Land Description Canaveral Groves Subd Sb 2 Pg 55 Lots 10, 11 Blk 19



## VALUE SUMMARY

Category	2021	2020	2019
Market Value	\$0	\$330,560	\$333,890
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$0	\$183,540	\$179,420
Assessed Value School	\$0	\$183,540	\$179,420
Homestead Exemption	\$0	\$25,000	\$25,000
Additional Homestead	\$0	\$25,000	\$25,000
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$0	\$133,540	\$129,420
Taxable Value School	\$0	\$158,540	\$154,420

## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
02/16/2005	\$258,000	WD	Improved	5438/5577
09/01/1992	\$85,000	SD	Improved	3230/0751
03/24/1988	\$75,000	WD	--	2891/2411
10/02/1986	\$7,700	WD	--	2736/2553
06/01/1972	\$2,000	--	--	1252/0179

## BUILDINGS

### PROPERTY DATA CARD #1

**Building Use:** 0110 - Single Family Residence

#### Materials

Materials	Details	
Exterior Wall:	Plywd/T111	Year Built 1987
Frame:	Wood Frame	Story Height 8
Roof:	Enamel Metal	Floors 1
Roof Structure:	Hip/Gable	Residential Units 1
		Commercial Units 0

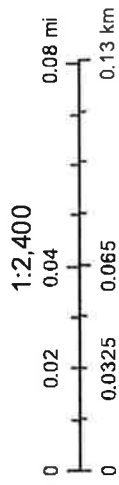
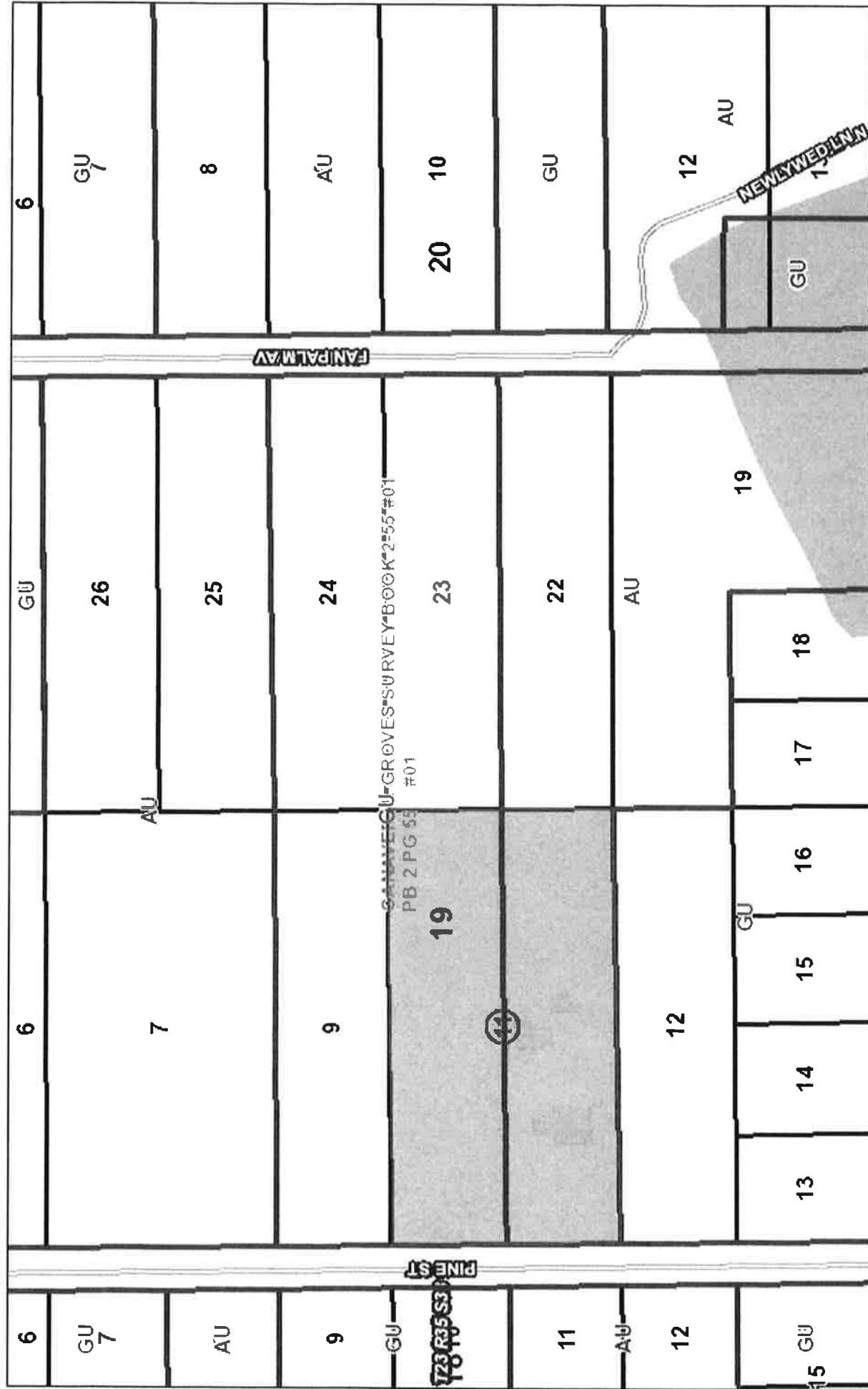
#### Sub-Areas

Sub-Areas	Extra Features	
Base Area (1st)	1,876 Covered Patio	464
Enclosed Por	384 Carport	231
Garage	440 Carport	672
Open Porch	248 Pool - Residential	1



Total Base Area	1,876	Outbuilding	144
Total Sub Area	2,948	Pool Deck	567
		All Screen - 1 Story	957
		Pole Barn	264
		Garage Detached	720
		Pole Barn	504
		Spa - Residential Attached	1

# ArcGIS Web Map



1:2,400

Search Results: Parcel (Tax Account)

Street Label

Override 1

Section

Zoning

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon



a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

20Z00026

Jason and Christine Spina

**AU (Agricultural Residential) & GU (General Use) to All AU**

Tax Account Number: 2314129  
Parcel I.D.: 23-35-33-01-19-11  
Location: East side of Pine Street, approximately 630 feet north of Areca Palm Street (District 1)  
Acreage: 4.76 acre

Planning and Zoning Board: 11/09/2020  
Board of County Commissioners: 12/03/2020

### Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
<b>Zoning</b>	AU & GU	AU
<b>Potential*</b>	One Single Family Unit	One Single Family Unit
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 1:2.5	YES Residential 1:2.5

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

### Background and Purpose of Request

The applicant requests a change of zoning classification from AU (Agricultural Residential) and GU (General Use) to all AU for the purpose of having the entire parcel consistent with the AU zoned south portion of the parcel and to build an accessory building larger than GU zoning permits. The parcel is two combined lots, Lot 10 and 11, Block 19, 4.76 total acres, located in the Canaveral Groves area. The south Lot 11 was rezoned from GU to AU on February 01, 2001 per zoning action **Z-10505**. The applicant purchased Lot 10 on February 26, 2018 and combined it with lot 11. In GU zoning, Agricultural pursuits (barns and horses) are permitted with 5 acres or more of land. The parcel currently is developed with a 2,948 sq. ft. single-family residence along with residential and agricultural amenities on the AU zoned portion of the parcel.

The GU zoning is original to Lot 10 of the parcel adopted May 22, 1958; the south Lot 11 was rezoned from GU to AU on February 01, 2001 per zoning action **Z-10505**. The parcel is two combined lots, Lot 10 and Lot 11, Block 19, recorded in Survey Book 2, Page 55 in August, 1960.

When these lots were recorded in the Survey Book, GU zoning required a minimum lot width and depth of 150 feet and a minimum lot size of one acre. Both Lot 10 and Lot 11, Block 19, together meet the minimum lot size.

If the applicants want to re-divide the parcel into the original two lots in the future, they will be required to have an Administrative Waiver or a variance to the 2.5 acre minimum lot size for AU zoning.

## **Land Use**

The subject property retains the RES 1:2.5 (Residential 1:2.5) Future Land Use designation. The existing GU zoning and the AU zoning are consistent with the RES 1:2.5 Future Land Use designation.

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped areas of National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. Information available to NRM indicates that unpermitted land clearing and impacts to wetlands may have occurred between 2018 and 2019 when the northern portion of the site was cleared. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. The discovery of unpermitted land clearing and/or wetland impacts may result in enforcement action. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Citrus Boulevard, between Pine Street and Lee Street, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 28.85% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 28.91% 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 is not serviced by Brevard County sewer. The closest available sewer line is approximately 2.8 miles southerly of the subject property on the west side of Adams Road.

The parcel is serviced by City of Cocoa water.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

**FLUE Policy 1.10**, The Residential 1:2.5 Future land use designation. The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** The subject parcel is currently developed with a single-family residence on the south Lot 10 portion of the parcel and lies within the Residential 1:2.5 Future Land Use designation. The surrounding area has GU and AU zoning and lies within the Residential 1:2.5 Future Land Use designation. The existing GU and the proposed AU zoning may be considered to be consistent with the Residential 1:2.5 Future Land Use designations.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The developed character of the surrounding area along Pine Street is developed with single-family homes and agricultural amenities and undeveloped land on lots of one acre or more variously zoned GU and AU. The subject parcel and the surrounding area along Pine Street have a Future Land Use (FLU) designation of RES 1:2.5, which may be considered to be consistent with the existing GU zoning and proposed AU zoning. The lot size in the surrounding area as recorded in Survey Book 2, Page 55 range from 1.01 acres to 2.38 acres.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. Any agricultural use, pursuit or activity permitted in the agricultural zoning classifications (AU or AGR) may be considered as a conditional use for the GU zoning classification, provided that the applicant specifies the exact use in the request or application for the conditional use and meets all criteria for the use, if any, as set forth for the AU zoning classification. A conditional use permit is not required on GU parcels equal to or exceeding five acres.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises. The AU classification also permits the raising/grazing of animals, fowl, beekeeping and plant nurseries.

## **Surrounding Area**

The parcel abuts GU zoning along its northern, eastern and southern boundaries. The abutting parcel to the north is developed with a 3,946 sq. ft. single-family home and residential amenities. The abutting parcel to the east is developed with a 3,071 sq. ft. single-family home. The abutting parcel to the south is developed with a 3,595 sq. ft. single-family home and residential amenities

There have been two zoning actions within a half-mile of the subject property within the last four years.

November 03, 2016, zoning action **16PZ00079** changed the zoning from GU to AU on a 2.16 acre parcel approximately 2,125 feet southwesterly of the subject parcel.

March 07, 2019, zoning action **18PZ00145** changed the zoning from GU to AU on a 2.38 acre parcel approximately 2,016 feet northwesterly of the subject parcel.

## **For Board Consideration**

The Board may wish to consider whether this request for AU zoning is consistent and compatible with the surrounding neighborhood which has AU and GU zoning. In addition, the Board may wish to consider potential impacts of Agritourism on the surrounding properties.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20Z00026**

**Applicant:** Spina

**Zoning Request:** GU to AU

**Note:** Applicant wants to build garage/shed.

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 2314129

- 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:**

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped areas of National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils. Information available to NRM indicates that unpermitted land clearing and impacts to wetlands may have occurred between 2018 and 2019 when the northern portion of the site was cleared. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. The discovery of unpermitted land clearing and/or wetland impacts may result in enforcement action. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands), SJRWMD (Freshwater marshes), and hydric soils (Anclote sand – frequently flooded, and Basinger sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service



Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities.

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification, and land classification is not based on the zoning alone. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, are not permitted in wetlands.

If applicable, 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. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Section 65-3694(c)(1)a above. 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 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

#### **Aquifer Recharge Soils**

Basinger sand also functions as aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

#### **Protected and Specimen Trees**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Unpermitted land clearing activities may be subject to a code enforcement violation.

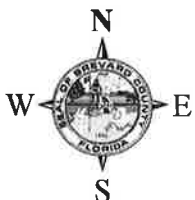
#### **Protected Species**

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.

# LOCATION MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



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.

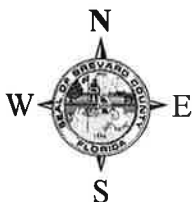
Produced by BoCC - GIS Date: 10/13/2020

— Buffer  
■ Subject Property

# ZONING MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

— Subject Property

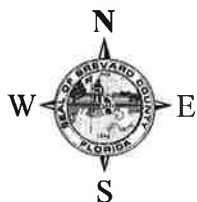
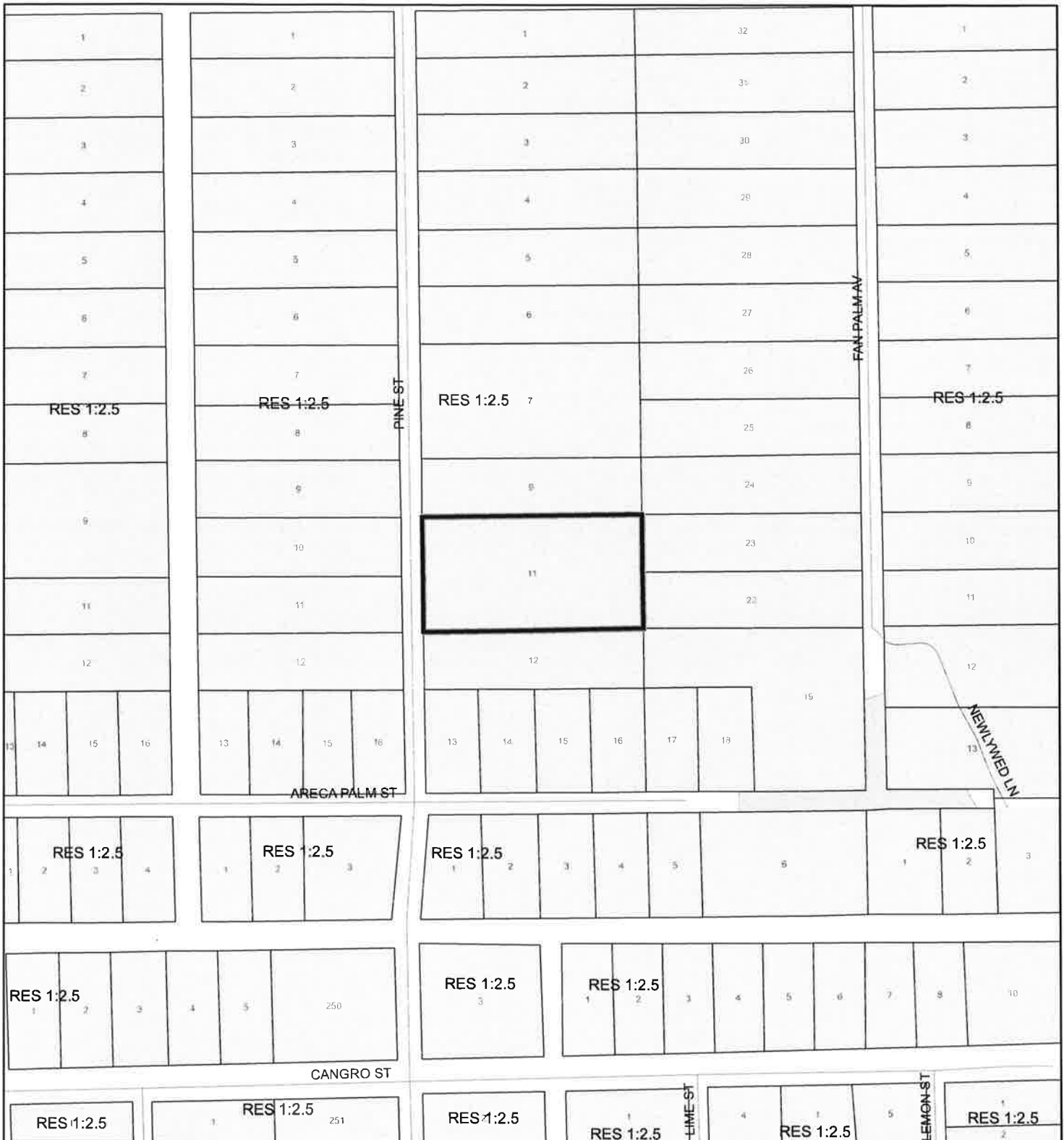
□ Parcels

□ Zoning

# FUTURE LAND USE MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

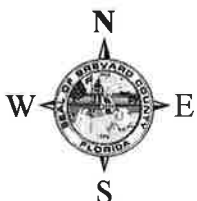
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/13/2020

# AERIAL MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 10/13/2020

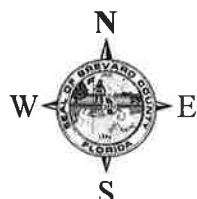
 Subject Property

 Parcels

# NWI WETLANDS MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

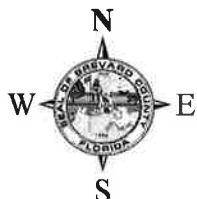
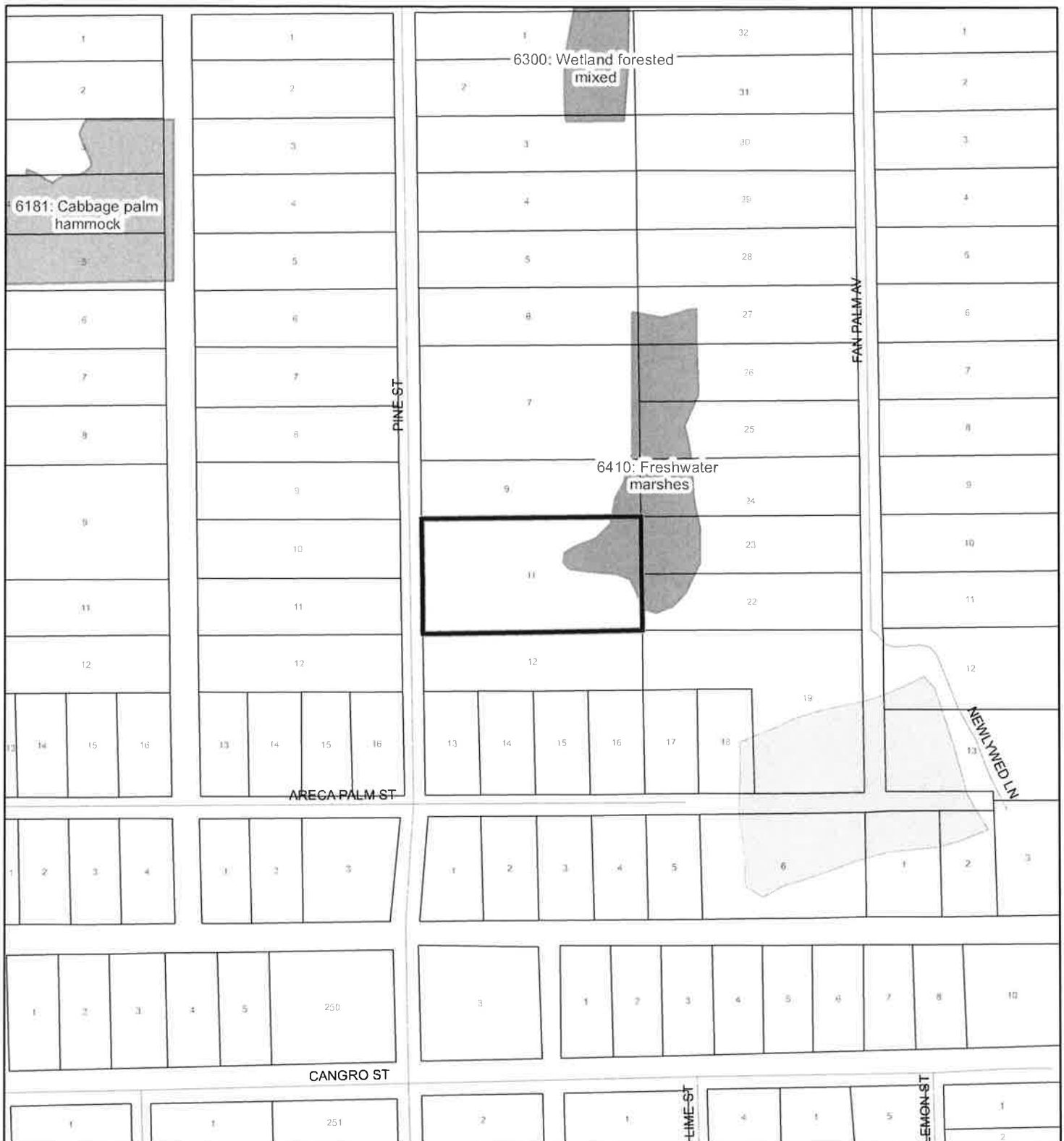
## National Wetlands Inventory (NWI)

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

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

## SJRWMD FLUCCS WETLANDS

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

Subject Property

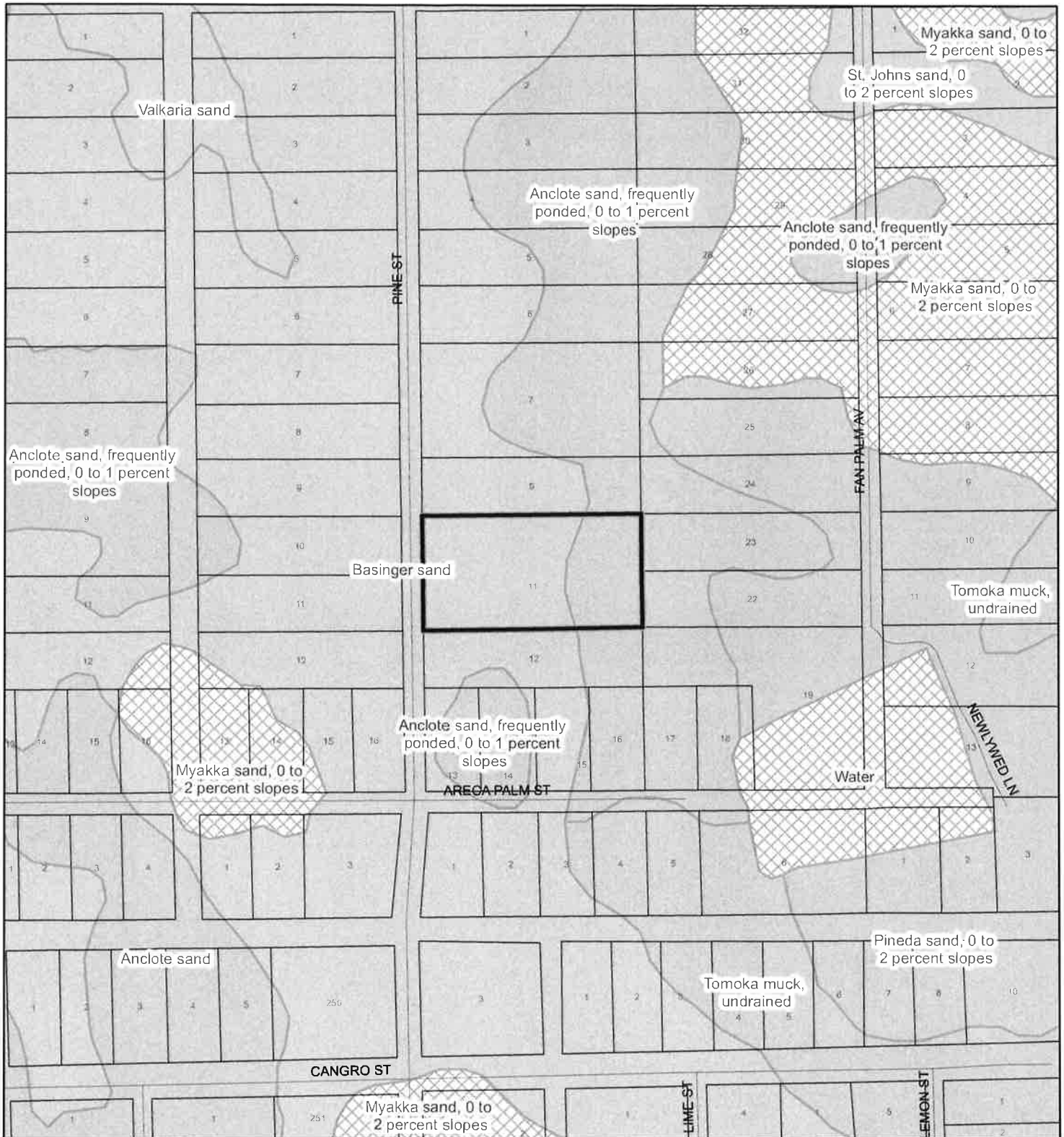
Parcels



# USDA SCSSS SOILS MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026

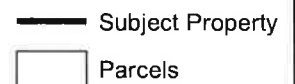
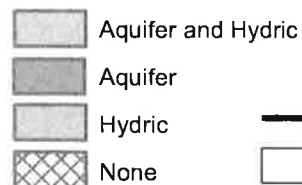


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

## USDA SCSSS Soils

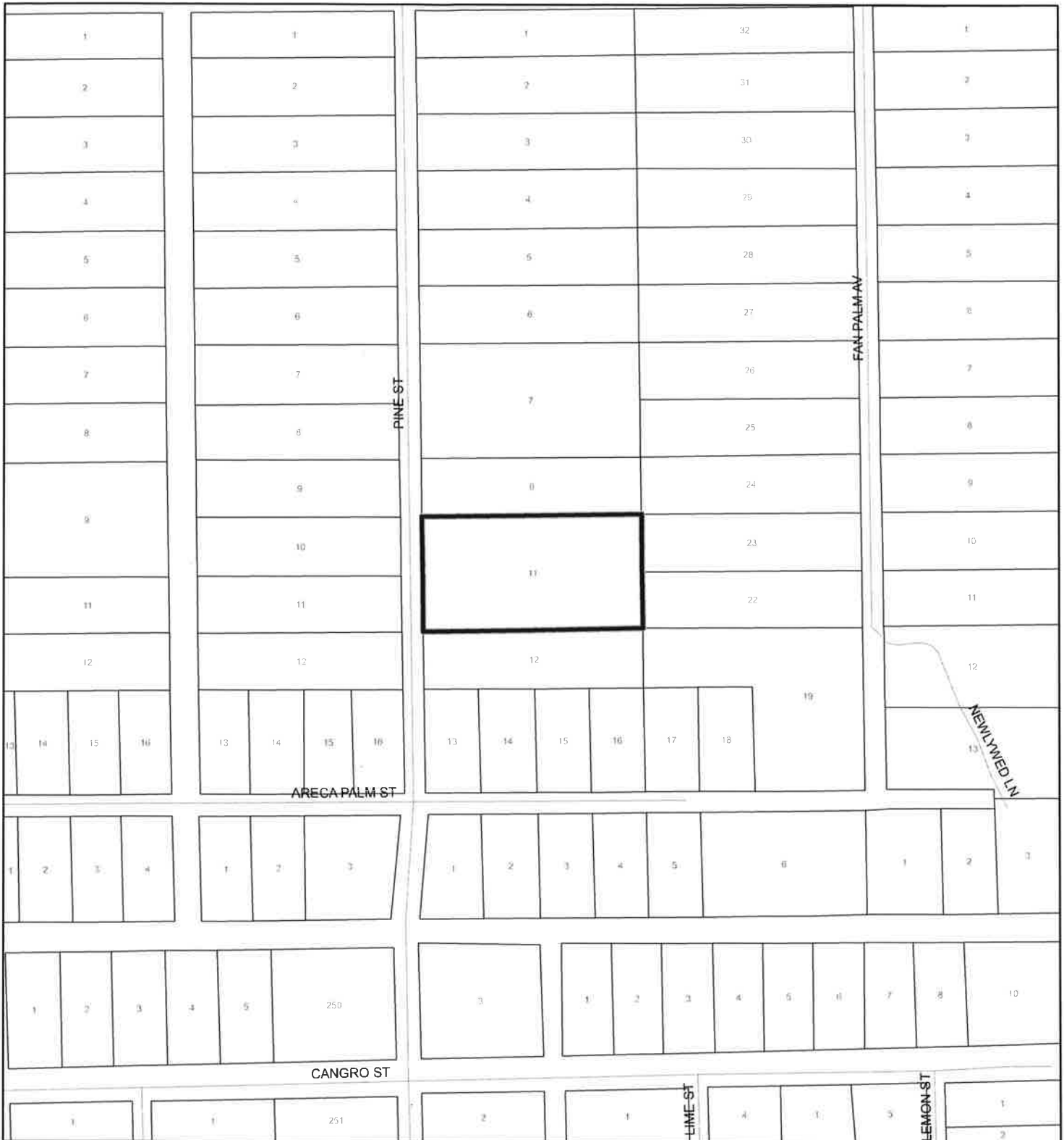




# FEMA FLOOD ZONES MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

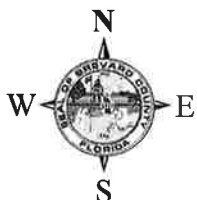
## FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 10/13/2020

 Subject Property

 Parcels

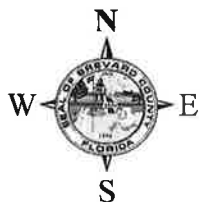
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

 Subject Property

 Parcels

## Septic Overlay

 40 Meters

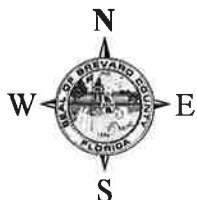
 60 Meters

 All Distances

# EAGLE NESTS MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

 Subject Property

 Parcels

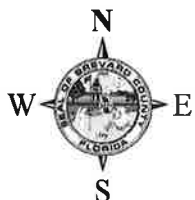


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

SPINA, JASON A. AND CHRISTINE N.




20Z00026



1:4,800 or 1 inch = 400 feet

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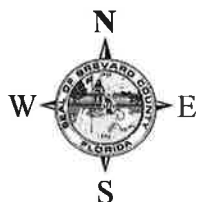
Produced by BoCC - GIS Date: 10/13/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SPINA, JASON A. AND CHRISTINE N.

20Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/13/2020

## 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

Owner's Name: Jason & Christine Spina  
Hearing Date: Nov. 9, 2020

20200026

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

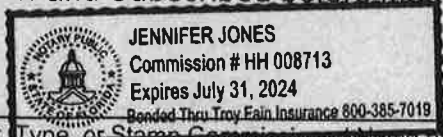
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Jason Spina,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

J Spina  
Signature

Sworn and Subscribed before me, this 9th day of November, 2020.



(Print, Type, or Stamp Commissioned Name of Notary Public)

Jennifer Jones  
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: FLDL

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 9, 2020, 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: Ron Bartcher; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Ron McLellan; Joe Buchanan; and Peter Filiberto.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Jason A. and Christina N. Spina**

A change of zoning classification from GU (General Use) and AU (Agricultural Residential) to all AU. The property is 4.76 acres, located on the east side of Pine St., approx. 630 ft. north of Areca Palm St. (5035 Pine St., Cocoa) (20Z00026) (Tax Account 2314129) (District 1)

Jason Spina, 5035 Pine St. Cocoa, stated he bought the property a couple of years ago, and the existing property he lives on is already AU and he would like to make both pieces AU.

No public comment.

Ron Bartcher asked if Mr. Spina plans on having commercial activities on the property. Mr. Spina replied no, he would like to have all five acres be zoned AU so he can have a large accessory structure.

Motion by Ron McLellan, seconded by Ben Glover, to approve the change of zoning classification from GU and AU to all AU. The motion passed unanimously.