



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

5/6/2021

Subject:

Michael J. and Annette Costello request a change of zoning classification from RR-1 to AU. (21Z00005) (Tax Account 2700924) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a request for a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential)

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from RR-1 to AU on a five-acre lot in order to board horses and offer horses for hire. The parcel is currently developed with a single-family home, a pole barn, and a riding arena. In addition to the boarding of horses and horses for hire, AU zoning would allow for other agricultural pursuits including the raising and grazing of animals, plant nurseries, and the packing, processing, and sales of commodities raised on the premises. Boarding of horses and horses for hire is a conditional use in AU where the number of horses exceeds four per acre. The applicant does not plan to trigger the requirement for CUP of 20 horses.

The properties along the Appaloosa Boulevard are primarily zoned RR-1. The RR-1 classification is considered to be lands devoted to single-family residential development of spacious character, together with such accessory uses to a single-family residence such as horses, barns and horticulture. However, it does not allow these accessory uses to be commercial activities on the property. The closest AU zoning is approximately 658 feet to the east along Ranchland Road. All lots along Richland Road are zoned AU, and the uses include single-family residences and two plant nurseries.

The Board may wish to consider whether this request to introduce AU is consistent and compatible with the surrounding area. In addition, the Board may wish to consider whether the potential Agritourism activities associated AU zoning classification are compatible with the surrounding area.

Please note, there is an active Code Enforcement complaint (20CE-01435) on the property for two items. One for operating a commercial business for the boarding of horses and riding lessons. If the Board grants the request to rezone the property to AU, it will resolve this issue. The other issue relates to the lighting fixtures illuminating in excess of the maximum allowed 0.2 tenths foot-candle limit per Sec. 62-2257. Since the lighting

standards are the same for all residential zoning classifications, rezoning the property will not resolve the lighting matter.

On April 5, 2021, the Planning and Zoning Board heard the request and voted 6:1 to approve with a Binding Development Plan limiting the use on the property to horse-related activities only, and limiting the number of horses to a maximum of six.

Clerk to the Board Instructions:

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

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

21Z00005

Annette and Michael Costello

RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2700924
Parcel I.D.: 27-36-10-25-*-21
Location: West side of Appaloosa Blvd., approximately 975 feet south of Smithfield
(District 4)
Acreage: 5.0 acres

Planning and Zoning Board: 04/05/2021

Board of County Commissioners: 05/06/2021

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RR-1	AU
Potential*	Five single-family units	Two single-family units
Can be Considered under the Future Land Use Map	RES 2	RES 2

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a five-acre lot in order to board horses and offer horses for hire. The applicants are attempting to resolve code enforcement action **20CE-01435** for running a business boarding horses and offering riding lessons. The parcel is currently developed with a single-family home, a pole barn, and a riding arena. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence but does not permit commercial activities. In addition to the boarding of horses and horses for hire, AU zoning would allow for other agricultural pursuits including the raising and grazing of animals, plant nurseries, and the packing, processing, and sales of commodities raised on the premises.

Zoning action **Z-2658** changed the zoning from the original zoning of GU to RR-1 on July 27, 1970. The administrative action **AA-1487** granted two flag lots on May 25, 2000. This action was filed under the previous owner. The current owners have no plans to split the lot into the configuration with two flag lots and instead chose to develop the full 5-acre lot.

Boarding of horses and horses for hire is a conditional use in AU where the number of horses does not exceed four per acre. The applicant does not plan to exceed this number. The conditions of Sec. 62-1913 must be met, which states: "A minimum lot area of five acres shall be required for boarding of horses and horses for hire, and all structures for the permanent or temporary housing of horses shall meet the setback requirements for such structures in the AU and AGR zoning classifications."

Barns in AU must meet the following setbacks: 125 feet from the front property line; 50 feet from the side property lines; and 50 feet from the rear property lines. The applicant submitted a survey with the application showing the existing pole barn meets these setback requirements.

Per code enforcement action **20CE-01435**, the applicant also violates Sec. 62-2257 of the lighting code, as the light fixtures in the riding arena illuminate 0.4 and 0.3 tenths foot-candle along a residential property line which should not exceed 0.2 tenths foot-candle. If this rezoning is approved, the applicant will need to address this part of the violation.

Land Use

The subject property retains the RES 2 (Residential 2) FLU designation. The current zoning of RR-1 on the subject property is consistent with the RES 2 FLU per Sec. 62-1255 (2). The proposed zoning of AU is consistent with the RES 2 FLU per Sec. 62-1255 (2).

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.

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

The abutting parcels to the north and south have a FLU designation of RES 2 (Residential 2). The lot abuts a drainage right-of-way to the west and Appaloosa Boulevard to the east. The parcels across the road and the drainage easement also have a FLU designation of RES 2. AU is consistent with the RES 2 FLU designation per the consistency table in Sec. 62-1255.

The current RR-1 zoning classification permits a single-family residence and horses, barns and horticulture as accessory uses to a single-family residence on 1.0 acre lots with a minimum lot and depth of 125 feet. The proposed AU zoning classification permits single-family residences in addition to "all agricultural uses" including the packing, processing, and sales of commodities raised on the premises, the raising and grazing of animals, and agritourism uses.

Certain agritourism uses have the potential to significantly impact traffic, noise levels, and lighting in the neighborhood, which presently is entirely residential. The code enforcement complaint indicates the level of tolerance within the neighborhood for commercial activity on the subject property.

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

The subject parcel is zoned RR-1 and developed with a single-family home, a pole barn, and a riding arena.

The abutting parcels to the south and north are both zoned RR-1. The parcels across the road to the east and the drainage easement to the west are also zoned RR-1. These parcels are all developed with single-family homes.

If rezoned, the subject property would be the only lot with AU zoning on Appaloosa Boulevard and could potentially introduce a new commercial activity that is not already present, as the other lots are all zoned RR-1. The closest AU zoning is approximately 658 feet to the east along Ranchland Road. Every home along Richland Road is zoned AU. The uses on these lots are single-family homes and two plant nurseries.

Surrounding Properties

There has been one zoning action within a half-mile of the subject property within the last three years.

On July 8, 2019, application **19PZ00055** changed the zoning classification from SEU to RR-1 on a 3.29 acre property located approximately 1,780 feet southwest of the subject property.

Environmental Constraints

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Washington Road, west of Harlock Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 29.59% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.66%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 30.15% of capacity daily (LOS D). 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 parcels are not serviced by Brevard County sewer or the City of Melbourne sewer.

The parcel is serviced by City of Melbourne water.

For Board Consideration

The Board may wish to consider whether this request for AU is consistent and compatible with the surrounding area, given the surrounding lots are zoned RR-1 and whether the use of boarding of horses and horses for hire is consistent with the single-family residential uses in the area. The Board

may also wish to consider limiting the uses on the property to exclude the more intensive uses allowed in AU zoning. Finally, the Board should be aware that if the rezoning is approved the applicant still must address the code enforcement violation over lighting in the riding arena.

NATURAL RESOURCES MANAGEMENT DEPARTMENT

Zoning Request Review & Summary

Item # 21Z00005

Applicant: Michael and Annette Costello

Zoning Request: RR-1 to AU

Note: Applicant wants to board horses.

P&Z Hearing Date: 04/05/21; **BCC Hearing Date:** 05/06/21

Tax ID No: 2700924

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Protected and Specimen Trees
- Protected Species

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:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Myakka sand depressional) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator 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's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for requirements to meet this classification.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

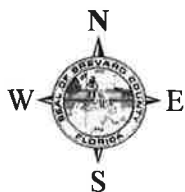
The subject property is within a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation requirements. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

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

COSTELLO, MICHAEL J. AND ANNETTE
21Z00005



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.

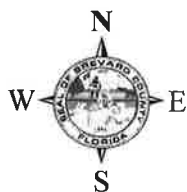
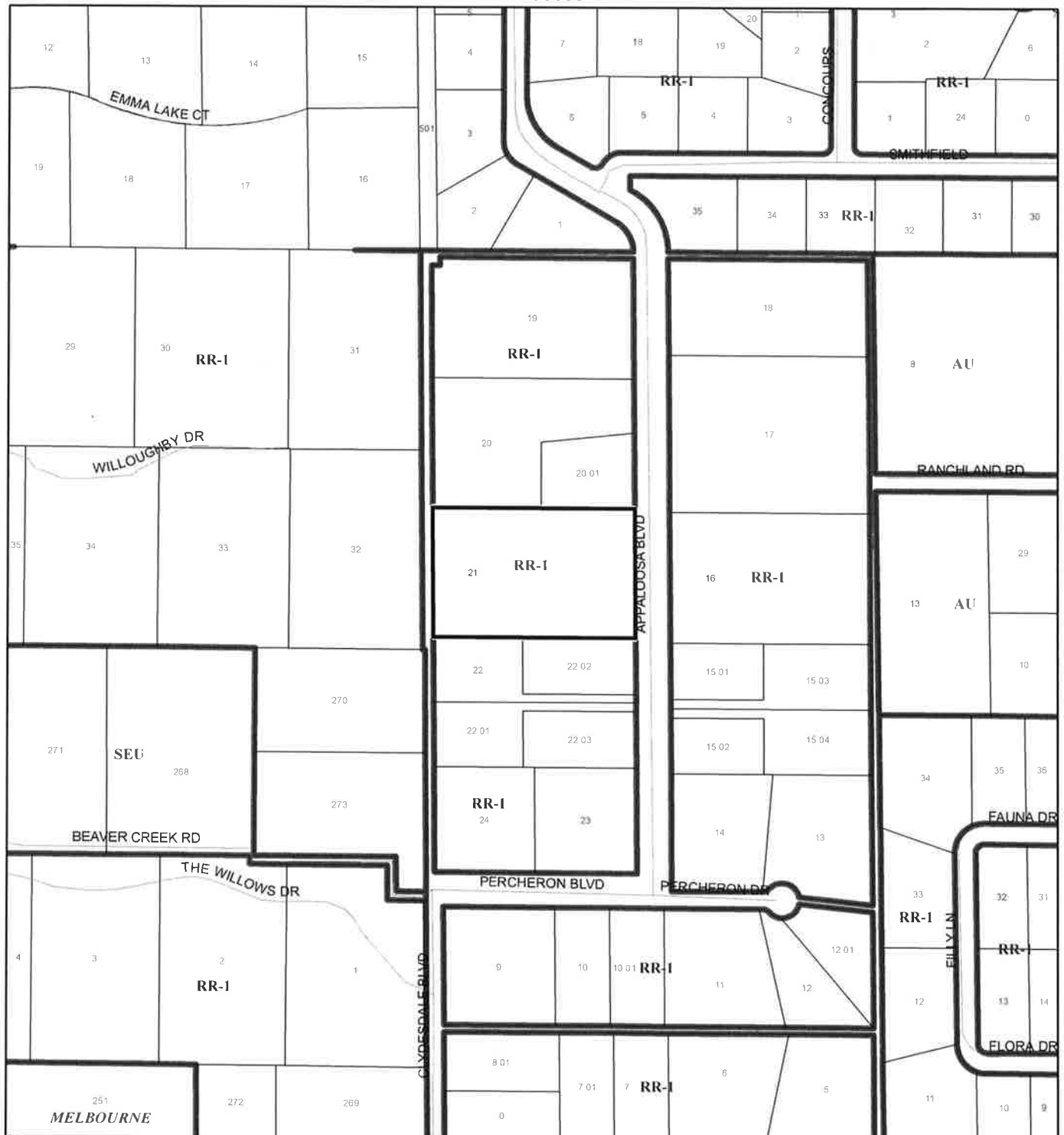
Produced by BoCC - GIS Date: 1/29/2021

— Buffer
■ Subject Property

ZONING MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

— Subject Property

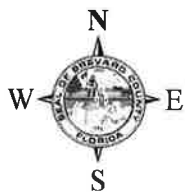
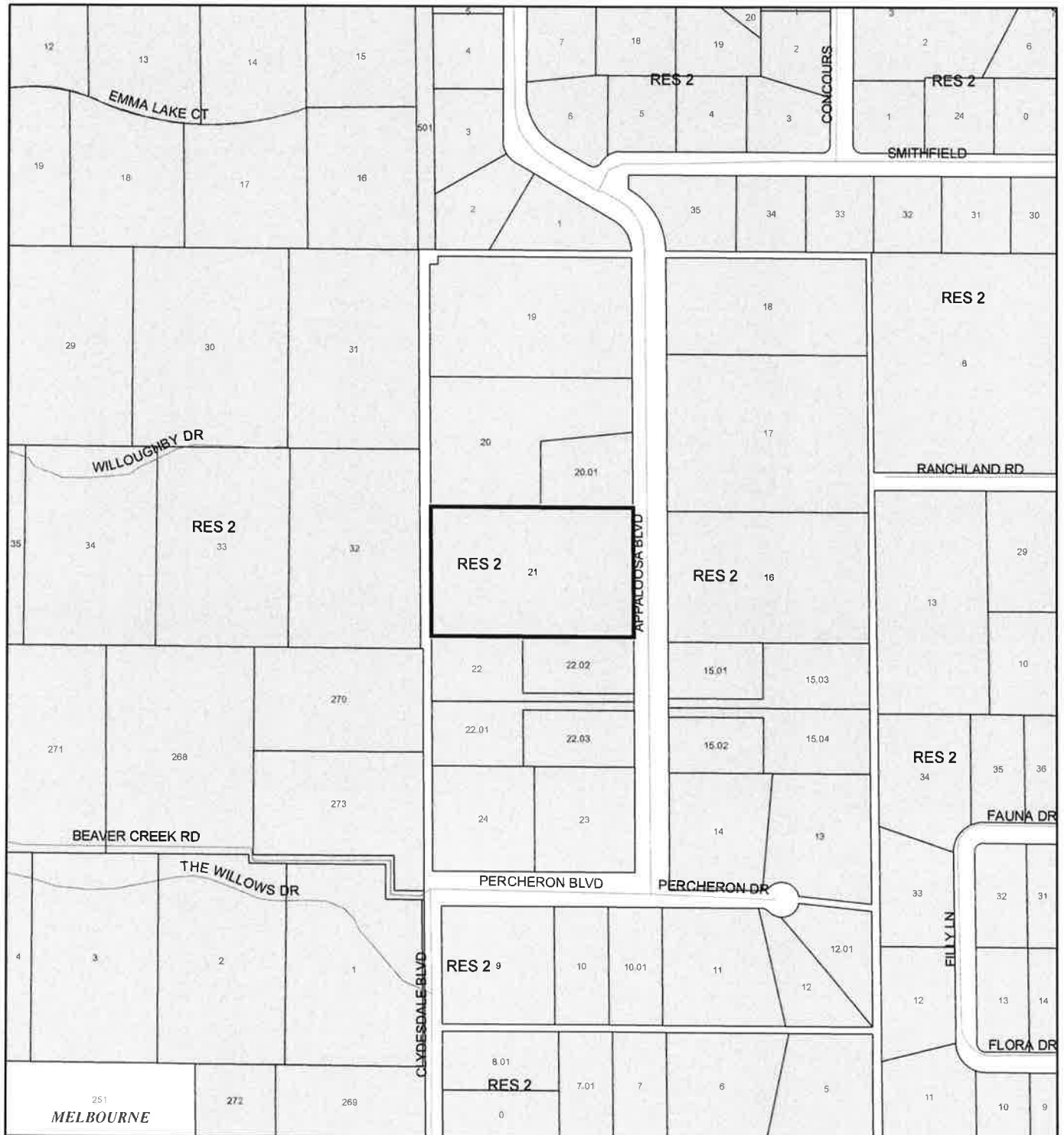
□ Parcels

□ Zoning

FUTURE LAND USE MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

AERIAL MAP

COSTELLO, MICHAEL J. AND ANNETTE
21Z00005



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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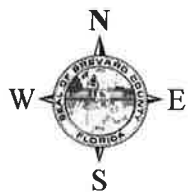
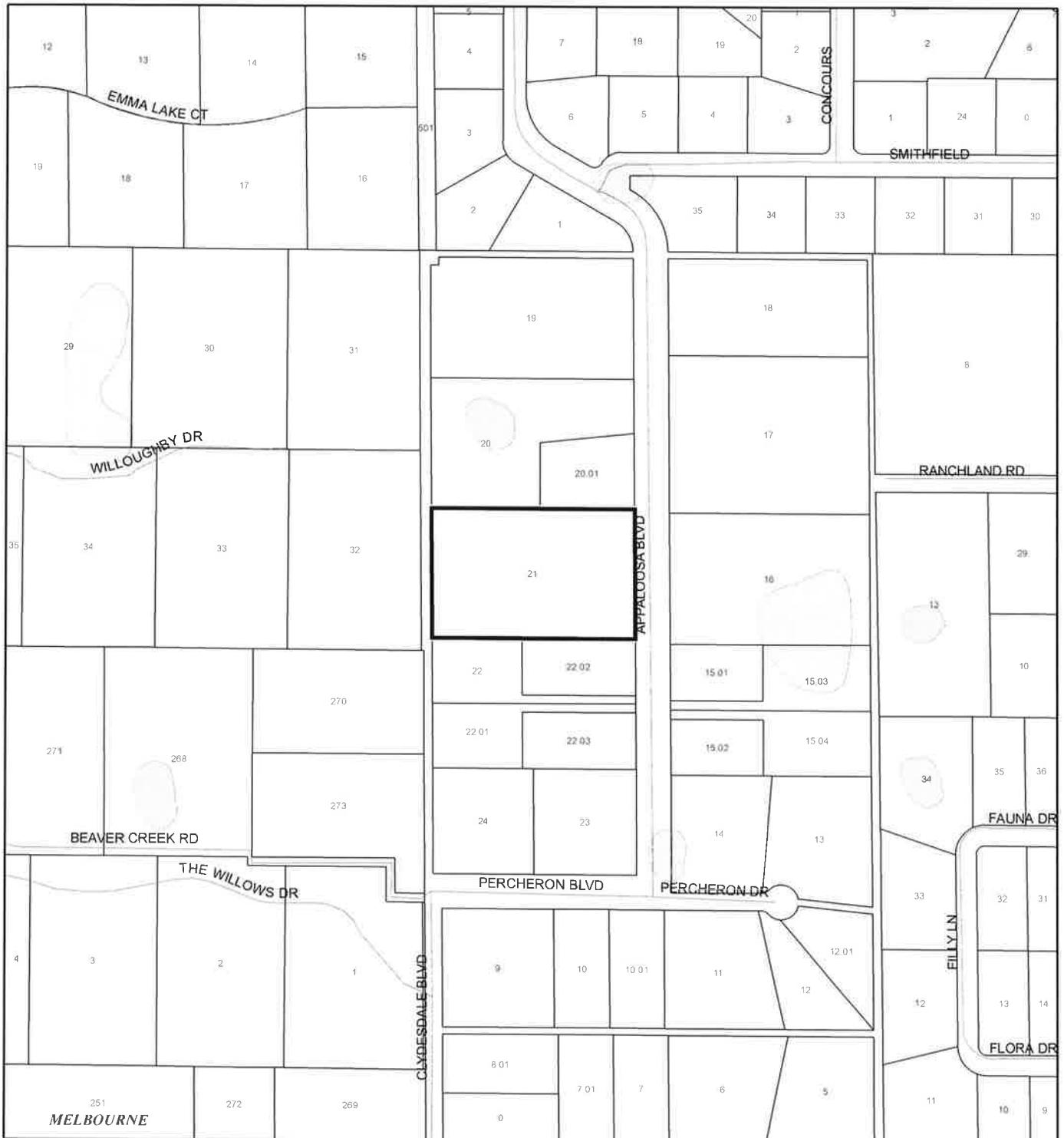
Produced by BoCC - GIS Date: 1/29/2021

— Subject Property
□ Parcels

NWI WETLANDS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005












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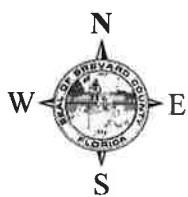
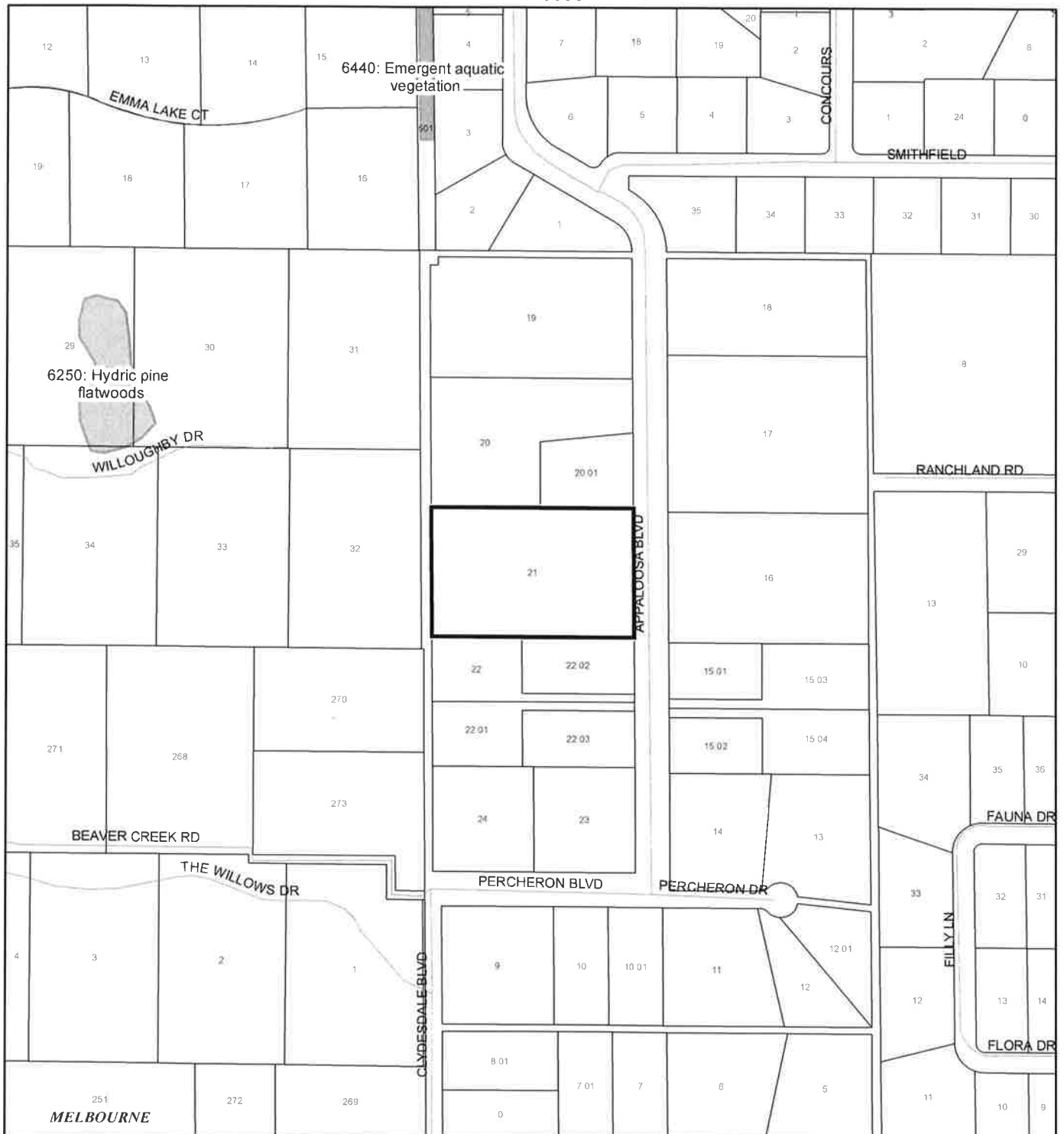
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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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

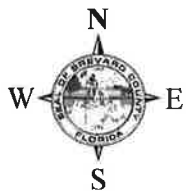
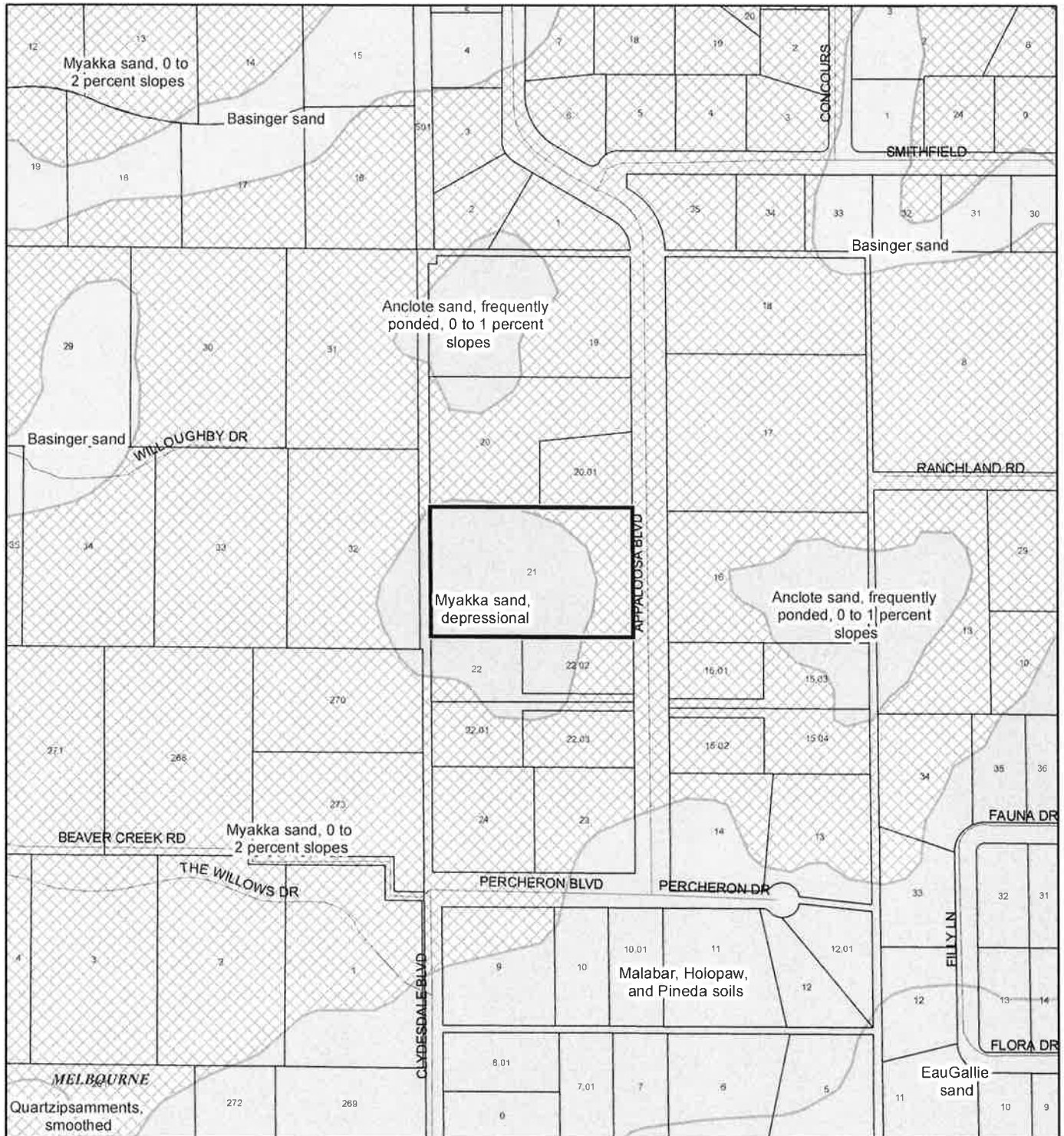
— Subject Property

□ Parcels

USDA SCSSS SOILS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005

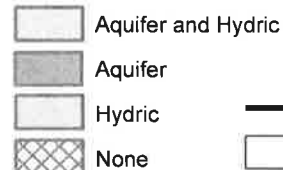


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Produced by BoCC - GIS Date: 1/29/2021

USDA SCSSS Soils

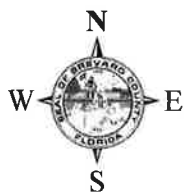
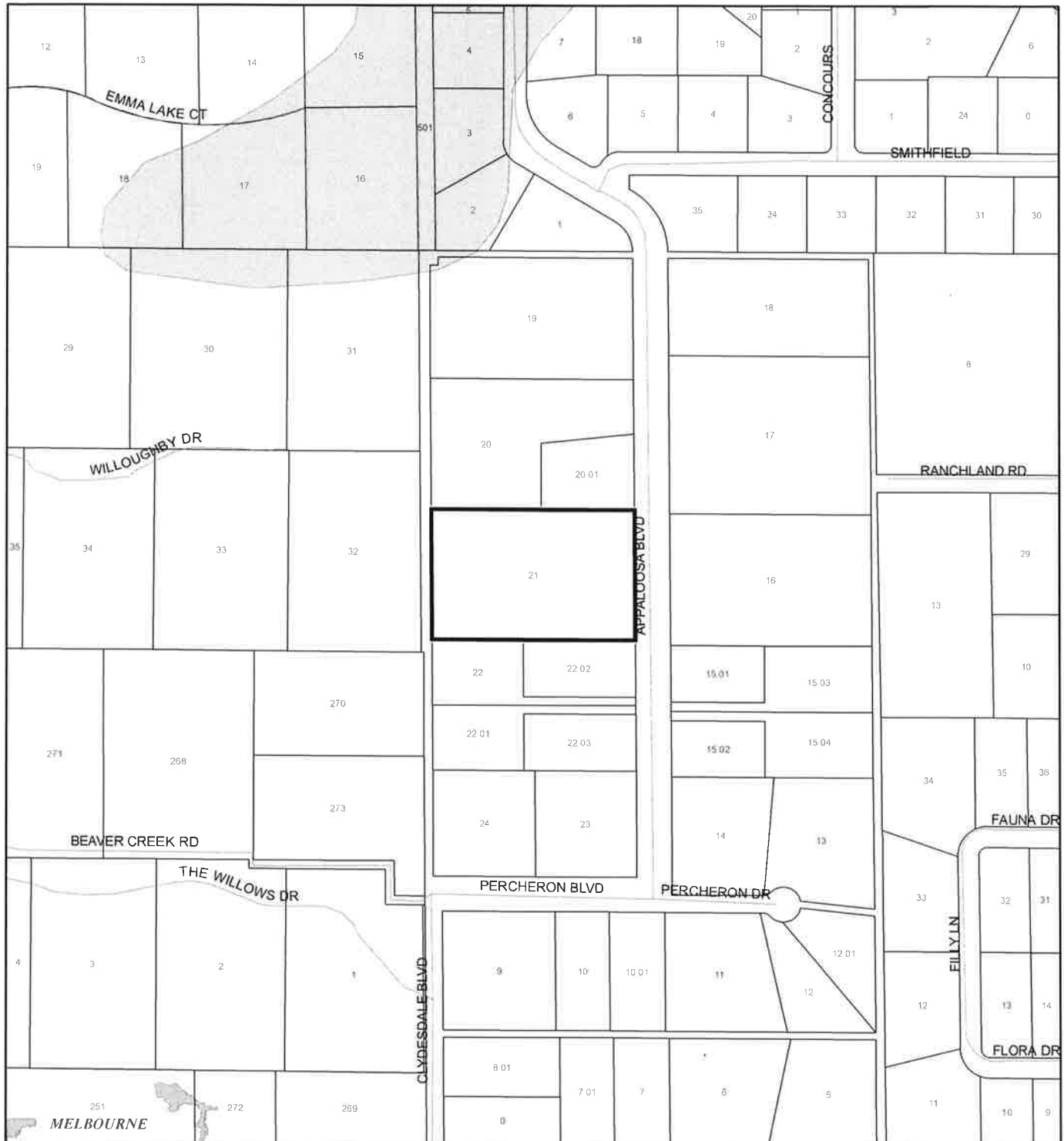


— Subject Property
□ Parcels

FEMA FLOOD ZONES MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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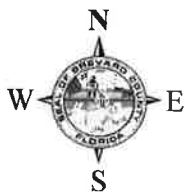
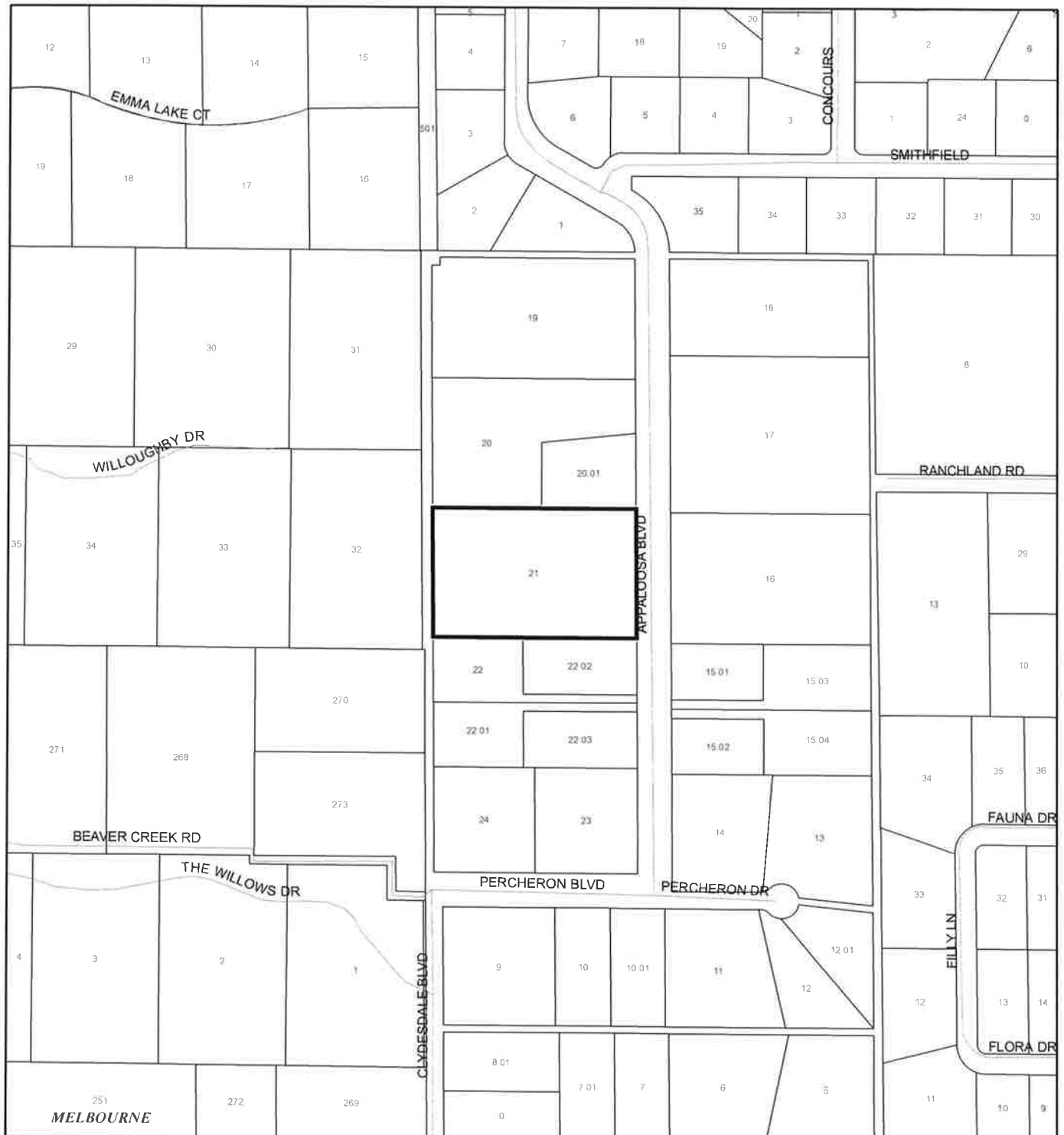
FEMA Flood Zones

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

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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Produced by BoCC - GIS Date: 1/29/2021

— Subject Property

□ Parcels

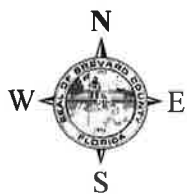
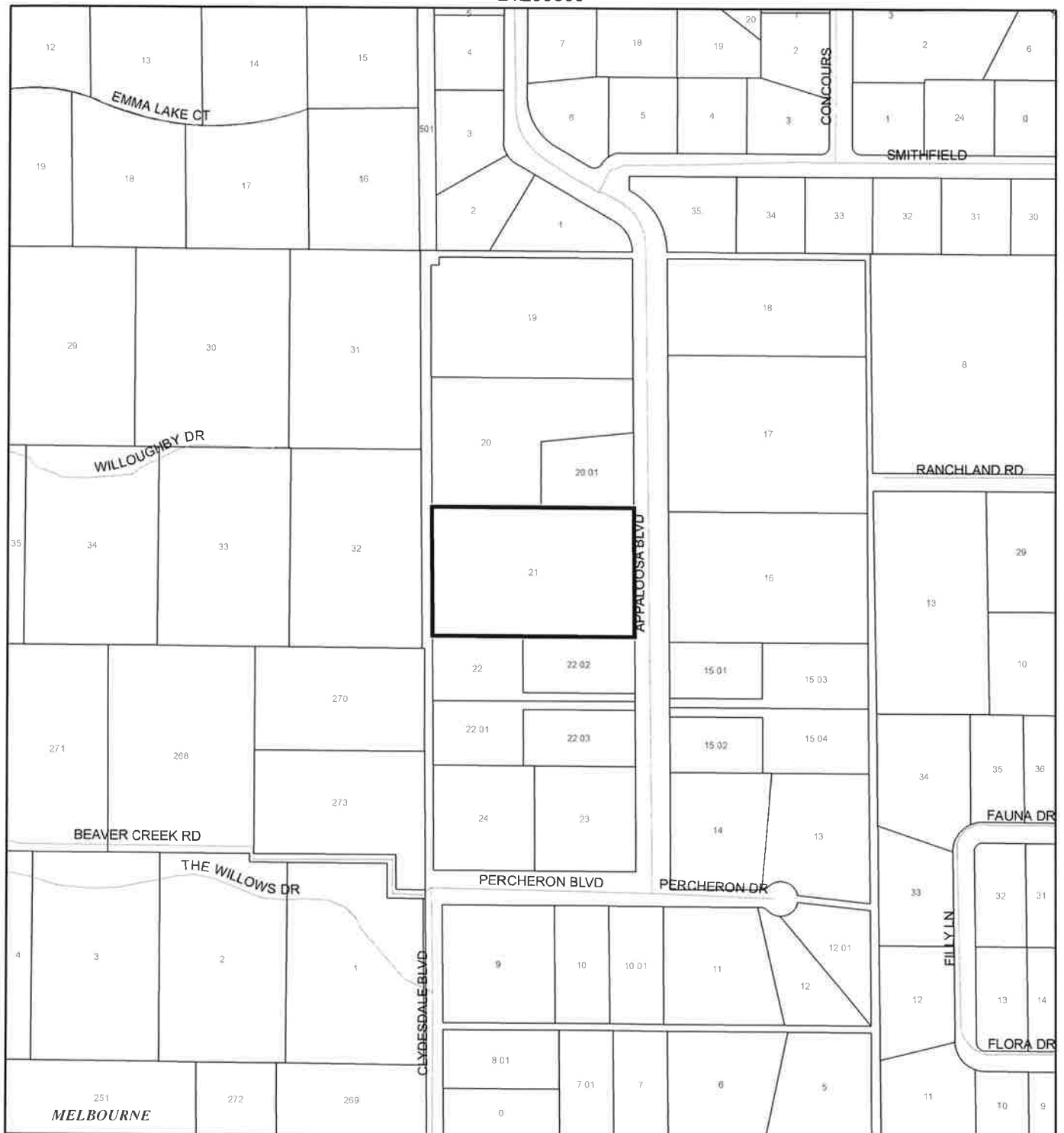
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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Produced by BoCC - GIS Date: 1/29/2021

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

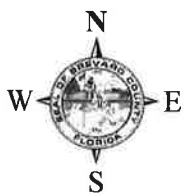
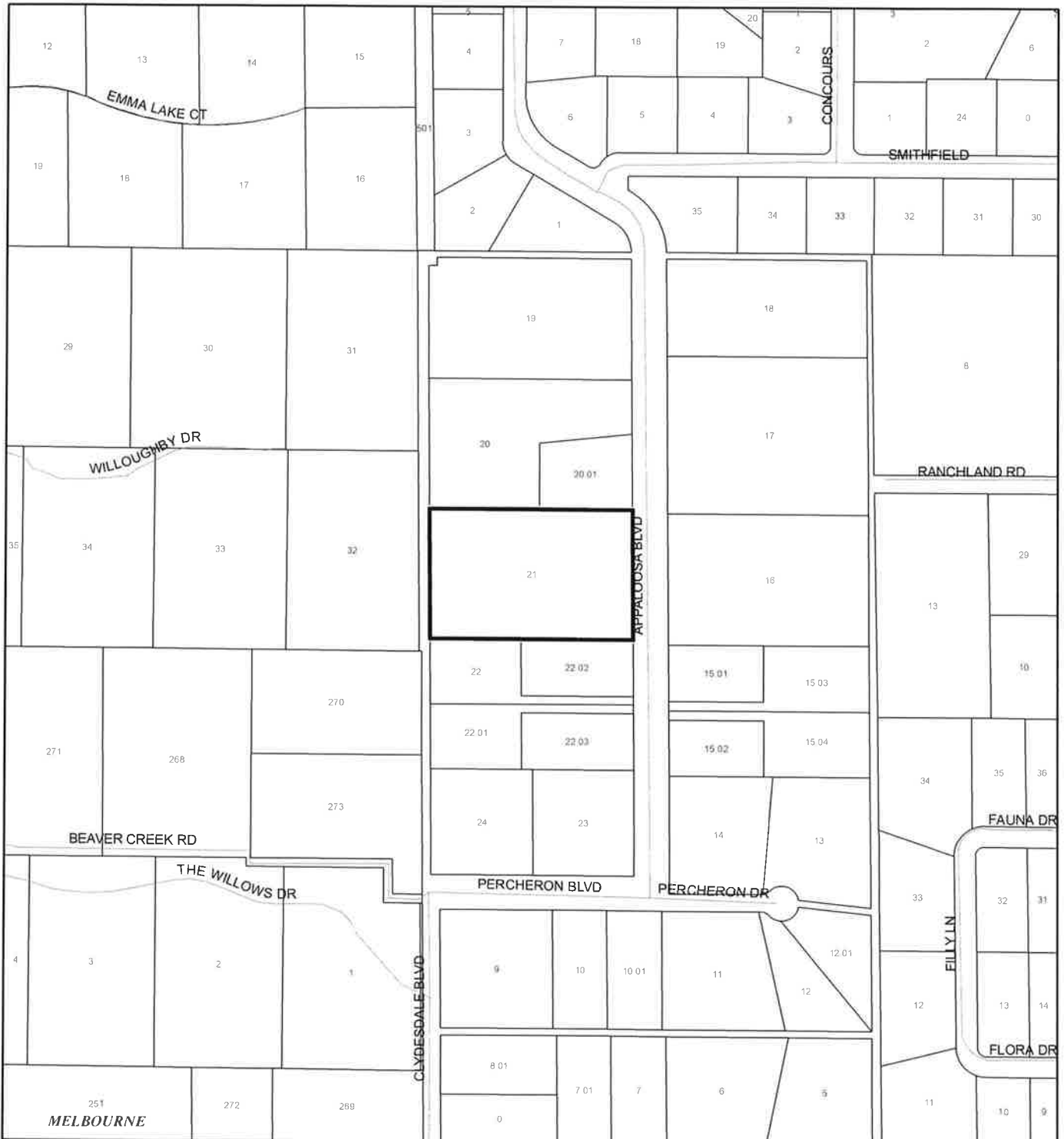
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2021

— Subject Property

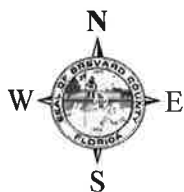
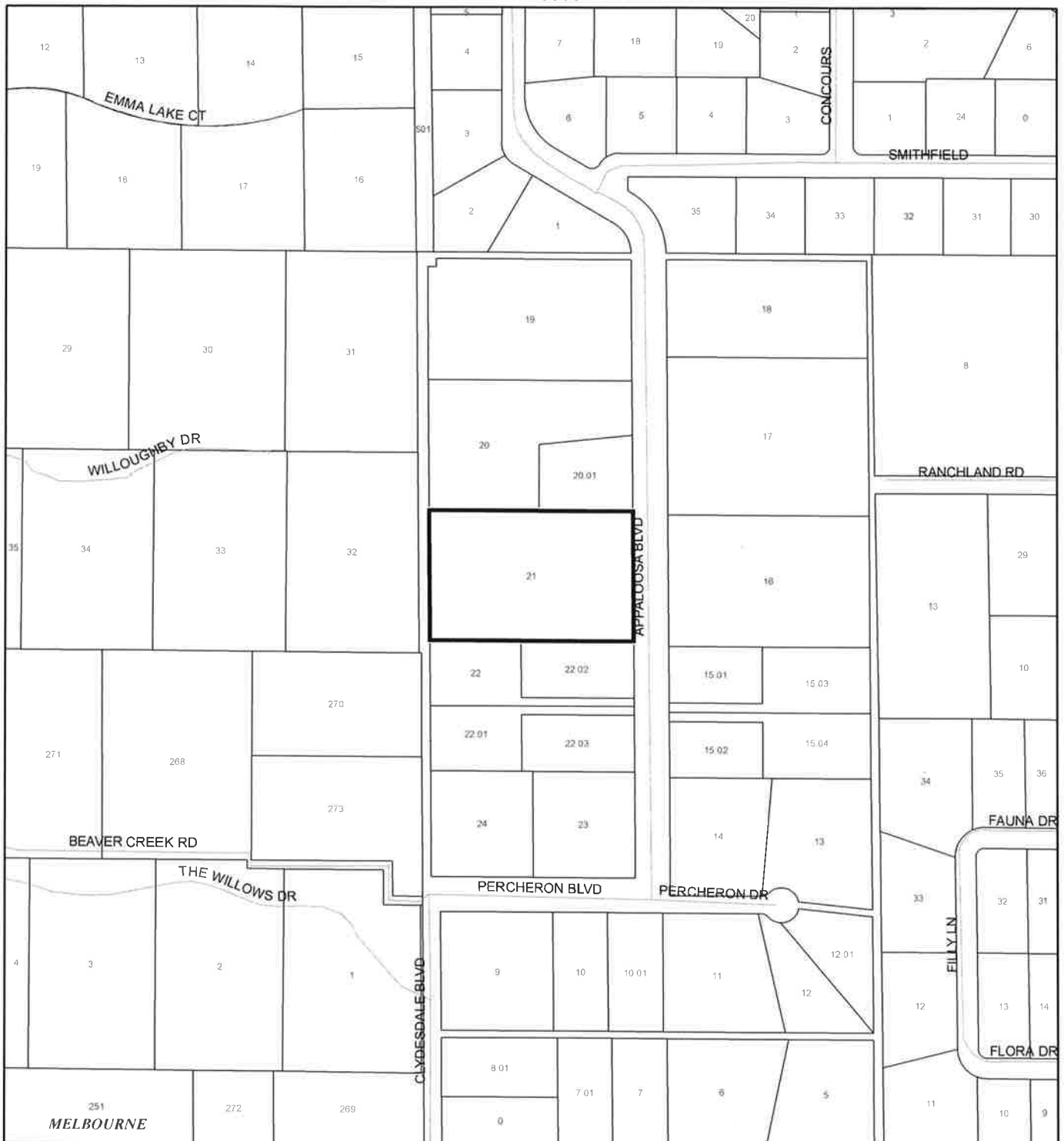
□ Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




COSTELLO, MICHAEL J. AND ANNETTE
21Z00005



1:4,800 or 1 inch = 400 feet

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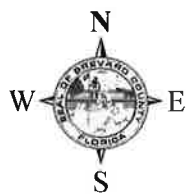
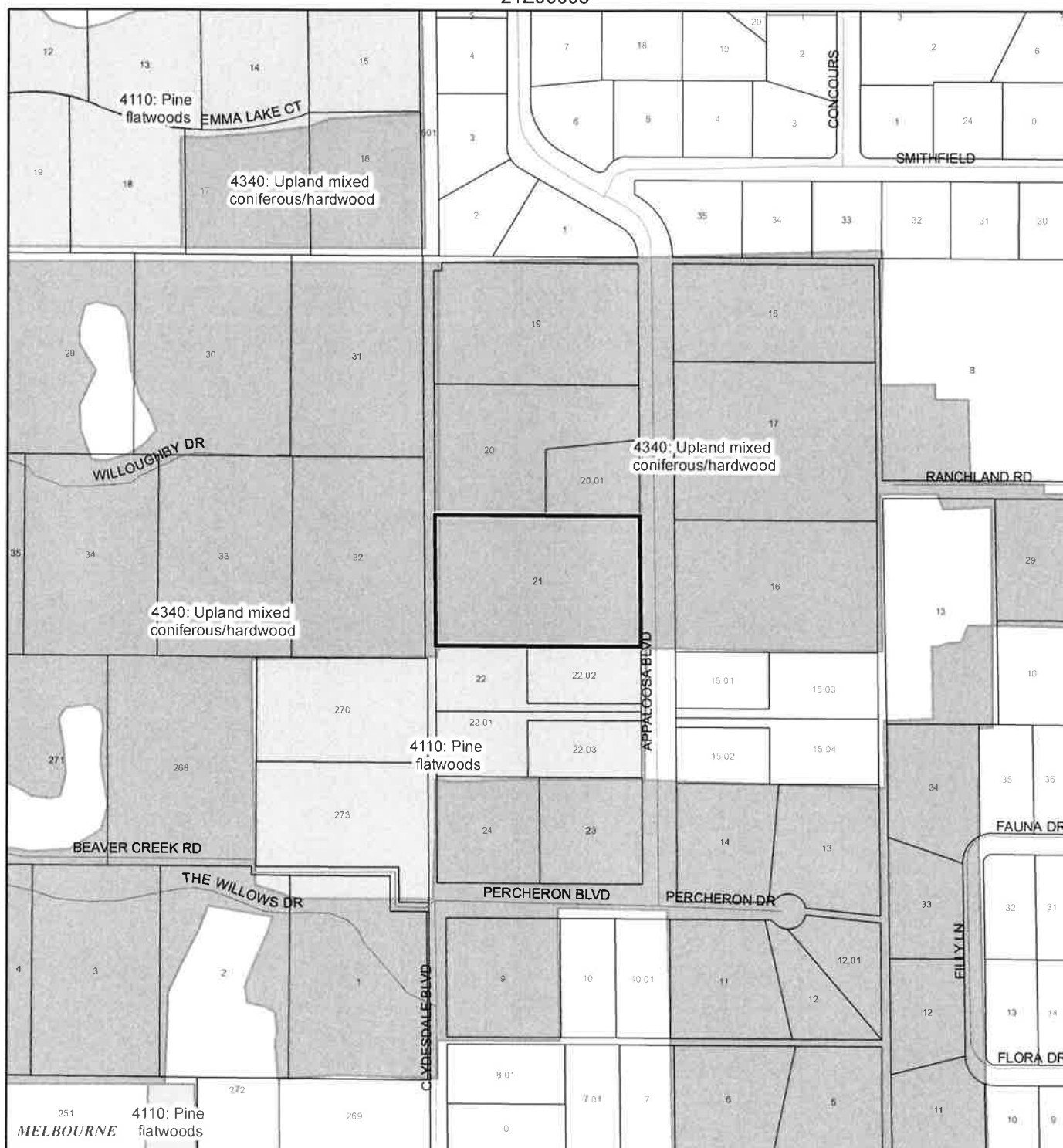
Produced by BoCC - GIS Date: 1/29/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2021

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



BREVARD COUNTY PLANNING AND DEVELOPMENT **APPLICATION FOR ZONING ACTION, COMPREHENSIVE PLAN AMENDMENT OR VARIANCE**

All applications with fees must be submitted in person. Call 321-633-2070 for an appointment at least 24 hours in advance. DO NOT MAIL THE APPLICATION. An approval does not entitle the owner to a development permit.

Existing FLU Res 2 Existing Zoning RR-1
 Proposed FLU Res 2 Proposed Zoning AU

APPLICATION NAME

- ☐ COMPREHENSIVE PLAN (CP)
 Large Scale Amendment Small Scale Amendment
 Text Amendment - Element _____
 Other _____

- ☒ REZONING (Without CUP) (RWOC)
 COMBINATION - ZONING AND CUP (COC)

- ☐ CUP (Without zoning) (CUP)

- ☐ VARIANCE(S) (V)

- ☐ AA (AA)

AA Type: _____

- ☐ OTHER (O): _____

Tax Parcel: T 27 R 36 s 10 S/D 25^A Blk/Par X Lot 21

Acreage of Request: 5

Reason for Request: change to agricultural zoning RR-1 to AU

COUNTY PLANNER USE ONLY

ACCELA# 21700005 Fee \$ 1149.00

Date filed 1/21/2021 Planner KH

District# 4 Tax Account ID# 2700924

(list all parcels)

Notification radius (feet) 500' Sign Issued -

Meeting(s) Date Time

NMI

PSJ Board

P&Z / LPA

BCC

BOA

JPA/MIRA/500' of Palm Bay Extension: Yes or No

If Yes, list which

Location: West side of Appaloosa Blvd

Detailed Description: Rezone from RR-1 to AU

PROPERTY OWNER:

Name: Michael J & Annette Costello Company: _____

Address: 2940 Appaloosa Blvd E-Mail: acastello@morsecom.com

City: Melbourne State FL Zip 32934

Phone: (321) 298-2256 Fax: (321) 255-0198 Cell: (321) 693-4586

Annette cell

Mike Cell

APPLICANT IF OTHER THAN OWNER (check): Attorney _____ Agent _____ Contract Purchaser _____

Name: _____ Company: _____

Address: _____ E-Mail: _____

City: _____ State _____ Zip _____

Phone: () Fax: () Cell: ()

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

State of Florida County of Brevard I Annette Costello being first duly sworn, depose and say that I hereby certify that the information in this application and all sketches and data attached to and made a part hereof are true and accurate to the best of my knowledge, and:

☒ 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 statement attached)

Annette Costello
 Signature of Property Owner/Authorized Representative

10/16/2018
 Date

The foregoing instrument was acknowledged before me this 16th day of Oct, 2018, by Annette Costello and Michael Costello, who is Personally Known by me ☒ OR Produced Identification _____ Type of Identification Produced _____

Kathy Hambleton
 Notary Public Signature

(NOTARY SEAL)



KATHY HAMBLETON
 Commission # GG 251132
 Expires October 12, 2022
 Bonded Thru Budget Notary Services

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.

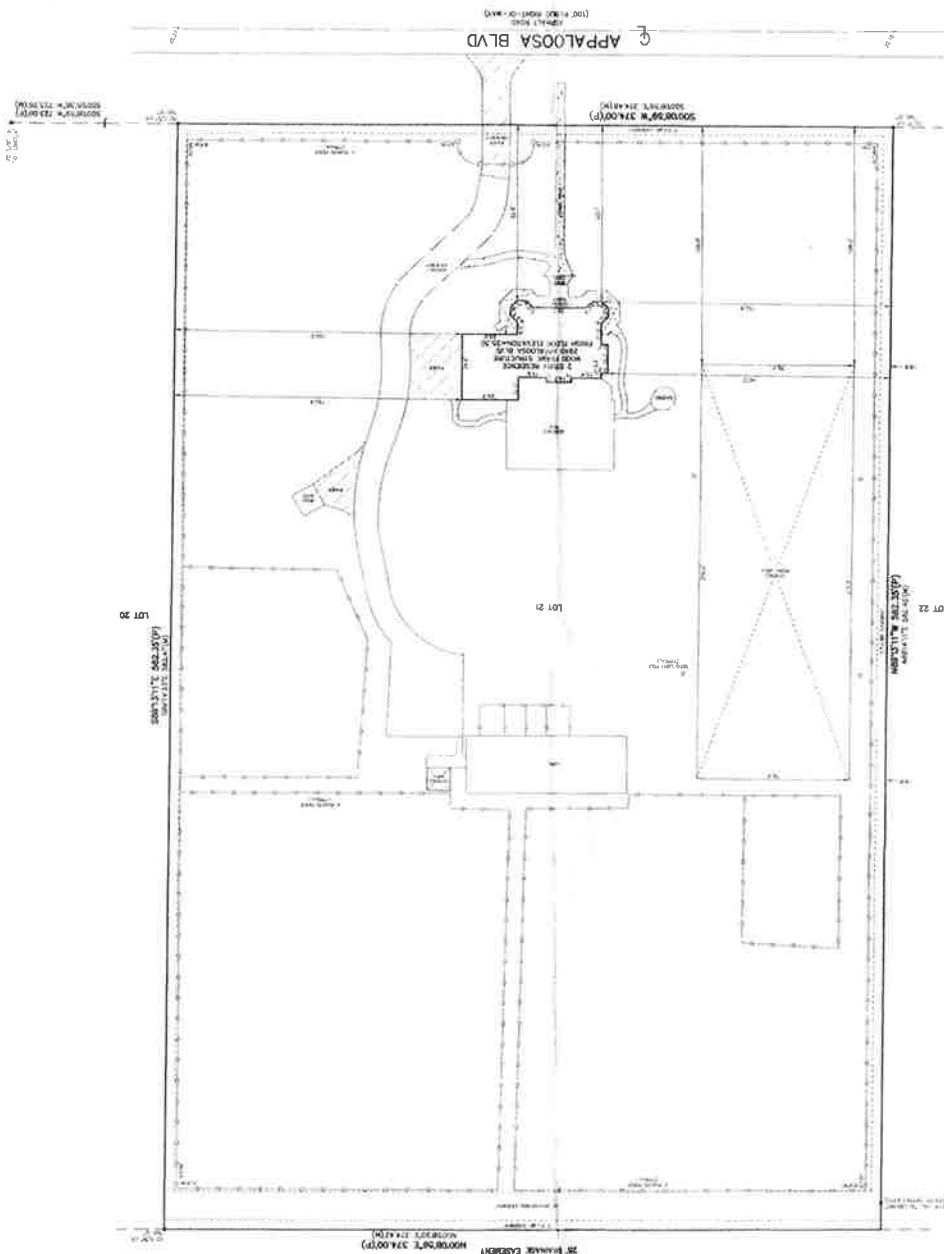
Please transmit staff's comments via:

acostello@morsecom. or () _____ or U.S. Mail _____
e-mail address fax number

Yes/No

I have received a copy of this notice:

Annette Costello
(APPLICANT SIGNATURE)

[illegible]

Mr. E. B. B.

RECEIVED, BUREAU OF MARINE RESEARCH, U.S. DEPT. OF COMMERCE
WASHINGTON, D. C. 20540
OFFICE OF AUTHORIZATION, U.S. DEPT. OF COMMERCE

1) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN

THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF 5000538°W ALONG THE WEST

CONCLUSION

2021年12月

1000

DATE	11-1-80
------	---------

Owner's Name: Michael + Annette Costello
Hearing Date: April 5, 2021

21200005

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Brian Lock,
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.

Brian Lock
Signature

Sworn and Subscribed before me, this

12th

day of

March

Bonded Thru Troy Fair Insurance 800-385-7019
Expires April 10, 2023
Commission # GG 322387
KIM KENNEDY



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

[Signature]
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: _____

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

PHOTOGRAPHS



BREVARD COUNTY CODE ENFORCEMENT



Mo./Day/Year	Address	Zng App.#
03/12/2021	2940 Appaloosa Melbourne	21Z00005



Brian Lock

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 5, 2021**, 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; Brian Hodgess; Bruce Moia; Mark Wadsworth, Chair; William Capote; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Michael J. and Annette Costello

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 5 acres, located on the west side of Appaloosa Boulevard, approximately 0.19 mile north of Percheron Drive. (2940 Appaloosa Boulevard, Melbourne) (21Z00005) (Tax Account 2700924) (District 5)

Annette Costello, 2940 Appaloosa Boulevard, Melbourne, [Ms. Costello distributed a handout to the board members. The handout can be found in file 21Z00003, located in the Planning and Development Department.]

Jeffrey Ball advised the board there were emails submitted to staff late Friday and yesterday, and there are also videos submitted by a neighbor for the board to watch when appropriate.

Ms. Costello stated there is a Code Enforcement issue on the property from a complaint filed by her neighbor, Karen Shepherd, for her lighted covered arena. She stated after several visits and adjustments from Code Enforcement Officer Steve Novack, she has been trying to get the lighting to where it is supposed to be which is .02 lumens; initially it was at .04 and after moving things around, it is now .02 at the property line, and the code states it has to be .02 at the property line to be compliant. She said she thought everything was resolved, but on December 20th she received a letter from Mr. Novack stating she had to fix the lighting and stop earning board. She said sent a certified letter back to Mr. Novack addressing those issues and that she was in compliance with the .02 lumens. She said she did not hear back from Mr. Novack until late March, and assumed there were no more issues.

Mark Wadsworth advised Ms. Costello that the board is to address the zoning request, not the Code Enforcement issues.

Ms. Costello stated Mr. Novack told her she was not zoned AU, but RR-1. She said they are still working with Mr. Novack and the neighbor because there is still confusion in the lighting of the arena, and they are ordering dimmer switches so the neighbors will be more comfortable. She stated in 1999 her daughter wanted to ride, so they bought a thoroughbred and boarded it at Wickham Park; in 2001 they bought their house at 2940 Appaloosa Boulevard and moved the horse there. In early 2002 they put in a dirt arena, 20 meters by 60 meters, and inside there were six telephone poles with two floodlights on each pole so their kids could ride in the evenings. In 2004, Wickham Park closed for the barn renovation project, and people started reaching out to her to board. She said she called Zoning to verify they could do that, and based on the address she gave, she was told they were already

zoned agriculture and it would not be a problem to do that, so they started boarding horses and have been boarding on and off since then. In 2011 a trainer came to her property to train, and he also had other students he would train; she never charged the trainer, as he was paid by the people he was training; he provided the service to his students. She said at that point she started charging for boarding because she was told she could do that. In 2012, Karen Shepherd moved in next door; the arena and all of the existing lighting were already there. In 2017, the United States Dressage Federation said if she provided a covered arena, they would provide training to train their trainers. She noted before doing that, she reached out to Karen Shepherd and told her what they were planning; she told Ms. Shepherd what they wanted to do and why they wanted to do it, and they offered to plant trees between the properties or blackout shades, and Ms. Shepherd declined all of it, and said she agreed it would be pretty. She pointed out that the training aspect never happened because the trainer accepted a job elsewhere. She said in hopes of getting a tax break, she called the County and was told there is an application for a tax status of agricultural, and she completed the form but did not submit the application. She stated the operation was going on, but they were not earning any money, except for the boarding because she thought they were agricultural. She said Ms. Shepherd filed a complaint with Code Enforcement and that's when Steve Novack started coming out, and that's when she learned they were never zoned AU, but were zoned RR-1. She said the only way she could charge for boarding was to apply to change the zoning.

Jeffrey Ball stated the request before the board is to change the zoning from RR-1 to AU. The board's responsibility is to evaluate that request based on compatibility and consistency with the Comprehensive Plan. There is a Code Enforcement action against the property owners, and those will have to be addressed in a separate manner outside of this request.

Mr. Wadsworth asked if a BDP would be out of the question for AU. Mr. Ball replied the AU zoning will address the concerns raised by Ms. Costello; RR-1 does not allow for a commercial agricultural business; however, AU will allow them to do that.

Public comment.

Karen Shepherd, 2890 Appaloosa Boulevard, Melbourne, stated she lives directly beside the arena. She said their house is close to the arena because that is where it fit on the property when they built it. She noted when they bought their property there was no arena or lights. The comment from Ms. Costello that she told her everything was okay with the covered arena, that is not what she asked; she said they wanted to do a New England-style roof over the arena so the horses wouldn't get hot; she said nothing about the trainers. She stated once the arena went up, the lights were commercial lights, similar to a gas station. She said she has concerns other than the lights, such as the noise of the operation and the hours of operation, which are often after 10:00 p.m. She said her concern of the property becoming agricultural is grave; there is not another farm that is doing something similar in the area. There are a lot of horses in the area, but they graze in pastures and the properties are not a commercial operation. She said she presented videos that show the brightness. She asked, if the zoning is changed and they sell the property what can future owners do on AU property. She stated the drainage off of the 4,000-ft. roofline drains into her yard. She said she tried three times to talk to the Costello's politely, and was told that she needs to move. She concluded by saying she is very much against the change in zoning.

[Two videos submitted by Ms. Shepherd were played for the board]

Kelly Campbell, 2880 Appaloosa Boulevard, Melbourne, stated she is in favor of the rezoning and thinks it would be beneficial to the horse community. She said the noise and activity is to be expected for a horse property and it is something she have seen at other horse properties. She noted she lives adjacent to the subject property, to the southwest.

Robert Brisbane, 2945 Appaloosa Boulevard, Melbourne, stated he lives directly across the street to the east, and he is in favor of the rezoning. He said he doesn't have the immediate proximity as the neighbor to the south, but as far as the lighting and noise, he doesn't notice it as being a problem.

Mr. Wadsworth stated AU allows a lot of different things, such as growing vegetables and selling them from the property, and asked if that is something in which Ms. Costello would be interested. Ms. Costello replied no, and stated she is only interested in the horse business, and nothing will change since what it has been since 1999 when they bought the property.

Mr. Wadsworth asked staff if the board should place a BDP on the property allowing only horse-related activities. Mr. Ball replied the board can limit the activity through a BDP to horse use only and accessory uses relating to horse stables and a riding arena, but it would be voluntary by the applicant to do so.

Mr. Wadsworth asked if Ms. Costello would be willing to limit the use of the property. Ms. Costello replied yes, because that is all they do now.

Ron Bartcher asked Ms. Costello how many horses she intends to have on the property. Ms. Costello replied with RR-1 zoning they can have 20 horses, but they only have six, and she doesn't expect, nor want, any more than six horses. Mr. Bartcher asked if the six horses are her horses. Ms. Costello replied yes. She stated she used to board until she found out she was in violation, and the whole intent for the rezoning is so she can board horses to defray the costs of upkeep on the property. Mr. Bartcher asked the maximum number of horses she would like to board, including her six horses. Ms. Costello replied there will be six horses total on the property, and she will get rid of her own six horses and board other horses, so the maximum number on the property will only be six.

Mr. Bartcher asked if that can be put in a BDP. Mr. Ball stated it could be added to the BDP along with the limit on the uses. Ms. Costello stated she doesn't have a problem with any of that.

Brian Hodgers stated the board heard a similar request in the somewhat general area recently, and in an effort to keep things consistent the board recommended a BDP that had more details, such as no meat packing, no breeding, et cetera; it was purely for personal use. This applicant is asking for something a little bit different, because there would be a business association to the fact that she'd be doing dressage, or training and so forth, but it sounds like she's not going to be doing any of that other related business that staff just mentioned.

Mr. Ball stated his understanding of the direction the board has given is that a BDP be recommended to limit the uses to horse-related uses, so it would pre-empt any meat processing or cultivation of any product other than having horses on the property.

Ms. Costello stated also no breeding.

Motion by William Capote to approve the change of classification from RR-1 to AU, with a BDP with the two stipulations.

Mr. Ball stated he would prefer that the motion include a BDP to limit the use to horse-related activities only and limit the number of horses to a maximum of six.

Motion by William Capote, seconded by Joe Buchanan, to approve the change of zoning classification from RR-1 to AU, with a BDP limiting the use on the property to horse-related activities only, and limiting the number of horses to a maximum of six. The motion passed 6:1, with Bruce Moia voting nay.

Bruce Moia stated one of the reasons he voted nay is because if there is going to be a commercial operation, there should be more stipulations, because it is a commercial use in a residential area, and he thinks there should be more stipulations.

Abby Jorandby stated if the board wants to re-open the hearing there needs to be a motion and a second to re-open it for consideration, but the BDP is voluntary by the applicant.

Mr. Wadsworth stated the lighting and drainage will be addressed by Code Enforcement. Ms. Jorandby replied it will be, but BDPs can also address the hours of operation or lighting, and that could be a recommendation of the board.

From: Karen Shepherd
To: Jones, Jennifer
Subject: Costello arena Appaloosa Blvd. case # 21Z0005
Date: Friday, April 2, 2021 3:14:23 PM

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

Hello Jennifer:

I am going to do my best to get you some video to support our reasons for why the Costello property at 2940 Appaloosa should not be permitted to change zoning to Agricultural. If only we had known this was going to happen we could have a more professional presentation to show our sincere concern and what we have been dealing with for the last 3 years. The time and energy to properly let the board know what has been happening would take time and energy I don't have right now as I am dealing with major health concerns. We have photos and videos of activity and noise going on since the arena roof was added, but would have done more if we had known changing their zoning was even a possibility. Our concerns stem from the intentions they have for the intended use of their property in a residential area. It appears that they intend to run businesses to support the dressage community here in Brevard County and most recently a nationally advertised clinic. Naturally we can't prove all of this but activity and supporting evidence leads us to think the activity will only escalate if permitted, and we shall never have the beautiful peaceful setting we built our home on back in 2013. It is so disappointing and makes us heartsick. The changes that have been happening have allowed much rainwater runoff to flow into our yard too, noise and dust from tractors, trainers, incoming trailered in horses with their riders and guests. We hate that neighbors can't settle this on our own, but both parties have expectations of what we think is acceptable and respectful to have and operate in a residential community. I tried to discuss this several times but the advice given back was to just move. It truly does make me sad and ill to think it has come to this. We would not have settled here and built our forever home thinking a boarding and training facility was even remotely a possibility here, especially since the new arena olympic type facility is so very close to our home. We love horses and watching the others in the area roam and graze free.

Here's hoping the few videos and pictures I am forwarding now, will aid in giving you clarity as to our disappointment. Initially, I will forward them and hope audio works and without my explanation, that you even know what is showing. I did not do them to just forward like this and am concerned the impact will not be the same. We would sincerely hope that due to the complicated nature and outcome, we will have more time to impart our concerns as so much needs to be considered. It has been so very stressful as we have been trying to resolve the code issues and zoning violations since last August. Thank you so much for your understanding and please do not hesitate to connect with questions or thoughts if you have time.

PS ~ I am embarrassed, I don't know how to attach the photos!! I worked all day to do ... not much, so I will forward in a separate email ~ sorry!!

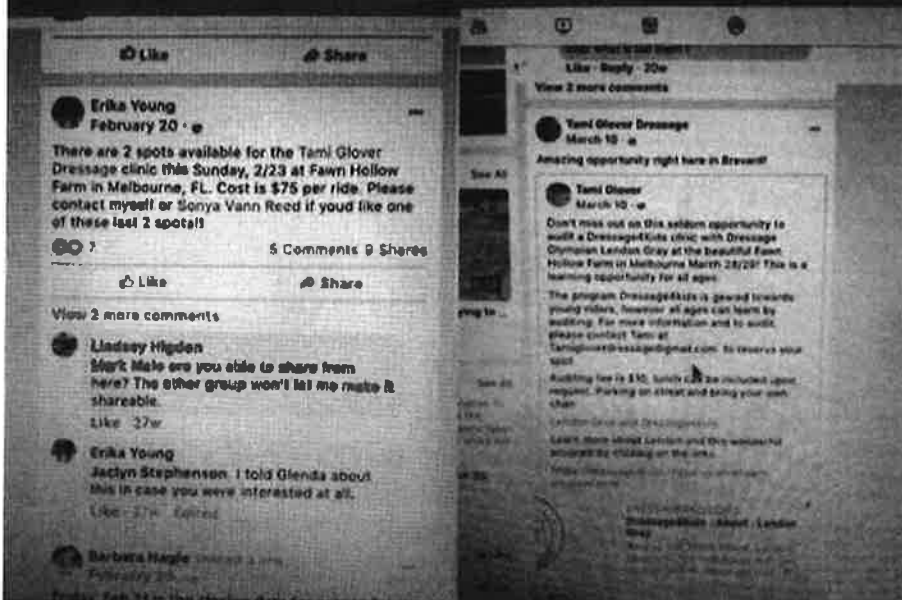
Sincerely,
Karen & Jeff Shepherd

Jones, Jennifer

From: Karen Shepherd <kannshep@gmail.com>
Sent: Friday, April 2, 2021 4:19 PM
To: Jones, Jennifer
Subject: Case 21Z00005 / Appaloosa Blvd arena and zoning

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

Since no luck trying to send video ~ forwarding some supportive photos of activity and violations (drainage, shows, business) ... Sorry for my lack of savvy with technology!
Karen Shepherd



From: [Karen Shepherd](#)
To: [Jones, Jennifer](#)
Subject: Re: Costello Staff Comments
Date: Sunday, April 4, 2021 3:40:41 PM

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

Good Morning Jennifer !

I am sending this off to you regards not being sure about allowing videos ... we have them only to point out the Fawn Hollow Farm noise we're subject to 24/7 from the tractor, boarders, trainers, guests, shows, clinics, maintenance, suppliers as heard from our house and porch. Just like today ... a gorgeous Easter Sunday, when we would like to gather, celebrate and eat outside with our guests ... we had to listen to 20 mins of the tractor riding around the arena? We ate inside.

Sincere thanks for putting up with my last minute emails ...!

See you Monday afternoon.

Karen Shepherd

> On Apr 1, 2021, at 5:02 PM, Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

>

> If you have video you'd like to present to the board, please send it to me no later than tomorrow.

>

> Thank you,

> Jennifer

>

> -----Original Message-----

> From: Karen Shepherd <kansshep@gmail.com>

> Sent: Thursday, April 1, 2021 4:54 PM

> To: Jones, Jennifer <jennifer.jones@brevardfl.gov>

> Subject: Re: Costello Staff Comments

>

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

>

> Hi Jennifer ~ thank you so much for calling and sending the information so promptly! I am wondering if I include photos and supporting info/documents, how much is too much. We have a lot. For instance, how to include a video? I don't want to overload your inbox, but feel it is very relevant to supporting our disapproval of allowing their zoning change. We love the rural setting and horses, and was a reason we like this area, and built our home here. The property is nothing like it was in 2013. BUT ~ continual additions and changes and activity at their arena, barn and business has totally changed the use and enjoyment of our home and outside area as well. We can't imagine once they "are allowed" to actually have all this activity, the negative impact we will be subject to. The constant activity alters our sleeping, entertaining, gatherings on our porch, keeping windows open and resale of our property, etc. Making sure we have as much supporting documentation is our goal. So what ever we can present, we will do our best to gather before the meeting. Is there going to be time for a decision to be made or is this the only day consideration for the zoning change will be made? Thank you again, Karen Shepherd

>

>> On Apr 1, 2021, at 4:22 PM, Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

>>

>> <21Z00005 Staff Comments.pdf>

>

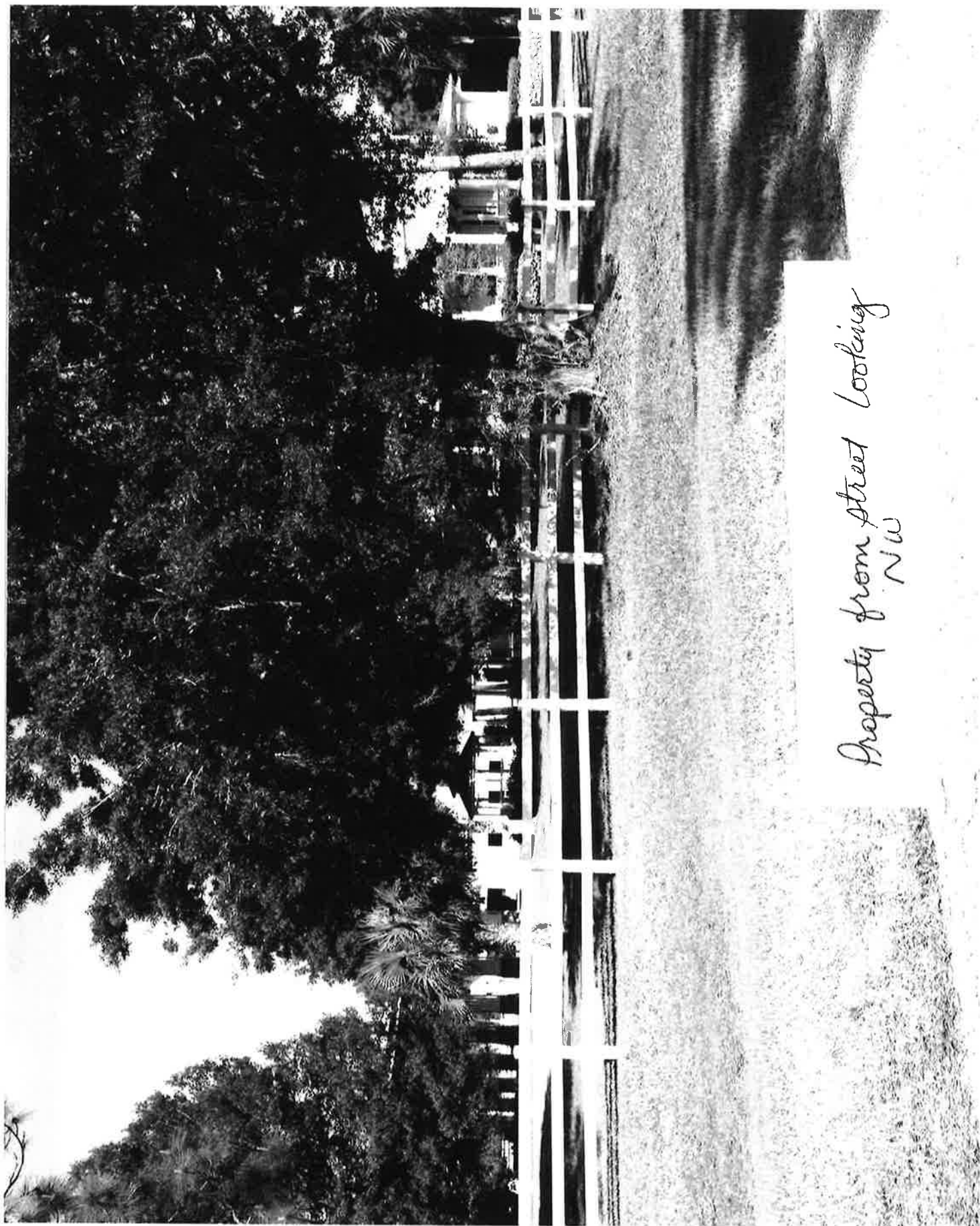




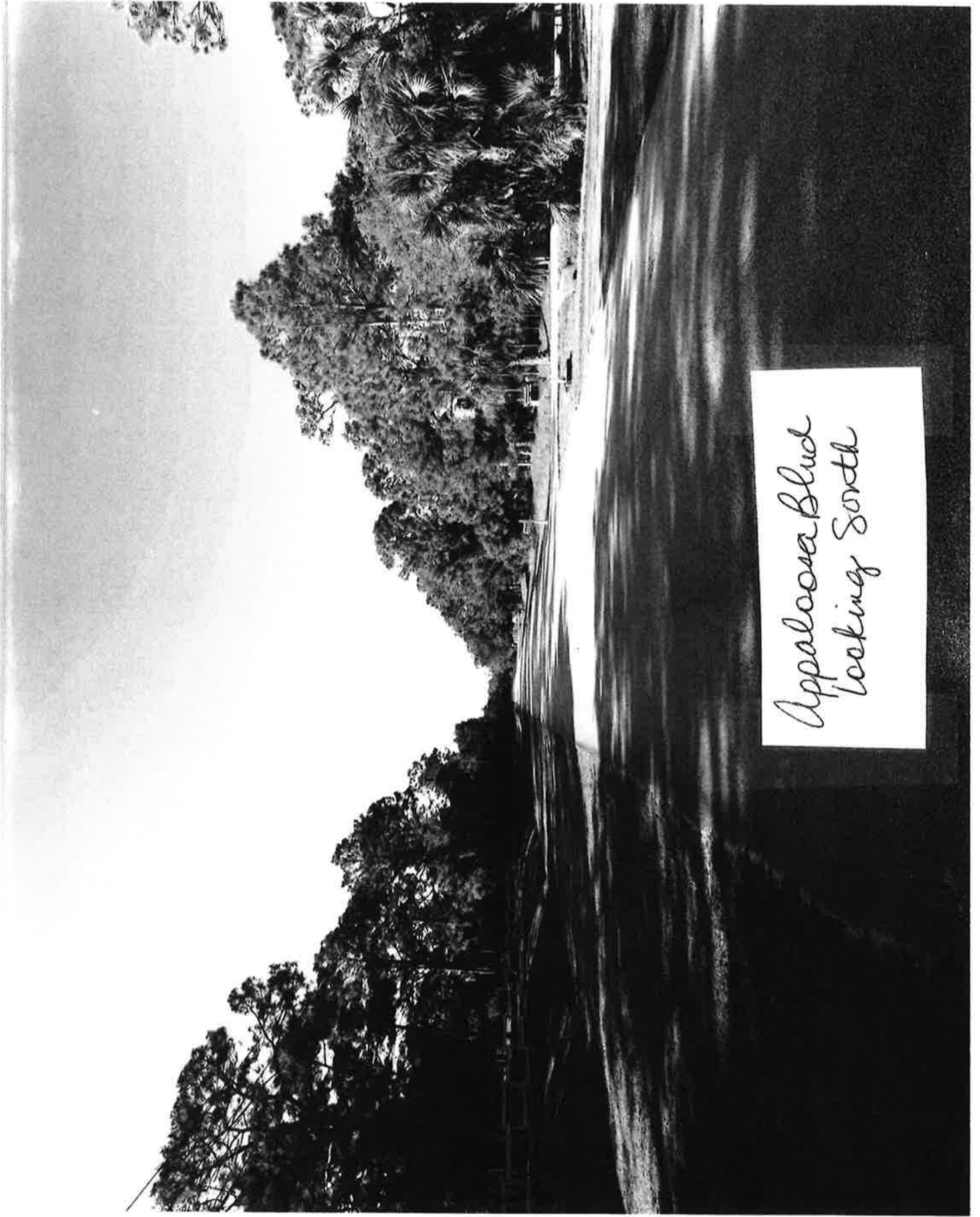
Arena from road.
Looking West.



front of property looking
SW



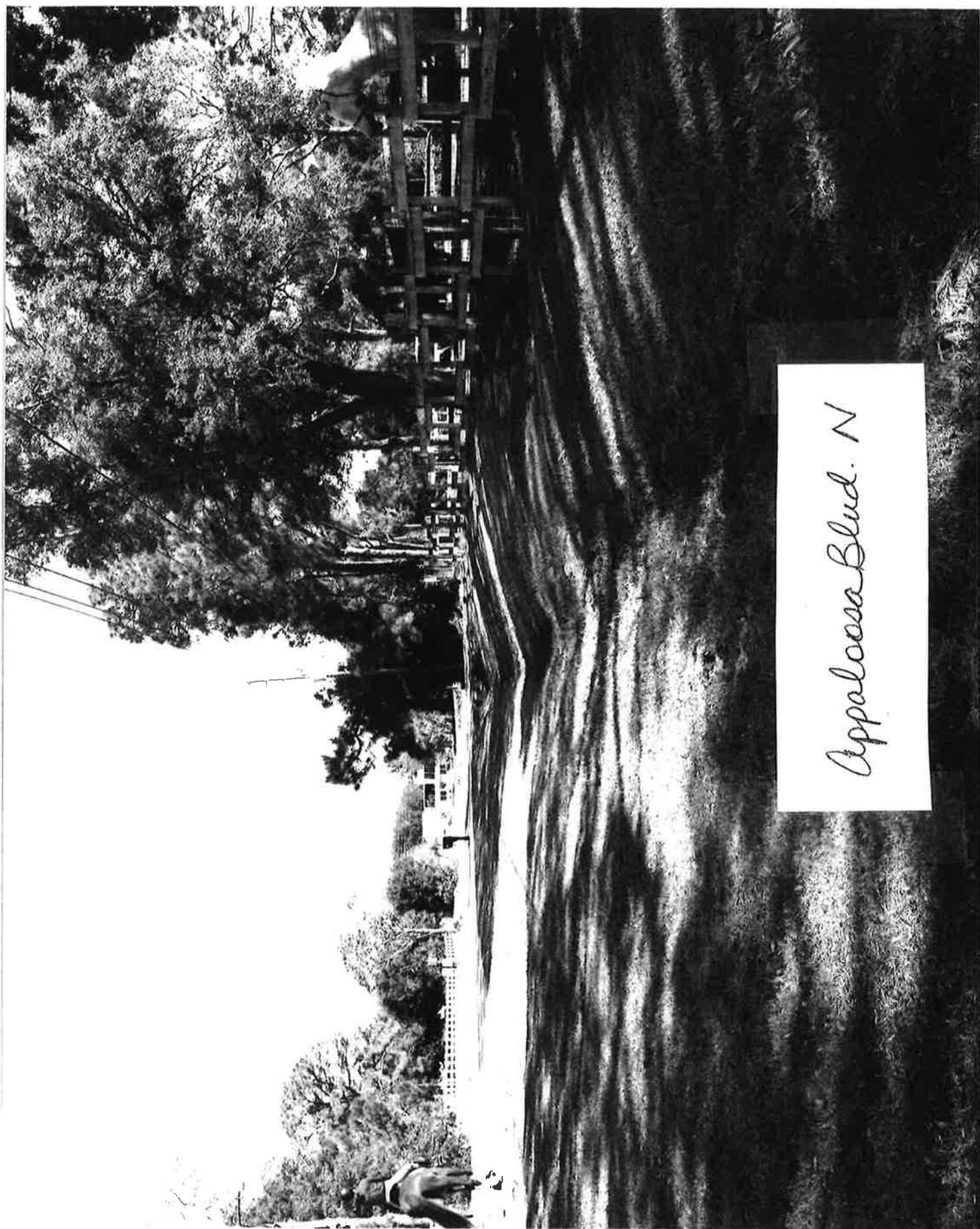
Property from street looking
NW



Appaloosa Blud
looking South

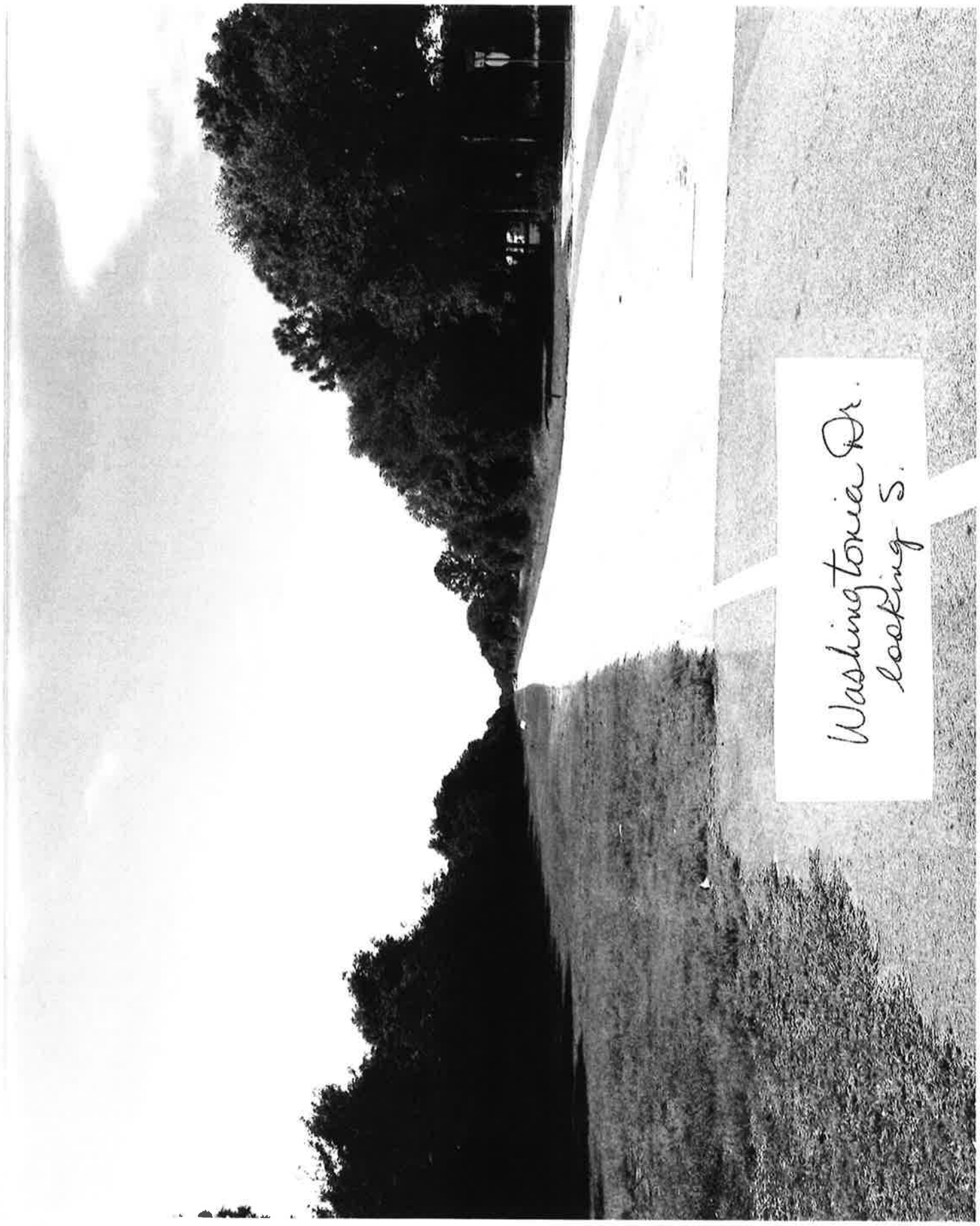


*Appaloosa Blvd
Looking South*



Appaloosa Blvd. N





*Washingtonia Dr.
looking S.*



Rake Washington Rd.
looking east



Kids with Olympian Lendon Gray



View from arena to Appaloosa Blvd
looking east

Sec. 62-1334. Agricultural residential, AU and AU(L).

The AU agricultural residential zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character.

The classification is divided into two types, AU and AU(L). The AU is the standard agricultural residential classification, while the AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character.

~~(1) Permitted uses.~~~~a. (1) Permitted uses within the AU classification are as follows:~~~~Single-family detached residential dwelling.~~~~All agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises as provided in chapter 86, article IV.~~~~Raising and grazing of animals.~~~~Dude ranches, with a minimum area of 40 acres. Barns or stables shall be 200 feet from any property line.~~~~Fowl raising and beekeeping.~~~~Parks and public recreational facilities.~~~~Plant nurseries.~~~~Private golf courses.~~~~Private camps.~~~~Foster homes.~~~~(2) Permitted uses within the AU(L) sub-classification are as follows:~~~~Single-family detached residential dwelling.~~~~Agricultural pursuits of a personal non-commercial nature. Structures for the housing of livestock and animals shall not be permitted within 100 feet of any existing residence under different ownership, except where otherwise permitted in section 62-2408.~~~~Parks and public recreational facilities.~~~~Foster homes.~~~~b. Permitted uses with conditions are as follows (see division 5, subdivision 4, of this article):~~~~Fish camps (section 62-1835.4.5).~~~~Group homes, level I, subject to the requirements set forth in section 62-1835.9.~~~~Landscaping business (section 62-1837).~~~~Mobile home residential dwelling (section 62-1837.7.5).~~~~Power substations, telephone exchanges and transmission facilities (section 62-1839).~~

AU is the exception of:

~~Preexisting use (section 62-1839.7).~~

~~Private parks and playgrounds (section 62-1840).~~

~~Resort dwellings.~~

~~Temporary living quarters during construction of a residence.~~

~~Tenant dwellings: Mobile homes (section 62-1843).~~

~~Tenant dwellings: One unit is permitted for each five acres of land under the same ownership. Tenant dwellings must be 100 feet from property of different ownership (section 62-1842.5).~~

Tiny House or a THOW

- (2) *Accessory buildings or uses. Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).*

- (3) *Conditional uses. Conditional uses are as follows:*

Airplane runways (section 62-1905).

Bed and breakfast inns (section 62-1912).

Boarding of horses and horses for hire (section 62-1913).

Captive wildlife (section 62-1958).

Change of nonconforming agricultural use.

Composting facility.

Farmers' market (section 62-1929).

Guesthouses or servants' quarters, without kitchen facilities (section 62-1932).

Hog farms (section 62-1934).

Land alteration (over five acres) (section 62-1936).

Private heliports (section 62-1943.5).

Roadside stand (section 62-1945.5).

Security mobile homes.

Single-family residential second kitchen facility.

Skateboard ramps (section 62-1948).

Substantial expansion of a preexisting use (section 62-1949.7).

Veterinary hospital, office or clinic, pet kennels (section 62-1956).

Wireless telecommunication facilities and broadcast towers.

Zoological parks (section 62-1960).

- (4) *Minimum lot size.* An area of not less than two and one-half acres is required, having a minimum width of 150 feet and a minimum depth of 150 feet.
- (5) *Setbacks.*
- a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.
 - b. Accessory buildings shall be located to the rear of the front building line of the principal building and shall be set back not less than 15 feet from the side lot lines and not less than 15 feet from the rear lot lines.
 - c. Setbacks for barns and stalls are as follows:
 1. Front: 125 feet from the front lot line.
 2. Side: 50 feet from the side lot line.
 3. Rear: 50 feet from the rear lot line.
- (6) *Minimum floor area.* Minimum floor area is 750 square feet of living area.
- (7) *Maximum height of structures.* Maximum height of structures is as follows:
- a. Residential structures: 35 feet.
 - b. Structures accessory to an agricultural use: 45 feet.

(Code 1979, § 14-20.08(D); Ord. No. 95-47, §§ 8, 9, 10-19-95; Ord. No. 95-49, § 18, 10-19-95; Ord. No. 95-51, § 3, 10-19-95; Ord. No. 96-16, §§ 8, 9, 3-28-96; Ord. No. 96-46, § 10, 10-22-96; Ord. No. 97-29, § 2, 8-12-97; Ord. No. 97-46, § 1, 12-2-97; Ord. No. 98-03, § 6, 1-29-98; Ord. No. 98-08, § 2, 2-10-98; Ord. No. 98-11, § 3, 2-26-98; Ord. No. 98-62, § 5, 12-3-98; Ord. No. 2002-49, § 5, 9-17-02; Ord. No. 2003-03, § 6, 1-14-03; Ord. No. 03-40, § 1, 8-12-03; Ord. No. 04-29, § 6, 8-5-04; Ord. No. 2004-52, § 4, 12-14-04; Ord. No. 2005-25, § 5, 5-19-05; Ord. No. 05-27, § 2, 5-19-05; Ord. No. 2007-59, § 9, 12-6-07; Ord. No. 2009-06, § 2(Exh. A), 2-5-09; Ord. No. 2010-22, § 10, 11-23-10; Ord. No. 2011-17, § 4, 5-26-11; Ord. No. 2013-38, § 1, 11-19-13; Ord. No. 2013-38, § 1, 11-19-13; Ord. No. 2014-30, § 3, 10-2-14; Ord. No. 18-27, § 1, 12-04-18)

Editor's note— Ord. No. 2013-38, § 1, adopted November 19, 2013, amended § 62-1334 to read as set out herein. Previously § 62-1334 was titled *agricultural residential, AU and AU(L)*.