



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

10/2/2025

Subject:

Michael S. Palo (Landon Scheer) requests a zoning classification change from BU-1 and RU-1-7 to BU-2 with a BDP. (25Z00029) (Tax Account 2611657, 2611658) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) and RU-1-7 (Single-Family Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial) with a BDP (Binding Development Plan).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 and RU-1-7 to BU-2 with a BDP to limit uses to all BU-1 uses, and with BU-2 uses limited to contractor's offices, plants, and storage yards, on two (2) parcels totaling a 3.37-acre property.

"Contractor's offices, plans, and storage yards" is a specified permitted use with conditions under Section 62-1483 (BU-2), Brevard County Code of Ordinances. The conditions for the use is found in Section 62-1833.5, which has the condition (a): Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence. The applicant has supplied a concept plan (attached); this plan is for illustrative purposes and is non-binding; it has not undergone review for land development regulation compliance.

The request can be considered an intensification and encroachment into the surrounding residential area. The proposed may be considered an introduction of commercial activity not already present within the immediate area. The applicant wishes to mitigate negative impacts by offering a Binding Development Plan in conjunction with the rezoning action.

The applicant has a companion Small Scale Comprehensive Plan Amendment application, 25SS00007, requesting a FLUM change from Community Commercial (CC) and Residential 15 (RES 15) to all CC. Approval of the requests will provide a unified zoning and FLU across both properties.

The RU-1-7 is a single-family residential zoning classification that allows for a minimum floor area of 700 square feet. BU-1 zoning classification is devoted to general retail shopping, offices, and personal services to serve the needs of the community. BU-1 does not permit warehousing and wholesale. The proposed BU-2

zoning classification permits retail, wholesale, and warehousing commercial. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats, and mobile homes. The applicant wishes to mitigate negative impacts by offering a BDP to limit the commercial uses.

North are three (3) properties: One (1) property is 0.93 acres, undeveloped with GU and BU-1 zoning classification with RES 15 and CC FLU designation. The second (2) property is 0.91 acres, undeveloped with RU-1-7 and BU-1 zoning classification with RES 15 and CC FLU designation. The third property is 1.5 acres, undeveloped with RU-1-7 and BU-1 zoning classification, and has RES 15 and CC FLU designation. The State of Florida owns all three (3) parcels. South is one (1) property, 1.17 acres, developed with a single-family residence built in 1951, a duplex built in 1973, and the placement of a mobile home in 1975. RU-2-10(6) and BU-1 zoning classification with RES 15 and CC FLU designation. East is Highway 1, a four-lane state-maintained roadway.

West is one (1) property of 33.01 acres, developed as a mobile home park, considered non-conforming by design, with approximately 218 units zoned TR-3 with a RES 15 FLU designation.

The Board may wish to consider if the request is consistent and compatible with the surrounding area; in particular, the Board may wish to consider the intensification and encroachment of commercial activity into the surrounding residential area. The Board may also consider whether the proposed BDP is sufficient to mitigate potential impacts to the surrounding area.

On September 15, 2025, the Planning and Zoning Board heard the request and unanimously recommended approval, with the modified BDP to amend the allowable BU-2 use from "contractor's offices, plants, and storage yards" to "contractor's offices and storage yards" (i.e. removing "plants").

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

25Z00029

Michael Palo

BU-1 (General Retail Commercial) and RU-1-7 (Single-family residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan)

Tax Account Number: 2611657, 2611658
Parcel I.D.: 26-37-32-52-*-13
26-37-32-52-*-16
Location: 4268 N Highway 1, approximately 394 feet north of West Elm Drive (District 4)
Acreage: 3.37 +/- acre

Planning & Zoning Board: 9/15/2025
Board of County Commissioners: 10/02/2025

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C) *

	CURRENT	PROPOSED
Zoning	BU-1/RU-1-7	BU-2 w/BDP***
Potential*	FAR 1.00 or 45 single-family dwelling units	FAR 1 or 101 Multi-family Units***
Can be Considered under the Future Land Use Map	Yes/ YES CC/ RES 15	YES** CC

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

Approval is pending approval of companion request **25SS00007, which proposes to amend the Future Land Use designation from Community Commercial (CC) and Residential 15 (RES 15) to all CC.

*** Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act)

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 and RU-1-7 to BU-2 with a BDP to limit uses to all BU-1 and BU-2 uses limited to contractor's offices, plants, and storage yards on two (2) parcels totaling a 3.37-acre property.

The applicants' proposed use falls under a permitted use with conditions under Section 62-1483. The use specifically is found in Section 62-1833.5 (a), which has the condition: Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence.

The applicant has a companion Small Scale Comprehensive Plan Amendment application, **25SS00007**, requesting a FLUM change from Community Commercial (CC) and Residential 15 (RES 15) to all CC. Approval of the requests will provide a unified zoning and FLU across both properties.

The subject property is currently undeveloped and located on the west side of Highway 1, a state-maintained road, approximately 394 feet north of West Elm Drive.

The RU-1-7 is a single-family residential zoning classification that allows for a minimum floor area of 700 square feet. BU-1 zoning classification is devoted to general retail shopping, offices, and personal services to serve the needs of the community. BU-1 does not permit warehousing and wholesale. The proposed BU-2 zoning classification permits retail, wholesale, and warehousing commercial. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats, and mobile homes. The applicant wishes to mitigate negative impacts by offering a BDP to limit the commercial uses.

The subject property comprises of two parcels, which were combined under one deed on March 7, 2007, as recorded in ORB 5775, PG 5913.

On July 29, 1971, RU-1-7 portion of the subject property was administratively rezoned under **Z-2980**, to replace the RU-1 zoning classification. The BU-1 portion is the original zoning established in 1958.

RES 15 is the original FLU designation established by the 1988 Brevard County Comprehensive Plan. The 2004 U.S.1 Corridor Study recommended extending the CC and NC land use on the western portion of Highway 1. from Post Road to Pineda Causeway. The Board adopted the recommendation under Comprehensive Plan Amendment **2005A.5**. As a result, approximately 0.8 acres of the subject property FLU designation was changed to CC.

Approval of the BU-2 zoning classification would also allow the applicant or their successors to develop affordable housing residential units, up to 30 units per acre, under **BCC Policy-100 (Live Local Act)**.

In 2023, the Live Local Act was enacted and was revised in 2024. The Act is intended to address the state's growing housing affordability crisis through significant land use, zoning, and tax benefits. Pursuant to Florida Statute 125.01055, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development. In unincorporated Brevard County, the Live Local Act effectively allows for the development of up to 30 dwelling units per acre. The subject property, encompassing 3.37 acres with approximately 0.5 acres zoned BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 11 multi-family units as stipulated by the Live Local Act. With the approval of the rezoning of 3.37 acres, this would allow a commercial use with FAR of 1.00 or 101 multi-family units as stipulated by the Live Local Act.

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Highway 1 is an MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments before the allowance of any impacts. Board approval may be required for impacts.

This property contains aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. A portion of the north parcel is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area

At this time, there are no active code enforcement issues associated with the subject property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	State-owned vacant land	GU, RU-1-7, BU-1	RES 15, CC
South	Multi-Family Residential	RU-2-10(6), BU-1	RES 15, CC
East	Highway 1	N/A	N/A
West	Mobile home park	TR-3	RES 15

North is three (3) properties: One (1) property is 0.93 acres, undeveloped with GU and BU-1 zoning classification with RES 15 and CC FLU designation. The second (2) property is 0.91 acres, undeveloped with RU-1-7 and BU-1 zoning classification with RES 15 and

CC FLU designation. The third property is 1.5 acres, undeveloped with RU-1-7 and BU-1 zoning classification, and has RES 15 and CC FLU designation. The State of Florida owns all three (3) parcels.

South is one (1) property, 1.17 acres, developed with a single-family residence built in 1951, a duplex built in 1973, and the placement of a mobile home in 1975. RU-2-10(6) and BU-1 zoning classification with RES 15 and CC FLU designation.

East is Highway 1, a four-lane state-maintained roadway.

West is one (1) property of 33.01 acres, developed as a mobile home park, considered non-conforming by design, with approximately 218 units zoned TR-3 with a RES 15 FLU designation.

There is a mixture of zoning classifications in the surrounding area, and the following provides a brief description:

GU classification is a holding category that encompasses rural single-family residential development or unimproved lands for which there is no definite current proposal for development or land in areas lacking specific development trends on five-acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

RU-1-7 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

BU-1 classification allows retail commercial land uses on a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling

RU-2-10 classification medium-density multiple-family residential zoning classifications encompass lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-10 permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

TR-3 zoning is a mobile home park zoning classification with a minimum lot size of 10 acres for the park. Mobile home sites must be at least 4,000 square feet, with a minimum width of 40 feet

Future Land Use

The subject property's BU-1 zoning classification can be considered consistent with the CC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The subject property's RU-1-7 zoning classification can be considered consistent with the RES 15

Future Land Use designation. The proposed BU-2 zoning classification can be considered consistent with the requested CC FLUM designation.

Applicable Land Use Policies

FLUM Policy 2.2 Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

BU-2 zoning classification permits retail, wholesale, and warehousing commercial land uses on minimum 7,500 square feet lot.

B. Existing commercial zoning trends in the area;

Within the County limits, this area on the west side of the Highway 1 corridor is primarily commercial, abutting the roadway. Beyond the commercial properties are single-family and mobile home residences, along with a mobile home park. There are at least two (2) properties with residential zoning that abuts the roadway.

Currently, there are two (2) properties with BU-2 commercial zoning within the area. One has split zoning of BU-2 & BU-1 with used car auto sales, and the other has a mobile home park office.

There have been no commercial rezonings in the area since 2020. West of Highway 1, the most recent approved commercial rezoning, under 20PZ00032, involved a property approximately 0.2 miles south of the subject property and changed from BU-1, RU-2-10, and RU-1-7 to all BU-1 on 0.92 acres. The request also included an SSCPA to amend the FLUM from RES 15 and NC to CC on 0.68 acre portion of the property. No development plans have been submitted.

In 2001, a property approximately 0.1 miles south of the subject property was rezoned from BU-1 to BU-2. However, at that time, it was owned by the VFW. It appears that portion of the property was sold to the car dealership prior to the VFW annexing into the City of Melbourne.

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The Board may consider if the request is compatible with the surrounding area. The proposed FLU designation can be considered an intensification and encroachment into the residential area. The applicant wishes to mitigate negative impacts by offering a Binding Development Plan in conjunction with the rezoning action. There are two BU-2 zoned properties in the area. One has split zoning of BU-2 & BU-1 with used car auto sales, and the other has a mobile home park office. There is no interconnectivity, as this is a separate development with no other proposed or existing commercial abutting it.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal; and

The subject property is serviced by the City of Melbourne for potable water. The property is serviced by Brevard County Utilities for sewer.

Roadway LOS for the proposed will increase the percentage of MAV utilization by 0.49%. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

A majority of the subject parcel contains wetlands or hydric soils. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Highway 1 is a MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts.

This property contains aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. Impacts will be reviewed during the site plan process to ensure adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems.

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

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This subject property will need to comply with Brevard County Performance Standards noted within Sections 62-1483 and 62-2251 through 62-2272 of Brevard County Code.

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

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

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

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

Staff analysis indicates the request is not located within an existing neighborhood. The area is a mixture of mobile homes, a mobile home park office, used automobile sales, single-family residences, and vacant land. The Board should consider the array of intense uses permitted under the BU-2 zoning classification and the applicant's proposed BDP to limit the impacts.

Any proposed commercial use shall be subject to compliance with all performance standards within Sec. 62-2251 through Sec. 62-2272 will be reviewed at the site plan stage should the zoning change be approved.

Traffic from the proposed development will increase the percentage of MAV utilization by 0.49%. The corridor is anticipated to operate at 66.74% of capacity daily. To note: Concurrency is completed using Highway 1 from Post Road to Pineda Causeway. Specific concurrency issues will be addressed at the time of site plan review.

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

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

The proposed use would be located between residential uses. And may be inconsistent with the existing residential pattern. Historically, this area is mostly commercially zone BU-1 within approximately the first 100 feet from the west side of Highway 1 corridor. Additionally, there are residentially zoned properties abutting to the north and south, such as GU and RU-2-10(6). Other zoning classifications within a 0.5 mile radius include BU-2, TR-3, TR-1, RP, RU-1-9, RU-2-15, and RU-1-7.

There are four (4) FLU designations within a 0.5-mile radius of the subject property: Residential 15 (RES 15), Residential 6 (RES 6), CC, and NC. The predominant FLUM designation for commercial is CC, while the predominant residential FLU is RES 15.

There have been no FLUM amendments within one-half mile of the subject property in the past three years.

Please note, this analysis only includes unincorporated areas of Brevard County.

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

Staff analysis has determined there were two single-family residences developed, in 2024 and 2023, within 0.5 miles of the subject property in the preceding three years.

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

It appears no changes in actual development have occurred in the immediate area within the last three years.

- **There is one property developed as a marina that is currently going through the review process for a minor site plan change under 24AD00014.**

To note: There is one property developed as a marina that is currently going through the review process for a minor site plan change under 24AD00014.

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

No material violation of relevant policies has been identified.

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

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

use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the request is not located within an established residential neighborhood but rather a residential area. The proposed will introduce commercial activity not already present within the immediate area.

However, a preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service.

- 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.

Staff analysis indicates the subject property is not located in an established residential neighborhood. There are clearly established boundaries, such as roads and open spaces, in the area.

- 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.

The proposed use is not considered neighborhood commercial.

- 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.

The area is primarily residential. Within the previous five years, there have been one (1) commercial rezoning approximately 1000 feet to the south:

- **20PZ00032: Approved rezoning on 0.92 acres from BU-1, RU-2-10 and RU-1-7 to all BU-1 on July 9, 2020.**

FLUE 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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

A majority of the subject parcel contains wetlands, or hydric soils. It is also mapped as containing aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A. A portion of the north parcel is located within the Coastal High Hazard Area (CHHA). Federally and/or state-protected species may be present on the property.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. 1, between Post Road and Pineda Causeway, which has a Maximum Acceptable Volume (MAV) of 39,680 trips per day, a Level of Service (LOS) of D, and currently operates at 66.24% of capacity daily. The proposed rezoning increases the percentage of MAV utilization by 0.49%. The corridor is anticipated to operate at 66.74% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change. The concurrency analysis was based on a trade contractor with an estimate of an approximate 30,000 square foot building.

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

Centralized potable water service is available to this property from the City of Melbourne. In addition, centralized sewer service is available from Brevard County Utilities.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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

For Board Consideration

The Board can consider if the request is consistent and compatible with the surrounding area, recognizing existing development trends.

The Board may also consider whether the proposed BDP is sufficient to mitigate potential impacts to the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00029

Applicant: Landon Sheer (Owner: Michael Palo)

Zoning Request: BU-1 and RU-1-7 to all BU-2 w/ a BDP

Note: to unify the zoning and FLU across the properties

Zoning Hearing: 09/15/2025; **BCC Hearing:** 10/02/2025

Tax ID No.(s): 2611657 & 2611658

- 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:

- Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Wetlands

A portion of the subject parcel contains mapped National Wetlands Inventory (NWI) wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Highway 1 is a MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require no net loss mitigation in accordance with Section 62-3696.

Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

Aquifer Recharge Soils

This property contains Tavares fine sand, 0 to 5 percent slopes; and St. Lucie fine sand, 0 to 5 percent slopes, classified as aquifer recharge soils. Additionally, the mapped topographic elevations show that the property falls within Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

A portion of the north parcel is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan

design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements and buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.



Certificate Of Completion

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 Source Envelope:
 Document Pages: 1
 Certificate Pages: 1
 AutoNav: Enabled
 EnvelopeId Stamping: Enabled
 Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status: Completed

Envelope Originator:
 Myron Barker, PLS 5085
 2900 Lake Washington Rd,
 Suite 1
 Melbourne, FL 32935
 PrecisionSurveying1993@gmail.com
 IP Address: 108.189.246.130

Record Tracking

Status: Original
 6/30/2025 5:13:58 PM

Holder: Myron Barker, PLS 5085
 PrecisionSurveying1993@gmail.com

Location: DocuSign

Signer Events

Myron Barker, PLS 5085
 precisionsurveying1993@gmail.com
 Vice President
 Precision Land Surveying, Inc
 Security Level: Email, Account Authentication
 (None)

Signature

DocuSigned by:
Myron Barker, PLS 5085
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 Freeform Signing

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

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Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

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Payment Events

Status

Timestamps

Prepared by: _____
Address: _____

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and MICHAEL S PALO (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as Contractor's offices, plants and storage yards pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. Developer/Owner shall limit use to all BU-1 uses and only Contractor's offices, plants and storage yards from the BU-2 zoning district.

4. The Developer/Owner shall limit ingress and egress to US-1.
5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
8. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.
10. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Rob Feltner, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

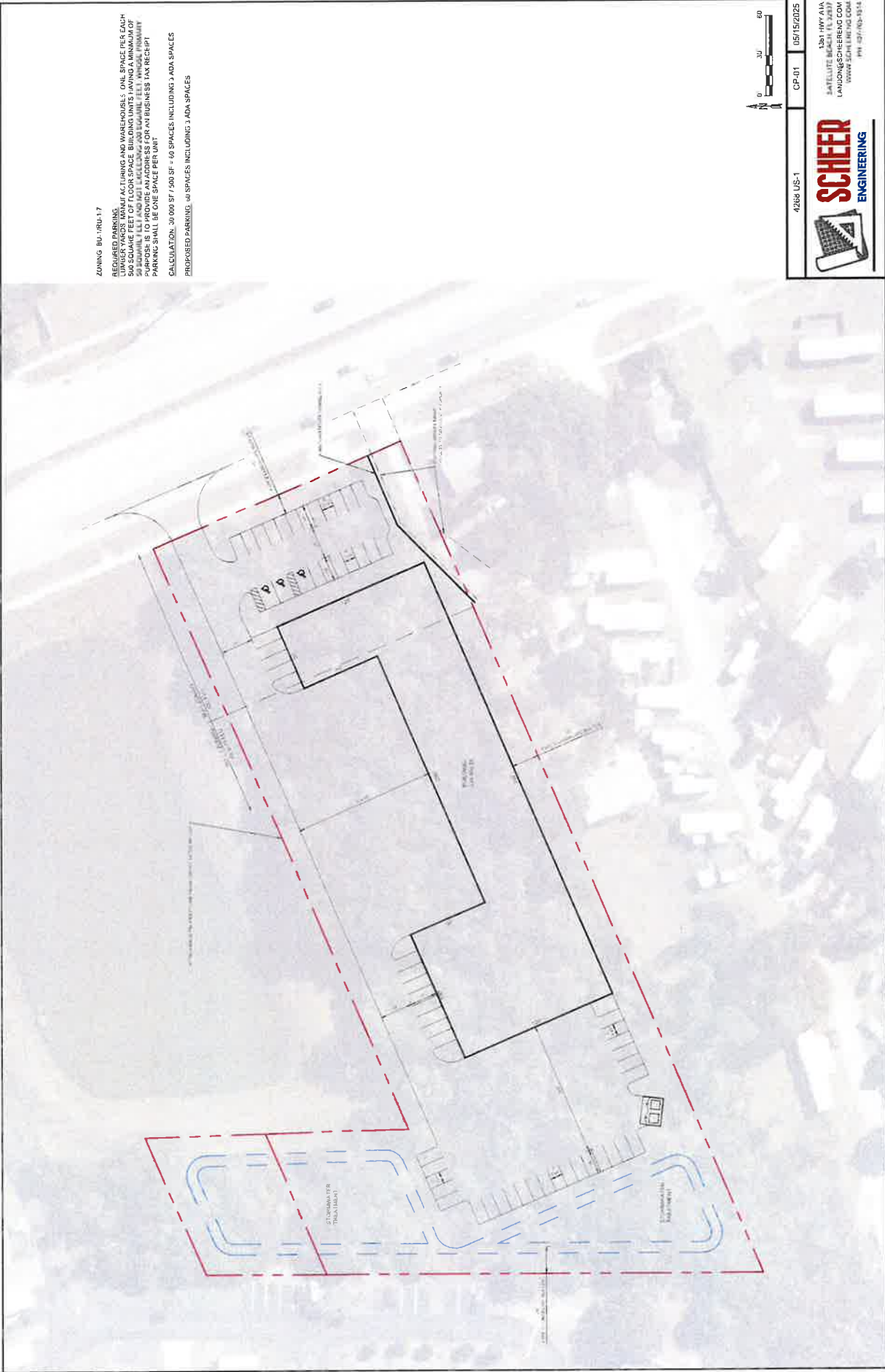
STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)



ZONING BU - RU-17

REQUIRED PARKING:
 1. REQUIRED PARKING FOR ALL BUILDINGS AND WAREHOUSES: ONE SPACE PER EACH 500 SQUARE FEET OF FLOOR SPACE. BUILDING UNITS HAVING A MINIMUM OF 500 SQUARE FEET OF FLOOR SPACE SHALL PROVIDE ONE SPACE PER UNIT. UNITS WITH LESS THAN 500 SQUARE FEET OF FLOOR SPACE SHALL PROVIDE ONE SPACE PER UNIT. UNITS WITH MORE THAN 500 SQUARE FEET OF FLOOR SPACE SHALL PROVIDE ONE SPACE PER UNIT. UNITS WITH MORE THAN 500 SQUARE FEET OF FLOOR SPACE SHALL PROVIDE ONE SPACE PER UNIT. UNITS WITH MORE THAN 500 SQUARE FEET OF FLOOR SPACE SHALL PROVIDE ONE SPACE PER UNIT.

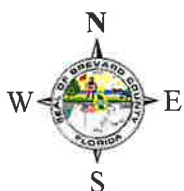
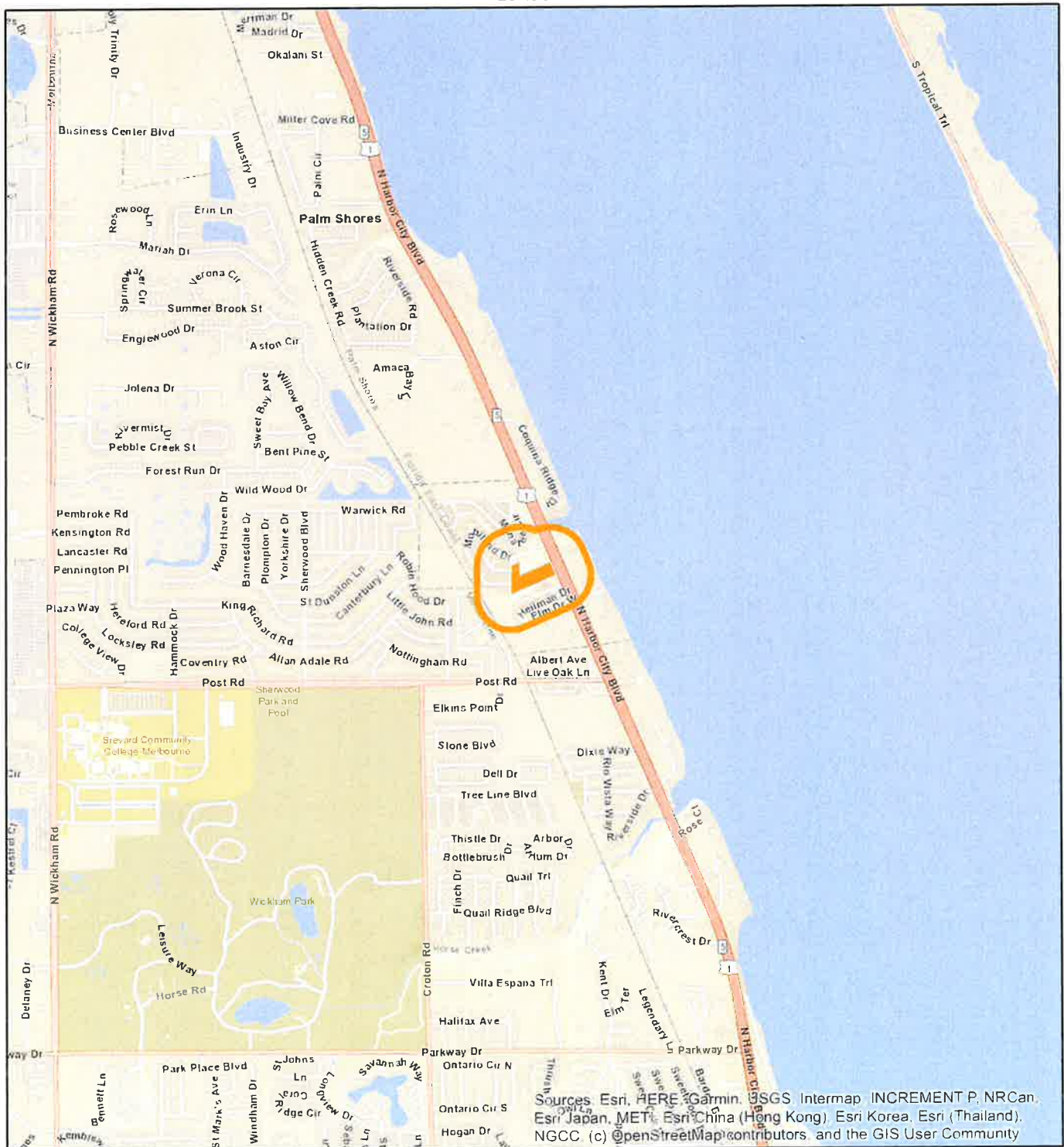
PROPOSED PARKING: 40 SPACES INCLUDING 3 ADA SPACES

PROPOSED PARKING: 40 SPACES INCLUDING 3 ADA SPACES

42684 US-1	CP-01	05/15/2025
 SCHER ENGINEERING		
13th HWY AVE SATELLITE BLVD FL 2007 LANDINGSCHERING.COM WWW.SCHERING.COM PH: 407/463-1514		

LOCATION MAP

PALO, MICHAEL S
25Z00029



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 7/10/2025

— Buffer

— Subject Property

PALO, MICHAEL S
25Z00029



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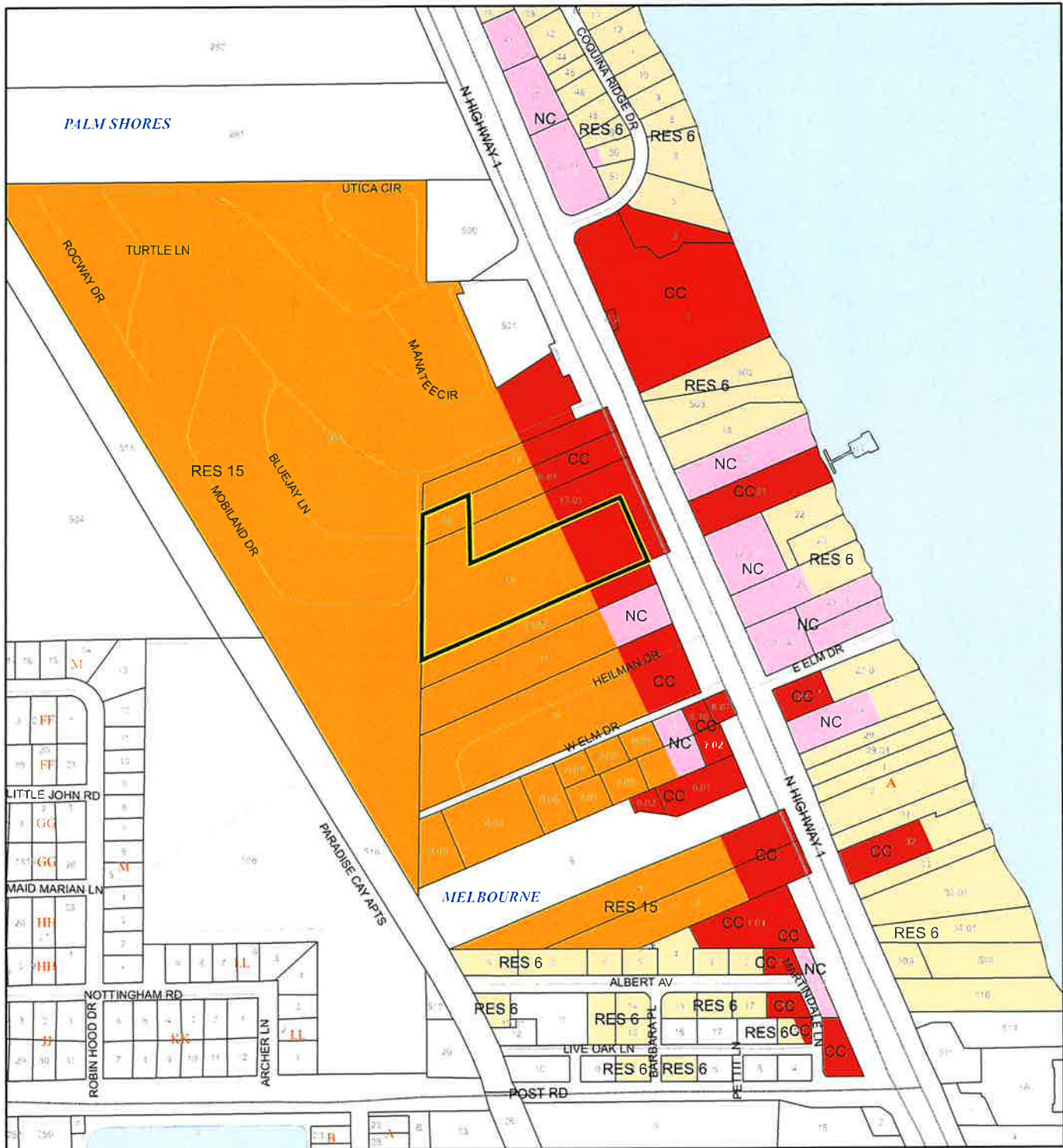
Subject Property

Parcels

 Zoning

FUTURE LAND USE MAP

PALO, MICHAEL S
25Z00029



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: 7/10/2025

AERIAL MAP

PALO, MICHAEL S
25Z00029



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2025

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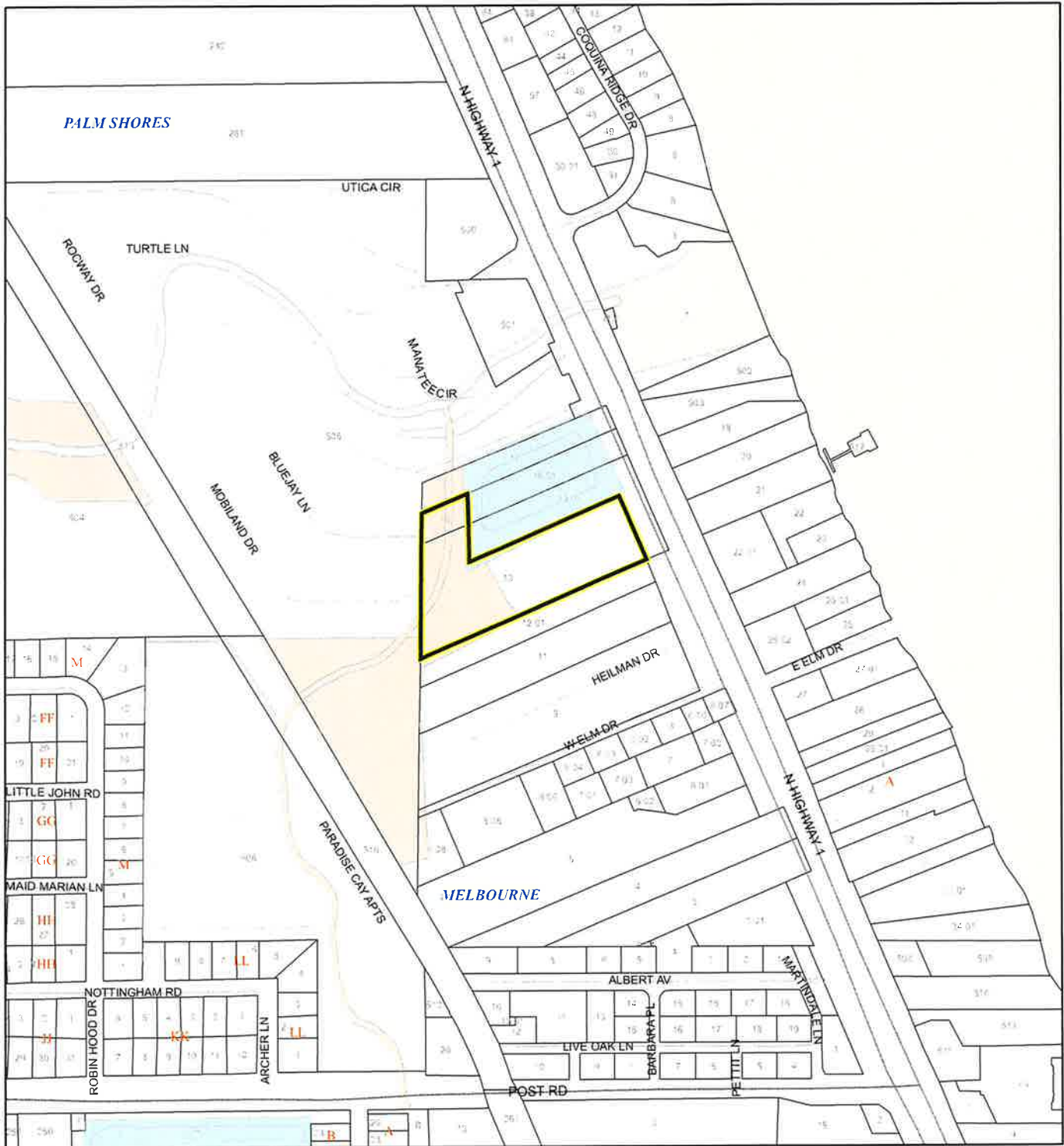
Produced by BoCC - GIS Date: 7/10/2025

 Subject Property

 Parcels

NWI WETLANDS MAP

PALO, MICHAEL S
25Z00029



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/10/2025

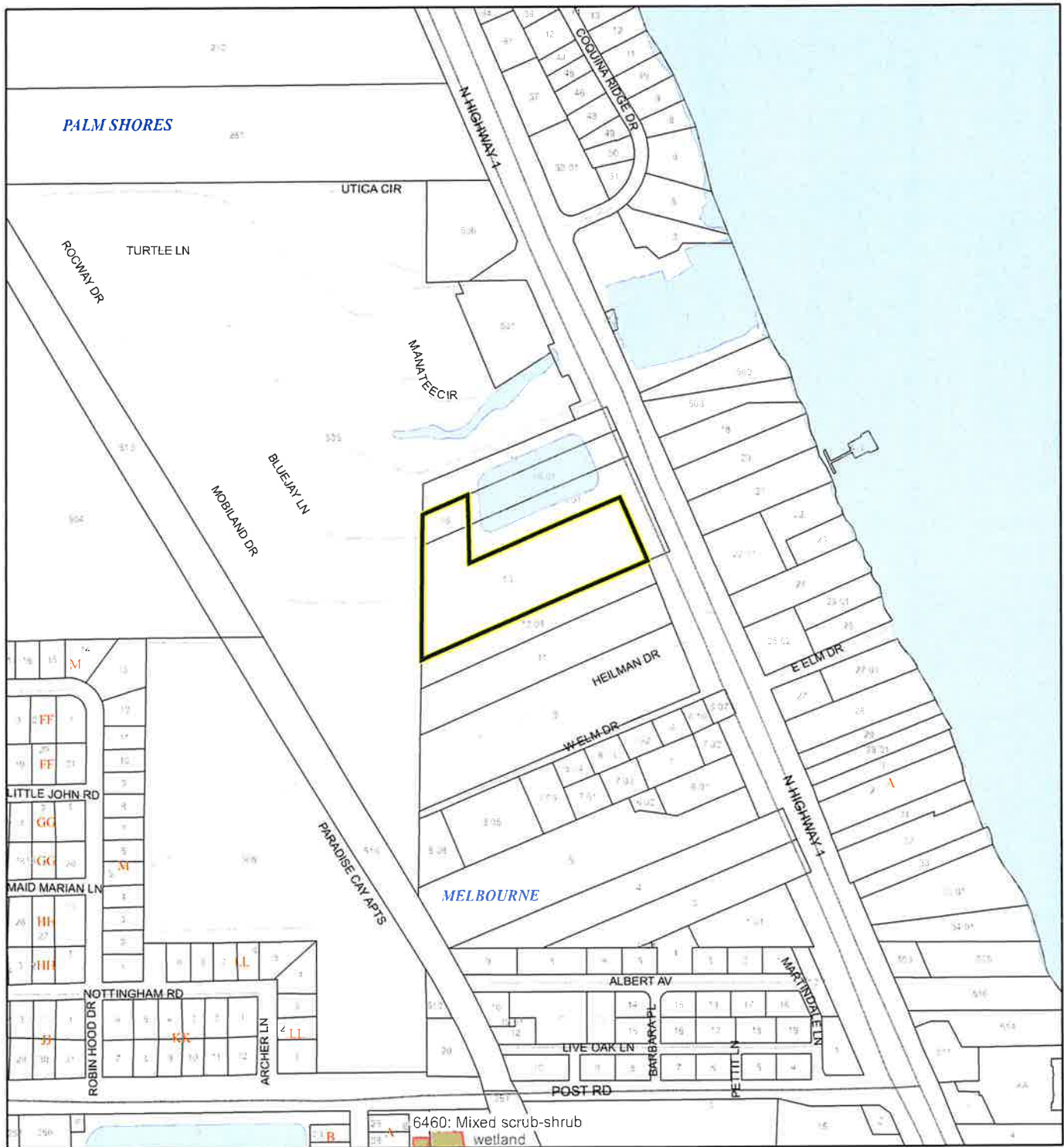
National Wetlands Inventory (NWI)

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

PALO, MICHAEL S

25Z00029



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: 7/10/2025

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

PALO, MICHAEL S
25Z00029



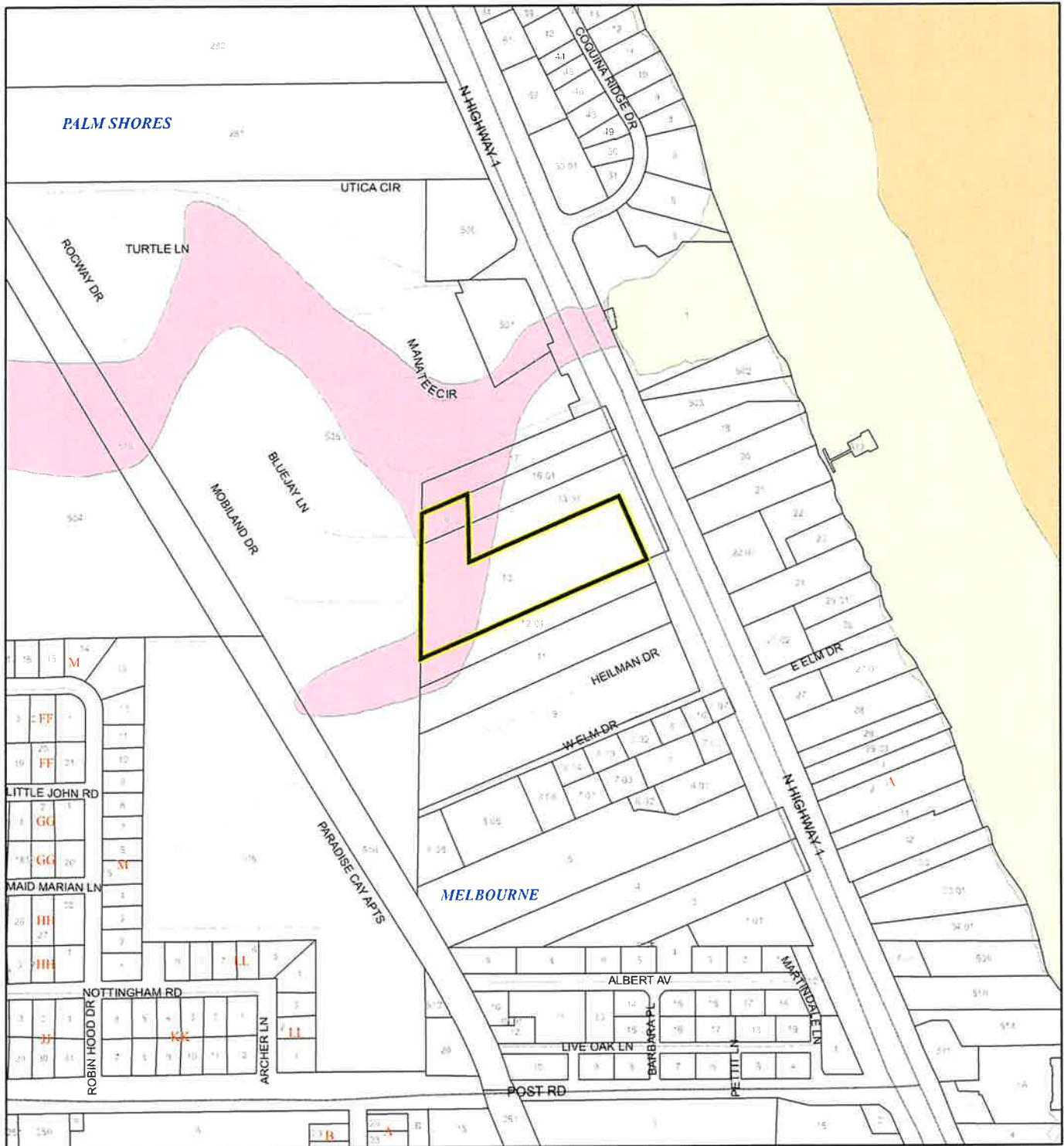
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Aquifer and Hydric
 Aquifer
 Hydric
 None

 Subject Property
 Parcels

FEMA FLOOD ZONES MAP

PALO, MICHAEL S
25Z00029



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.

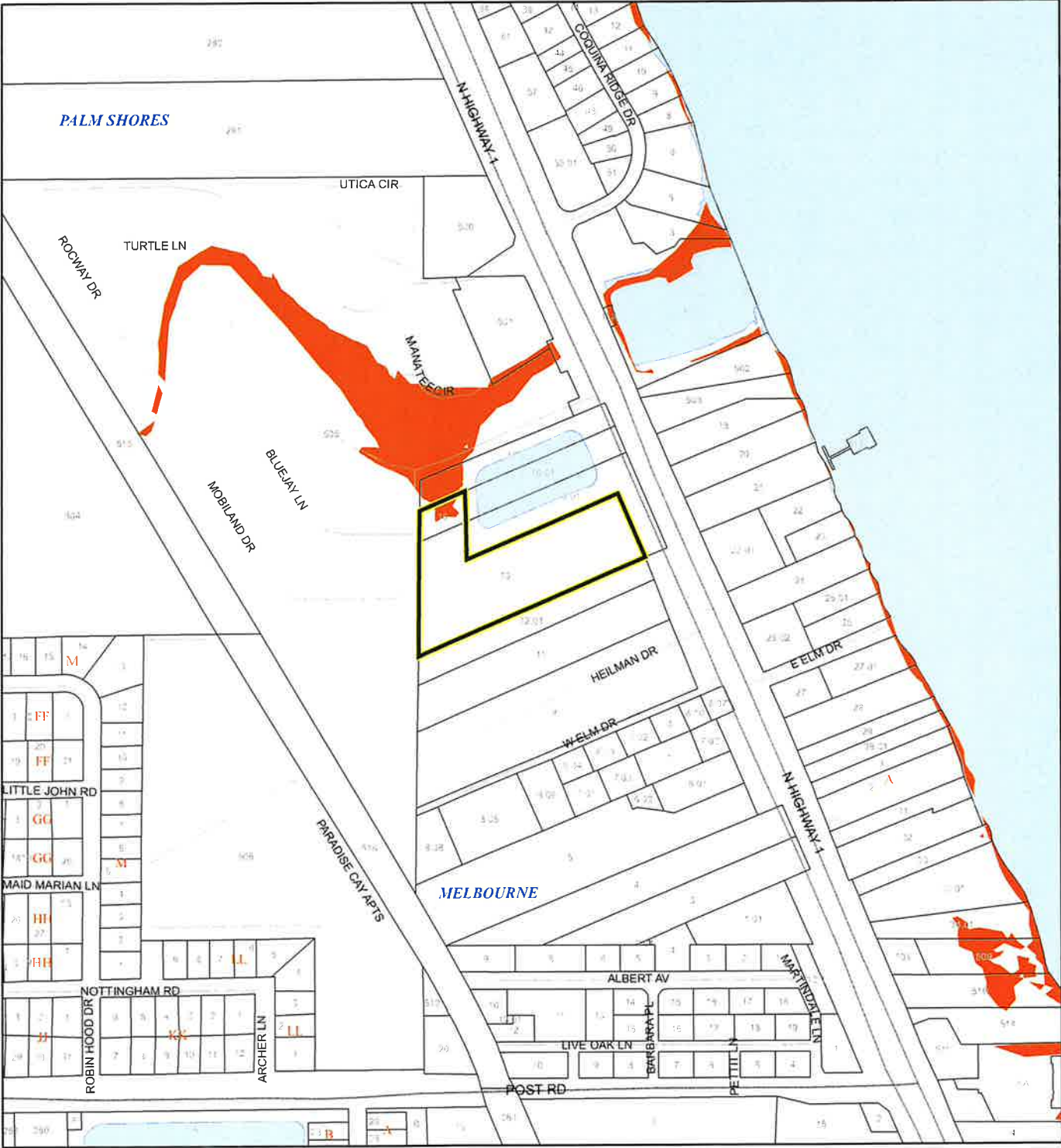
Produced by BoCC - GIS Date: 7/10/2025

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

PALO, MICHAEL S
25Z00029



1:4,800 or 1 inch = 400 feet

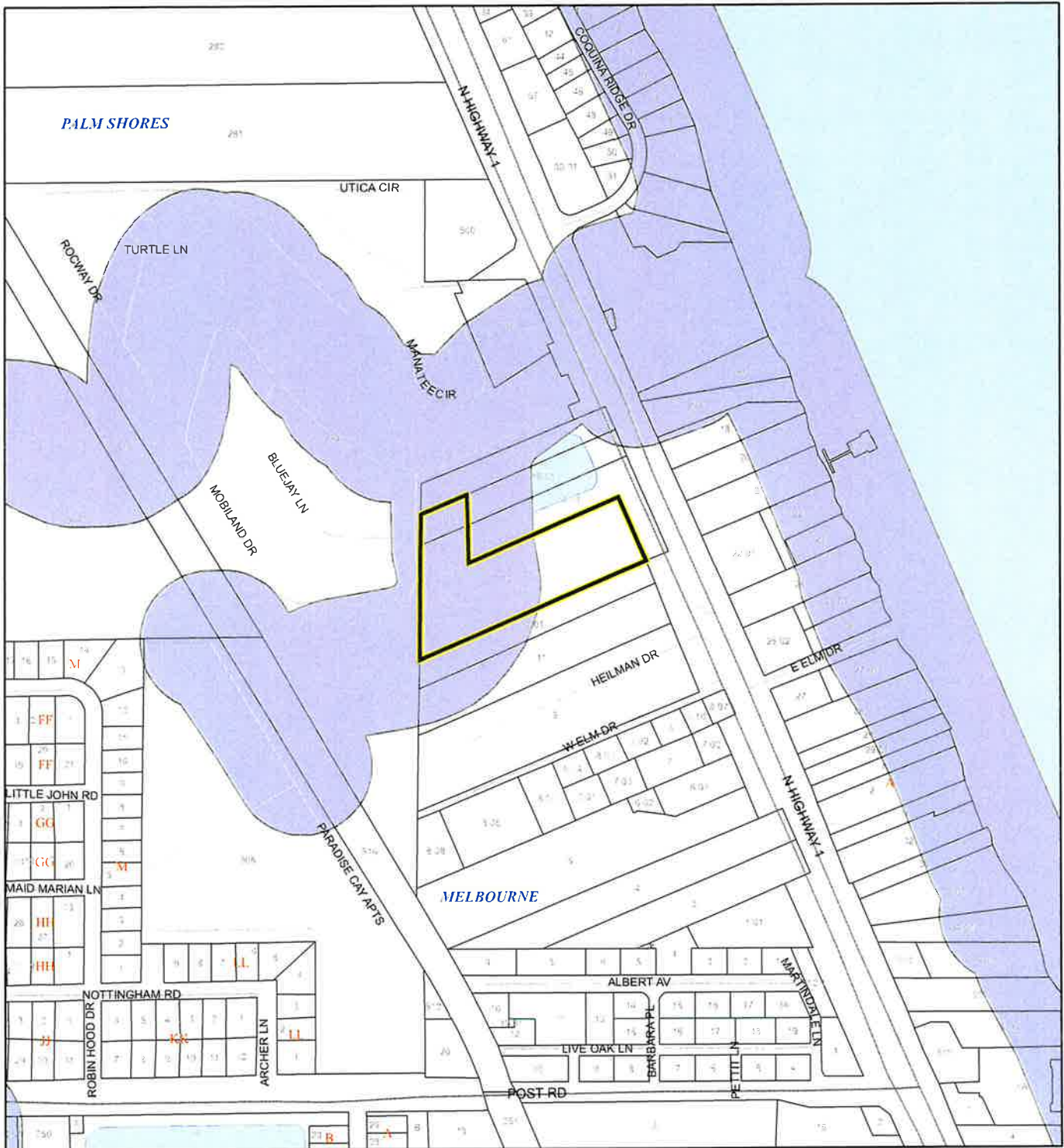
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/10/2025

- Subject Property
- Parcels
- Coastal High Hazard Area
- SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PALO, MICHAEL S
25Z00029



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: 7/10/2025

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

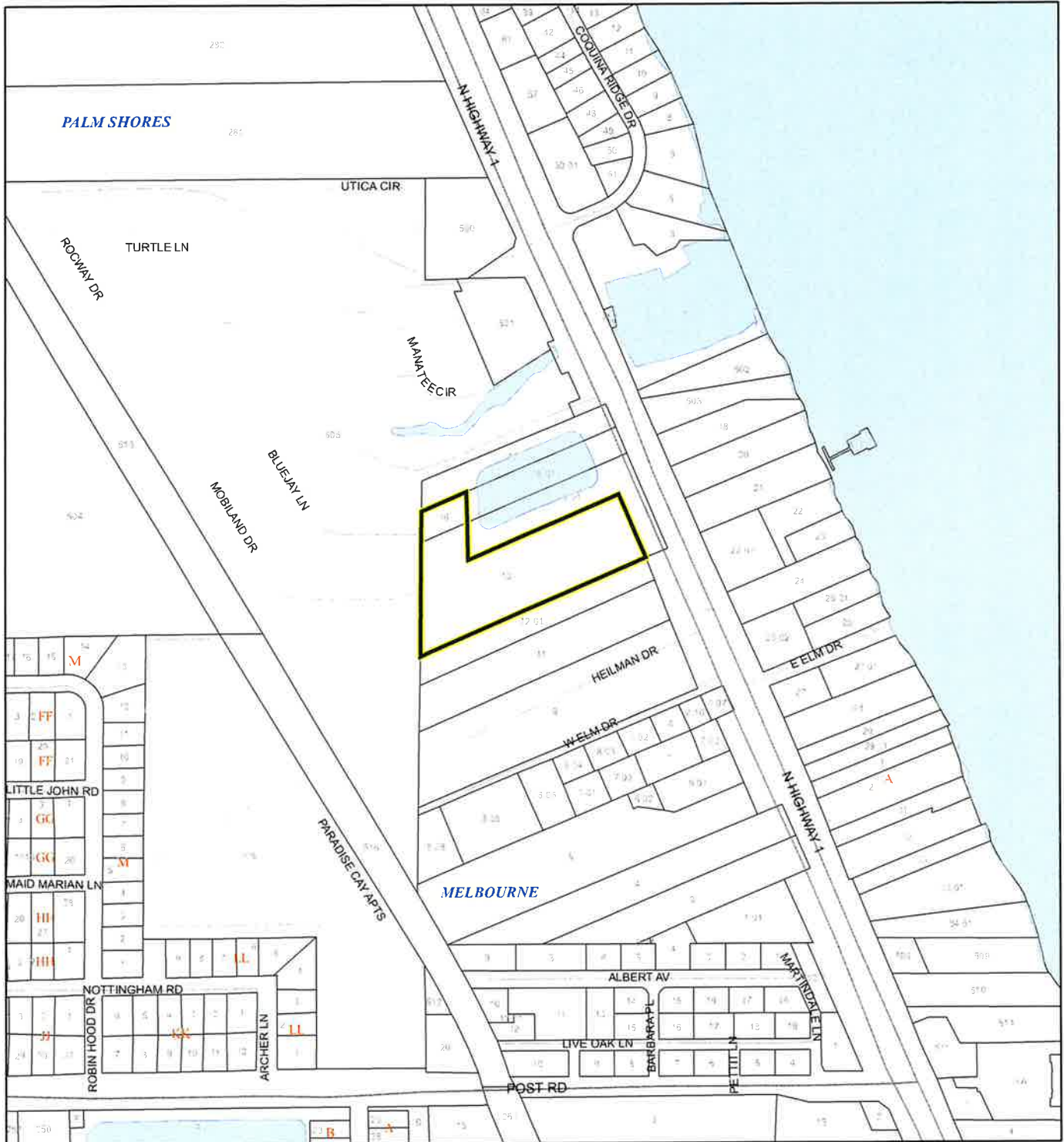
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

PALO, MICHAEL S

25Z00029



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: 7/10/2025

 Subject Property

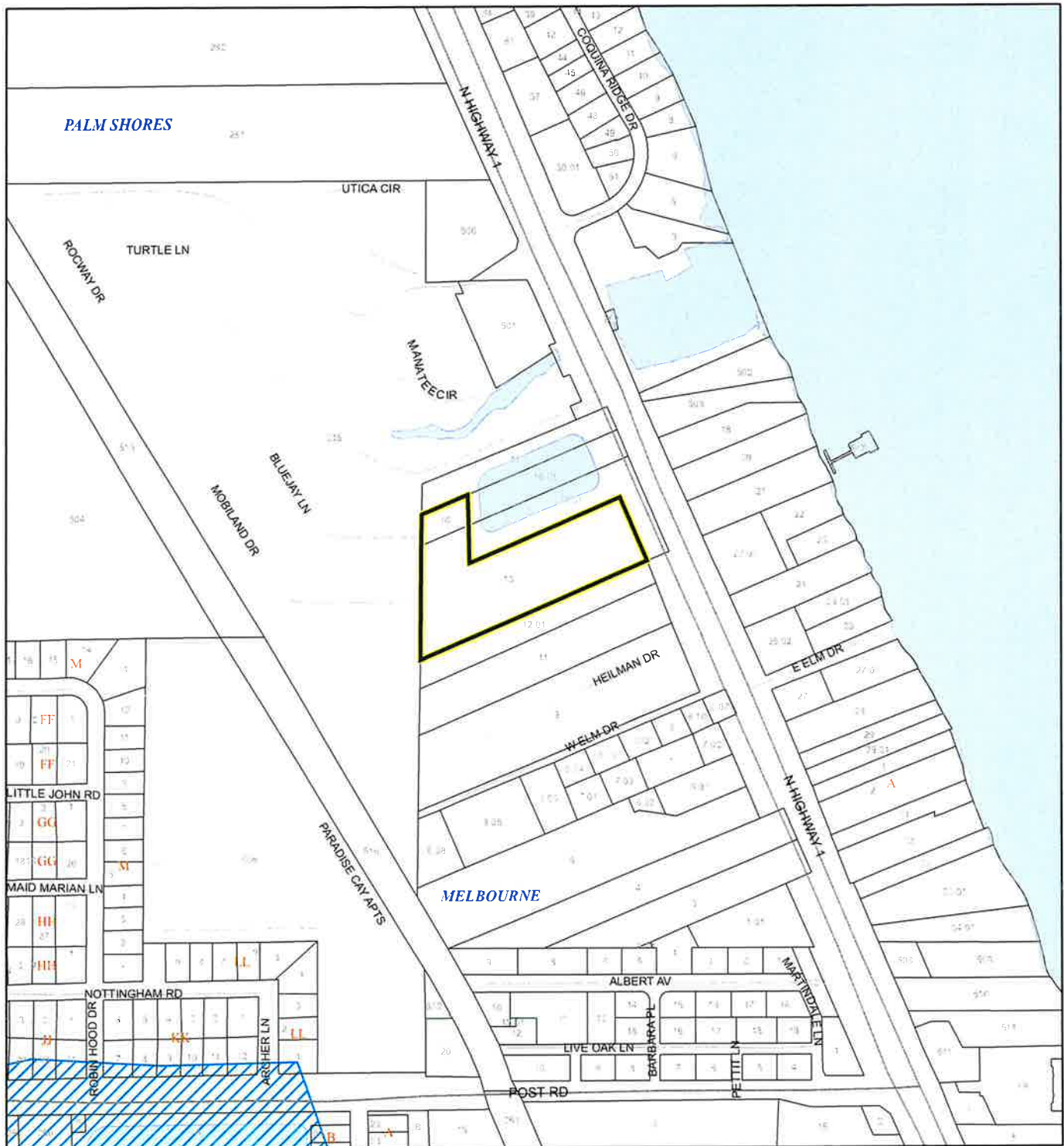
 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

PALO, MICHAEL S

25Z00029




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: 7/10/2025

 Subject Property

 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PALO, MICHAEL S

25Z00029



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/10/2025

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 15, 2025, 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 Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Robert Brothers (D5); Melissa Jackson (D5); Neal Johnson (D4); Robert Wise (D2); and Eric Michajlowicz (3).

Staff members present were Billy Prasad, Planning & Development Manager, Paul Body, Planner; Alex Esseeesse, Deputy County Attorney; and Alice Randall, Operations Support Specialist.

EXCERPT OF COMPLETE AGENDA

H.1. Michael S. Palo (Landon Scheer) requests a Small-Scale Comprehensive Plan Amendment (25S.13) to change the Future Land Use designation from CC and RES-15 to all CC (25SS00007) (Tax Account 2611657, 2611658) (District 4)

H.2. Michael S. Palo (Landon Scheer) requests a zoning classification change from BU-1 and RU-1-7 to BU-2 (25Z00029) (Tax Account 2611657, 2611658) (District 4)

Paul Body read both item H.1. and H.2. into the record as they are companion applications but will need separate recommendations.

Landon Scheer spoke to the application. The property has been owned by the family for quite some time. They owned it when they developed the mobile home park to the west. They carved this parcel out when they developed the mobile home park. They no longer own the mobile home park, but they had the intent of developing this parcel for a long time. Then FDOT came in and decided they wanted some of it, so there is an FDOT pond that they took and developed with eminent domain which left them with an awkwardly shaped parcel that has a split zoning and land use which makes it difficult to develop. Our request is to rezone the property and change the land use to unify the zoning into one commercial zoning and land use. We are requesting to rezone to BU2 with a BDP that restricts the allowable uses to all BU1 uses with the additional use of contractor office, and storage. The property owner has a HVAC and plumbing contractor business up in Rockledge and they've outgrown their current operation and they're looking to relocate here. The nature of the use is HVAC and plumbing contractor. Obviously, they want to keep the materials shielded from the weather. So, 99% of the time they're going to be indoors. They have rollup doors so they can bring deliveries inside. The request for the outdoor storage comes if they have an afterhours delivery. They come in box trucks and drop the materials off outside the rollup doors and then

the guys come and take them inside. They're trying to be proactive about not getting a code violation for the materials that are left outside overnight if the guys can't get them right away. This is a mixed-use corridor. There is some residential in the area but there's also quite a bit of commercial. Within this corridor there's Curb Pro, Paver Pro, dentist office, marine and boat repair, restaurant, hair salon, Car Spot, VFW, daycare, vacant commercial office space, gas station, office complex, and doctor's office. There's an aquatic center that's been permitted but hasn't started construction. The property is off US-1 which is a major six lane highway that has plenty of capacity for the proposed use. Again, the intent is to have the rollup doors to not face the right-of-way or the residential property. They're situated right now on a concept plan shielded. They're facing the north, which is the DOT pond, not the residences. We're doing all that we can. We push the building as close to DOT as we could to keep it away from the residential properties as well. There are no wetlands on the property. That came up in uh natural resources review. We did have an environmental assessment done. There's a ditch on the west side of the property, but we've already spoken with St. John's and that can be relocated as necessary to accommodate our development. There's also a bit of a floodplain on our site but it's also on the west side where the dry pond is. So, we strategically placed the storm water and the building to be out of the floodplain and the storm waters in the floodplain to provide compensatory storage and required storm water. Landscape buffers were going to be required by county code regardless of if it was BU1 or BU2 to provide a 20ft landscape buffer from any residential property. That's just the code, along with a screening wall. So, we're going to make sure that we provide adequate screening from all residential properties. And again, the request is BU2, but only one use within BU2 and then all BU1.

No Public Comment

John Hopengarten asked staff to define plant.

Mr. Prasad responded in the context of the contractor's offices, plants and storage yards, I don't think it's defined in our code, but that as a group has a specific use in our zoning code.

Mr. Hopengarten asked, "so what is that use?"

Mr. Prasad stated the use is contractor's offices, plants, and storage yards.

Mr. Hopengarten then asked, "again, what's plants?" You can't have the word in the definition if you're not defining it.

Mr. Prasad responded you just use the common definition of plants. It's not specifically defined in our code.

Mr. Hopengarten asked if a plant could be a factory.

Mr. Prasad stated in the context of this, contractors offices, plants, and storage yards, it's in that kind of grouping together.

Mr. Hopengarten stated you're not answering my question.

Mr. Prasad continued with ultimately, it's an evaluation that would have to be done if a complaint had come in that it was outside of something that looks to be that.

Mr. Hopengarten stated but that's after the fact. If you're giving an opportunity to have a plant what's your definition of a plant?

Mr. Prasad stated as I said it's not defined in our code. So, it would be an as applied determination.

Mr. Hopengarten stated that's not a good answer.

Ron Bartcher asked if they got permission to relocate the ditch.

Mr. Scheer responded I wouldn't say we have permission yet. We'd still have to permit it, but we've spoken with St. John's, and it would have to be appropriately mitigated and relocated with calculations and appropriate plans.

Mr. Bartcher stated he was concerned if they're going to be interfering with the flow of water through that ditch either way.

Mr. Scheer replied we would have to maintain capacity and when we redirect it, we'd have to show modeling and calculations that we don't hinder the capacity of that ditch.

Mr. Bartcher continued with when I looked at the property appraisers website in your plan, I noticed that off US-1 there's an entrance that looks like it's an entrance to the property just south of you. But it's on your property. You've given them an easement of some kind, or have they just taken it over?

Mr. Scheer responded I believe my client is still working through that because there's no legal easement for that driveway, but it is there. That's something that we're going to have to work through with the property to the south of us because right now they don't have legal access through there. But they must have just built it there at one point.

Mr. Bartcher continued the other end of the property on the west end the trailer park looks like there are some parking places that are on your property for the trailer park.

Mr. Scheer replied I saw that, and it's not very well defined in the property appraiser's property line. The aerial can be off a couple feet. We're still getting our final survey, topo that would show where those parking spaces are, but I believe we're outside of it. Obviously if they were in our property, we would have to deal with it at that point, because I did see that too. I think it was a matter of the aerial scaling with property appraiser's website.

Mr. Bartcher responded I was curious about both of those. I didn't see it as a problem,

but was curious about how you would handle that.

Eric Michajlowicz inquired adjacent to the property, there are manufactured homes, correct? That's the south side.

Mr. Scheer responded correct. Immediately south is a single-family home and then two properties south is manufactured homes. On the west side there's a mobile home park on both sides of this property. And then north is the FDOT pond.

Mr. Michajlowicz asked if the owner owns one of those mobile home parks.

Mr. Scheer responded they did in the past way back in the 80s when this property owner developed the mobile home park and then sold it off and they kept this parcel with the intent to develop it. They were going to develop it quite some time ago, but FDOT took the pond and left them with an awkward shaped piece of property that has a split zoning. Now they're deciding to front it head-on. And to clarify the contractor office is the use and that is an allowable use in B1 but we're asking for the storage aspect of it if they get a late delivery that they can't deal with right away and move it inside.

Erika Orriss inquired you're asking for the plant use of it. That's what I'm questioning.

Mr. Scheer responded in the county's code under BU2 the way that the use is read is contractor office, plant, and storage yards. It's all in one mind.

Ms. Orriss replied would you be using anything as a plant is my question. You're just looking to have the contractor's and storage. And that will be in the BDP.

Mr. Scheer responded I believe that's how it is in the BDP. The BDP is in the package. I'm sure the client would be okay with crossing out plants, but that's the way it's written in the BDP on number three, it's directly from the code.

Ana Saunders stated you're showing a retaining wall. How do you plan on providing the appropriate buffer and so on if are you providing access? I know you said you were working through it, but I feel like you kind of must know that to go on with this plan.

Mr. Scheer replied I don't know the answer to that. I believe my client is working legally to get them to move their driveway off our property.

Ms. Saunders continued my question then would be to staff because depending on how this lays out, there is no buffer if there's the easement there. How are you guys going to apply that requirement? How would you look at that?

Mr. Prasad responded obviously this is just a concept plan. But he will have to either come up with a buffer or seek a waiver to it. One option I understand that he would be amenable to is to include some language in the BDP to require the buffer if you're particularly concerned about it so that it can't be waived later.

Motion to recommend approval of item H.1. by Ron Bartcher, seconded by Robert Brothers. Motion passed unanimously.

Motion to recommend approval of item H.2 with a BDP, and striking the word plant, by Ron Bartcher, seconded by Neal Johnson. Motion passed unanimously.

Meeting adjourned at 3:47 p.m.

DRAFT

Board Meeting Date

10-2-25

Item Number: H-4. with a

Motion By: KD

Second By: KA

Nay By: _____

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1	✓	
Vice Chair Goodson	2	✓	
Commissioner Adkinson	3	✓	
Commissioner Altman	5		
Chairman Feltner	4	✓	