



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

8/1/2024

Subject:

KMM-FL, LLC (Chris Romandetti) requests a change in zoning classification from RU-2-10(6) to BU-2. (24Z00024) (Tax Account 2601612 & 2617260) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) with a density cap of 6 units on 1.31 acres to BU-2 (Retail, Warehousing and Wholesale Commercial). This request will provide consistent zoning with the adjacent properties owned by the applicant. The applicant is proposing to develop the parcels in the future with the commercial warehousing and distribution use of their abutting parcels to the north and east. There is a single-family residence currently on the parcels.

The developed character of the surrounding area along the east side of Waelti Drive is commercial uses along with two residential homes and BU-2 zoning. To the west across Waelti Drive is a residential subdivision with PUD (Planned Unit Development) zoning.

The abutting parcel to the north and the parcel to the south have Binding Development Plans (BDP) to mitigate potential offsite impacts to the abutting residential subdivision to the west across Waelti Drive. These BDP's limit the commercial uses allowed.

On July 22, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP (Binding Development Plan) stipulating:

The following uses shall be prohibited; "Auditoriums; Automobile hire; Automobile paint and body repair; Automobile repairs; Automobile sales; Automobile tires and mufflers sales and service; Automobile washing-mechanized; Boat service; Building materials and supplies; Cabinetmaking and carpentry; Commercial entertainment and amusement enterprises;

Contractors outdoor storage yards; Engine service; Farm machinery sales and service; Feed and hay for animals and stock; Fertilizer stores; Flea markets; Gasoline service stations; Hotels; Lumber sales; Motels; Motorcycle sales and service; Outside sale of mobile homes; Pet kennels; Plant nurseries; Recovered materials processing facility; Restaurant outdoor seating; Seafood processing plants; Service station for automobile vehicles and U-Haul service; Scarpering and grinding shops; Theatres; Towers and antennas; Trailer and truck service; Treatment and recovery facility; Welding repairs and metal fabrication; Outdoor storage or display of large items or material which may require forklift, front-loader, tractor or similar machinery to move shall be prohibited;

Outdoor intercoms and public address systems shall be prohibited;

Digital or electronic signs and billboards whether static, animated, or intermittent, shall be prohibited;

Freestanding signs shall be limited to not exceed ten feet in height;

The gross floor area ratio (FAR) shall not exceed 0.75, consistent with the Neighborhood Commercial Comprehensive Plan category.

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area. The Board may also consider the BDP to minimize any off-site impacts.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy to Planning and Development.

Resolution 24Z00024

On motion by Commissioner Tobia, seconded by Commissioner Feltner, the following resolution was adopted by a unanimous vote:

WHEREAS, KMM-FL, LLC (Chris Romandetti) requests a change in zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial), on property described as Lots 1 through 9, Block 40, Plan of Town of Pineda; as recorded in ORB 10040, Page 164, of the Public Records of Brevard County, Florida. **Section 12, Township 26, Range 36.** (1.31 acres) Located on the east side of Waelti Dr., approx. 1,367 ft. north of Wickham Rd. (7235 Waelti Dr., Melbourne); and

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-2-10(6) to BU-2 with a BDP, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 1, 2024.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Jason Steele, Chair

Brevard County Commission

As approved by the Board on August 1, 2024.

ATTEST:



RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – July 22, 2024

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

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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STAFF COMMENTS 24Z00024

KMMFL, LLC (Chris Romandetti)

**RU-2-10(6) (Medium-Density Multiple-Family Residential, density cap of 6 units) to
BU-2 (Retail, Warehousing and Wholesale Commercial)**

Tax Account Number: 2601612, 2617260
Parcel I.D.: 26-36-12-DE-40-1, 26-36-12-DE-40-9
Location: East side of Waelti Dr., 1,367 feet north of Wickham Road.
(District 4)
Acreage: 1.31 acres

Planning & Zoning Board: 7/22/2024
Board of County Commissioners: 8/01/2024

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RU-2-10(6)	BU-2
Potential*	7 units	FAR of 1.0 39 dwelling units**
Can be Considered under the Future Land Use Map	Yes CC	Yes CC

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

** 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 RU-2-10(6) (Medium-Density Multiple-Family Residential) with a density cap of 6 units on 1.31 acres to BU-2 (Retail, Warehousing and Wholesale Commercial) to have the parcels zoning classification consistent with the surrounding BU-2 zoned parcels, which are also own by KMMFL, LLC, and to develop

the parcels in the future with the commercial warehousing and distribution use of their abutting parcels to the north and east. The applicant states these two parcels are the only parcels abutting the east side of Waelti Drive that do not have a commercial zoning classification. There is a single-family residence currently on the parcels. The abutting parcel to the north and the parcel to the south have Binding Development Plans (BDP) to mitigate potential offsite impacts to the abutting residential subdivision to the west across Waelti Drive. The Board may wish to consider additional conditions in order to mitigate potential offsite impacts to the abutting residential subdivision to the west across Waelti Drive.

BU-2 zoning classification requires a building of at least 300 sq. ft. as their principal structure. The subject parcels have access to Waelti Drive., a County maintained roadway.

The original zoning of the parcels was GU (General Use).

On June 12, 1979, zoning action **Z-4992** rezoned the parcels from GU to RU-2-10(6) (Medium-Density Multiple-Family Residential with a density cap of 6 units).

On December 6, 1979, zoning action **Z-5152** Denied the rezoning request from RU-2-10(6) to BU-2 (Retail, Warehousing and Wholesale Commercial).

The subject parcels are located on the east side of Waelti Drive, a county-maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Warehousing, Distribution and Trucking Terminal	BU-2	CC
South	Vacant Commercial Land south across unnamed road	BU-2	CC
East	Warehousing, Distribution and Trucking Terminal	BU-2	CC
West	Residential Subdivision west across Waelti Drive	PUD	RES 4

The developed character of the surrounding area along the east side of Waelti Drive is commercial uses along with two residential homes with BU-2 zoning. To the west across Waelti Drive is a residential subdivision with PUD (Planned Unit Development) zoning.

The current RU-2-10(6) zoning classification permits multiple-family residential development or single-family residences with a density cap of up to 6 units per acre on minimum lot sizes of 7,500 square feet.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. 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 including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats, and mobile homes.

There has been one zoning action within a half-mile of the subject property within the last three years. Zoning action 23Z00009 approved on August 30, 2023, amended an existing BDP to retaining all BU-1 uses, and limiting the BU-2 use to indoor RV and boat storage, located 490 feet south of the subject parcel on the south side of Freeman Lane.

Future Land Use

The subject property is currently designated as Community Commercial (CC) FLUM. The existing RU-2-10(6) zoning classification may be considered consistent with the CC FLUM designation. The proposed BU-2 zoning is consistent with the existing CC FLUM designation.

FLUE Policy 2.2 - 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 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence.

B. Existing commercial zoning trends in the area;

Along the east side of Waelti Drive is an existing commercial corridor located from N. Wickham Road north to where Waelti Drive ends.

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

The area along the east side of Waelti Drive is a mixture of commercial and industrial use zoning classifications. The applicant's request can be considered compatible with the proposed uses in the area.

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

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property is in the City of Cocoa's access for potable water and has access to Brevard County Sewer which runs along the west side of Waelti Drive.

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

The following land use issues were identified:

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

This property will need to comply with Brevard County Performance Standards noted within Section 62-1482 of Brevard County Code. The proposed use is not anticipated to require performance standards beyond the zoning criteria. The Board may wish to consider additional conditions in order to mitigate potential offsite impacts to the abutting residential subdivision to the west across Waelti Drive.

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

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

Criteria:

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

The applicant is requesting a change of zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) to BU-2 to have the parcels zoning classification consistent with the surrounding BU-2 zoned parcels which are also

own KMMFL, LLC and to develop the parcels in the future with the commercial warehousing and distribution use of their abutting parcels.

The hours of operation, lighting and traffic may affect the quality of life in the existing neighborhood. However, BU-2 allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may. This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

- 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;

There are developed commercial and industrial parcels along the east side of Waelti Drive located from N. Wickham Road north to where Waelti Drive ends. The developed character of the surrounding area along the east side of Waelti Drive to the north and to the east is a commercial warehousing, distribution, and trucking terminal. To the south of the subject property is vacant commercial and further south is developed commercial. To the west across Waelti Drive is developed with a residential PUD subdivision.

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

There has been no new development within 0.5 miles of the subject property within the last three years. There has been one rezoning in the last three years in the immediate area, application 23Z00009 with a revision to an existing BDP, located 490 feet to the south of the subject parcel on the south side of Freeman Lane. The revised BDP states, "Developer /Owner agrees to provide a vegetative buffer on the north side of the property. Perimeter facing exterior walls of the proposed buildings shall meet the screening requirements. Vinyl coated chain link fence may be used as perimeter fencing on the west, east and south property lines, but not allowed along the north property line, where adjacent to residential properties. Ingress and egress are limited to Freeman Lane. The Developer/Owner retains all BU-1 uses and limits BU-2 uses to indoor RV and boat storage."

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

There has not been any development approved within this area in the preceding three (3) years that has yet to be constructed. There has been

one site plan applied for in the last three years in the immediate area located 490 feet to the south of the subject parcel, on the south side of Freeman Lane, application 23SP00017 is being review by staff but has not been approved.

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

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

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 located along a commercial and industrial area with buffering from the Florida East Coast Railway further to the east. To the west across Waelti Drive is developed with a residential PUD subdivision.

The proposed BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, and contractor storage yards). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.

The abutting parcel to the north and the parcel to the south have Binding Development Plans (BDP) to mitigate potential offsite impacts to the abutting residential subdivision to the west across Waelti Drive.

The BDP, 14PZ-00095, record on March 23, 2015, on the abutting parcel to the north states:

The Developer/Owner shall limit land use as follows:

The following uses shall be prohibited;

“Auditoriums; Automobile hire; Automobile paint and body repair; Automobile repairs; Automobile sales; Automobile tires and mufflers sales and service; Automobile washing-mechanized; Boat service; Building materials and supplies; Cabinetmaking and carpentry;

Commercial entertainment and amusement enterprises; Contractors outdoor storage yards; Engine service; Farm machinery sales and service; Feed and hay for animals and stock; Fertilizer stores; Flea markets; Gasoline service stations; Hotels; Lumber sales; Motels; Motorcycle sales and service; Outside sale of mobile homes; Pet kennels; Plant nurseries; Recovered materials processing facility; Restaurant outdoor seating; Seafood processing plants; Service station for automobile vehicles and U-Haul service; Scarpering and grinding shops; Theatres; Towers and antennas; Trailer and truck service; Treatment and recovery facility; Welding repairs and metal fabrication; Outdoor storage or display of large items or material which may require forklift, front-loader, tractor or similar machinery to move shall be prohibited. Outdoor intercoms and public address systems shall be prohibited, Digital or electronic signs and billboards whether static, animated, or intermittent, shall be prohibited.

Freestanding signs shall be limited to not exceed ten feet in height.

The gross floor area ratio (FAR) shall not exceed 0.75, consistent with the Neighborhood Commercial Comprehensive Plan category (December 2014).

The BDP, 19PZ00035, record on August 22, 2019, on the abutting parcel to the south states:

Developer/Owner shall prohibit the following uses on the Property: auditoriums; automobile hire; automobile paint and body repair; automobile repairs; automobile sales; automobile tires and mufflers sales and service; automobile washing - mechanized; boat service; building materials and supplies; cabinetmaking and carpentry; commercial entertainment and amusement enterprises; contractors outdoor storage yards; engine service; farm machinery sales and service; feed and hay for animals and stock; fertilizer stores; flea markets; gasoline service stations; hotels, lumber sales; motels; motorcycle sales and service; outside sale of mobile homes; pet kennels; plan nurseries; recovered materials processing facility; restaurant outdoor seating; seafood processing plants; service station for automotive vehicles and U-Haul service; sharpening and grinding shops; theatres; towers and antennas; trailer and truck service; treatment and recovery facility; welding repairs and metal fabrication; outdoor storage or display of large items or material which may require a forklift, front loader, tractor, or similar machinery to move shall be prohibited. Outdoor intercoms and public address systems shall be prohibited. Digital or electronic signs and billboards, whether static, animated, or intermittent, shall be prohibited. Freestanding signs shall be limited to the Brevard County Sign Code.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted

level of service; however, the maximum development potential from the proposed rezoning increases the percentage of MAV by 0.19%.

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.

The area has development of roads, open spaces, and similar existing features. The east side of Waelti Drive is not located in a residential neighborhood or subdivision but is along a commercial and industrial corridor. The west side of Waelti Drive is developed with a residential PUD subdivision.

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.

Staff analysis indicates that the area to the west of Waelti Drive is residential in character.

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 subject parcel is located in a commercial and industrial corridor along the east side of Waelti Drive. The subject parcel is proposed to be rezoned from RU-2-10(6) to BU-2. As the immediate area along the east side of Waelti Drive is commercial the proposed uses maintain the commercial integrity of the area.

The closest BU-2 zoning classification is located directly abutting the subject property to the north and east and south across an unnamed road.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Wickham Road, between Suntree Blvd. and Pinehurst Ave., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 76.46% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.19%. The corridor is anticipated to operate at 76.65% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject property is in the City of Cocoa's access for potable water and has access to Brevard County Sewer which runs along the west side of Waelti Drive.

Environmental Constraints

- Aquifer Recharge Soils
- Protected Species

Land Use Comments:

Aquifer Recharge Soils

The entire property contains Pomello sand, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 2 or Type 3 Aquifer Recharge soils that have 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].

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.

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00024**

Applicant: Chris Romandetti (Owner: KKMM FL, LLC)

Zoning Request: RU-2-10(6) to BU-2

Note: for consistent zoning with surrounding BU-2 parcels for commercial use

Zoning Hearing: 07/22/2024; **BCC Hearing:** 08/01/2024

Tax ID Nos.: 2601612 & 2617260

- 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:

- Aquifer Recharge Soils
- 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:

Aquifer Recharge Soils

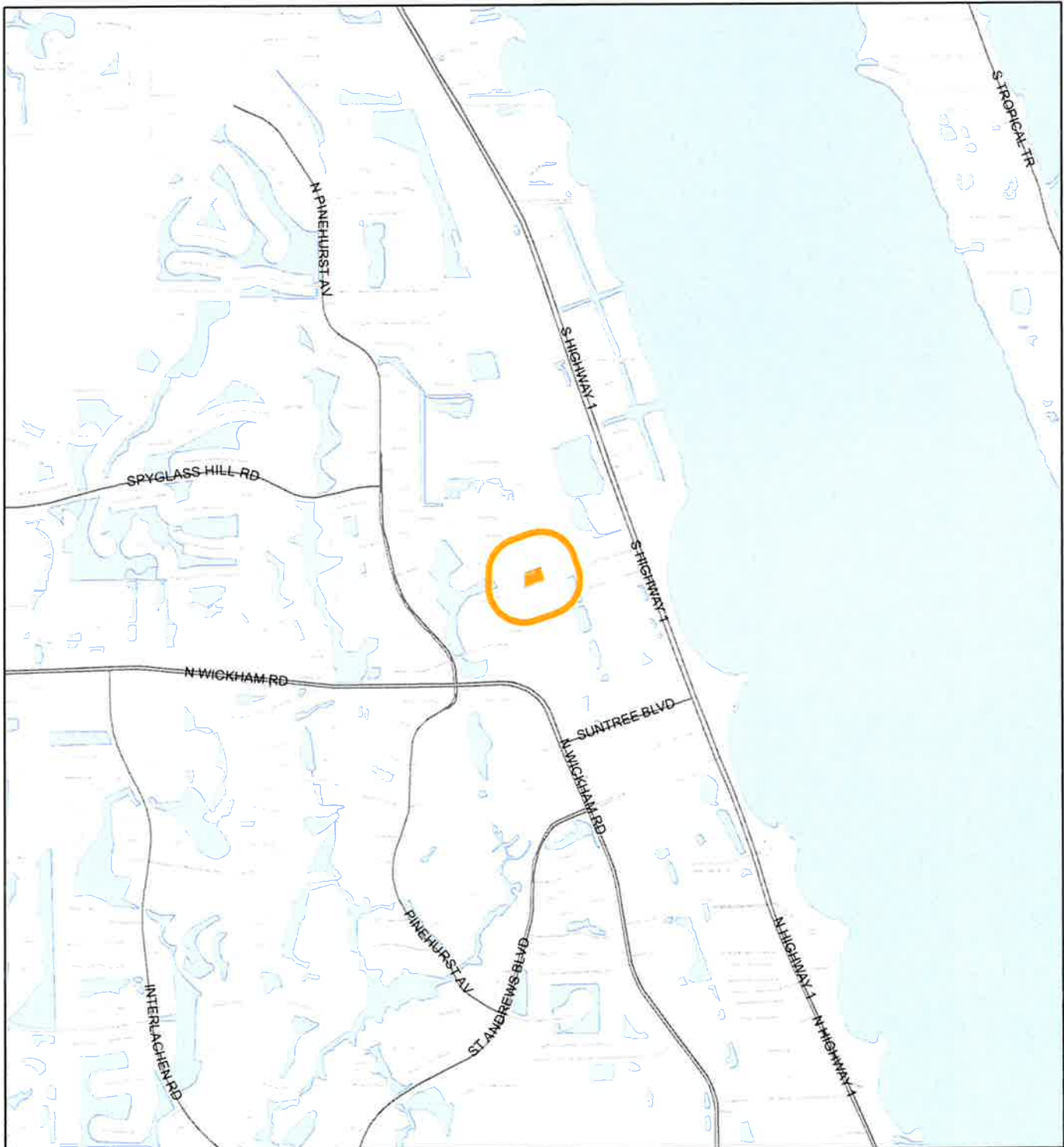
The entire property contains Pomello sand, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 2 or Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the [development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance].

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.

LOCATION MAP

KMM FL, LLC
24Z00024



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

Buffer Distance: 500 feet

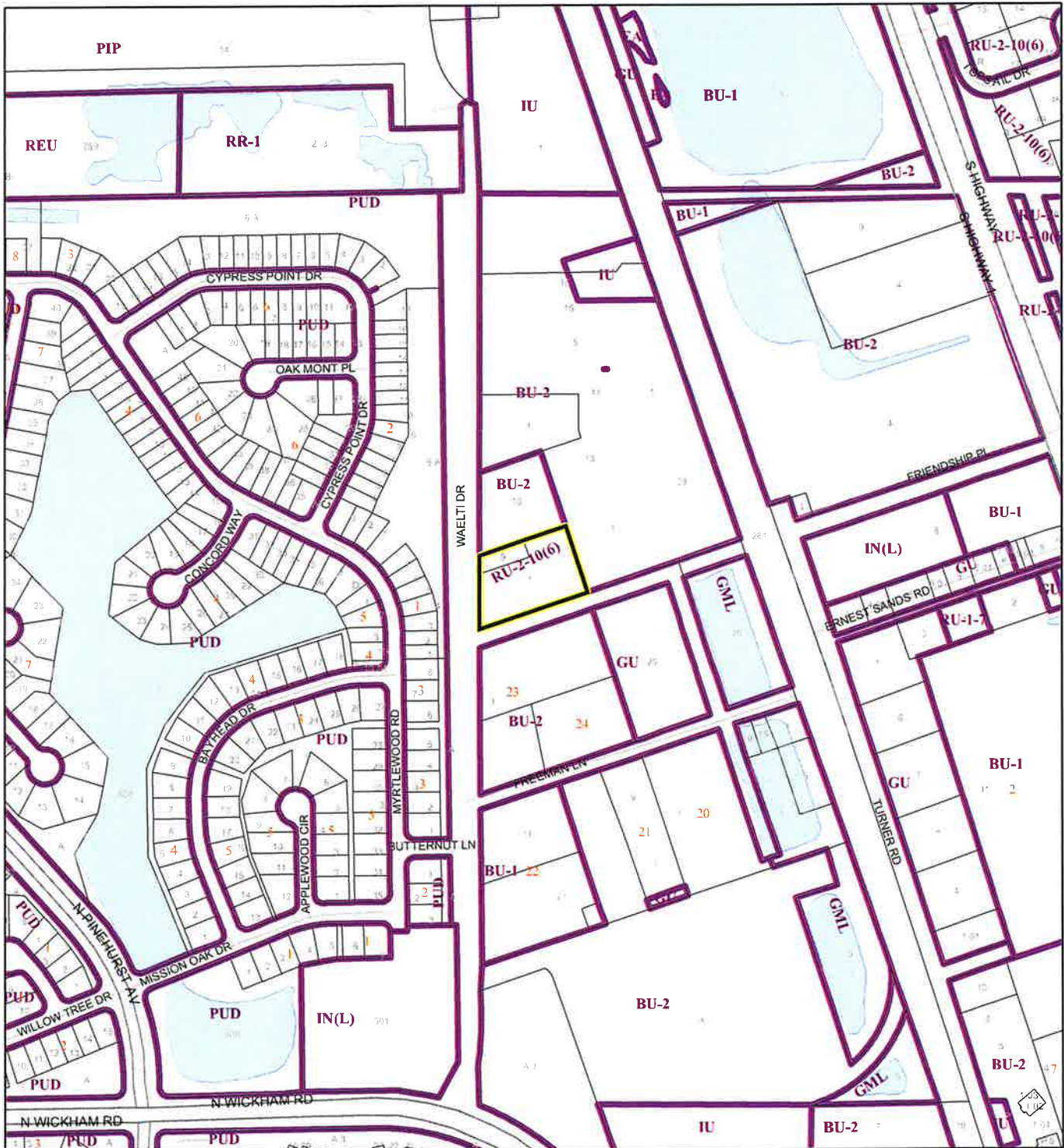
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2024

- Buffer
- Subject Property

ZONING MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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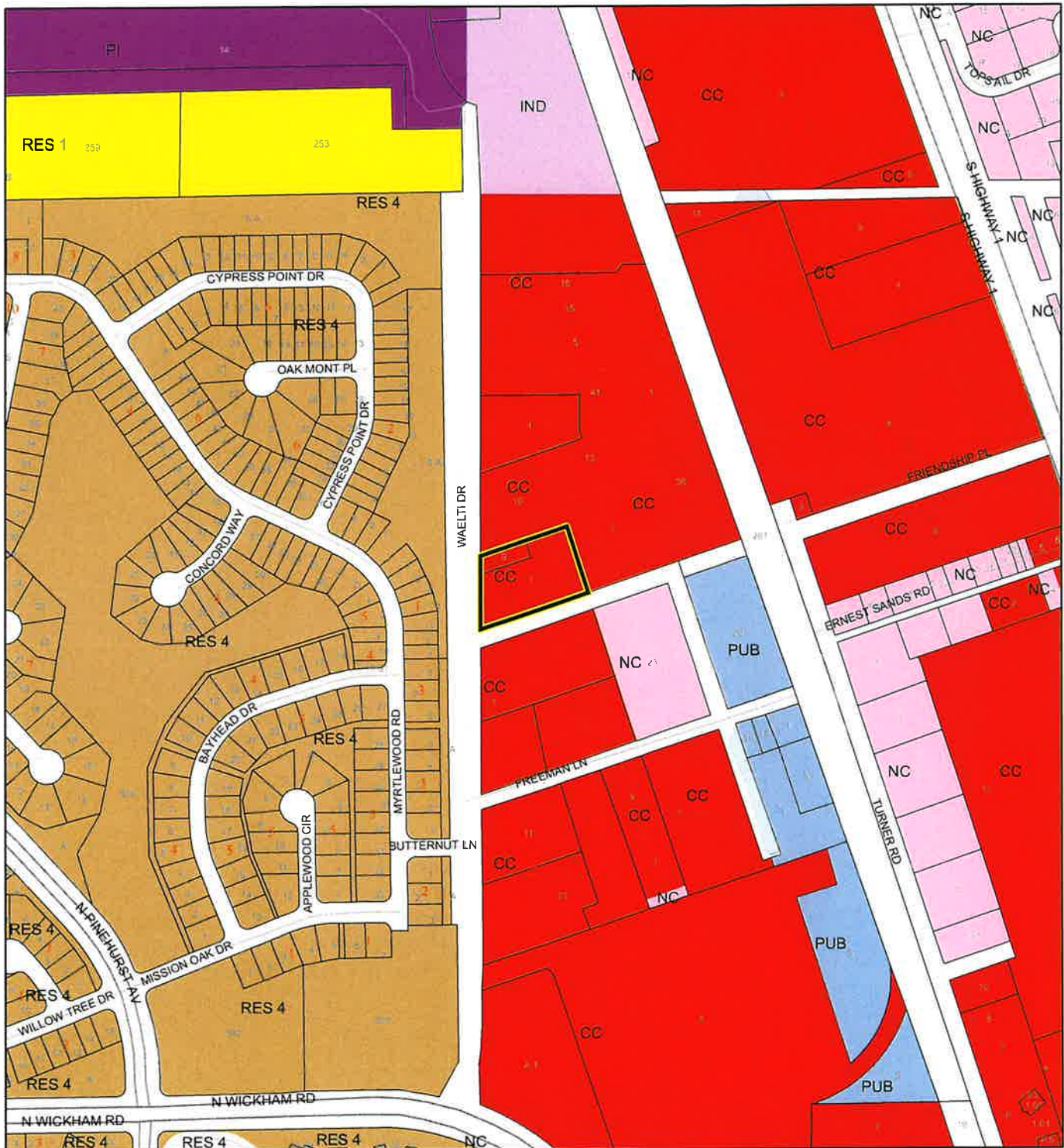
— Subject Property

□ Parcels

□ Zoning

FUTURE LAND USE MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

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AERIAL MAP

KMM FL, LLC
24Z00024



1:3,600 or 1 inch = 300 feet

PHOTO YEAR: 2023

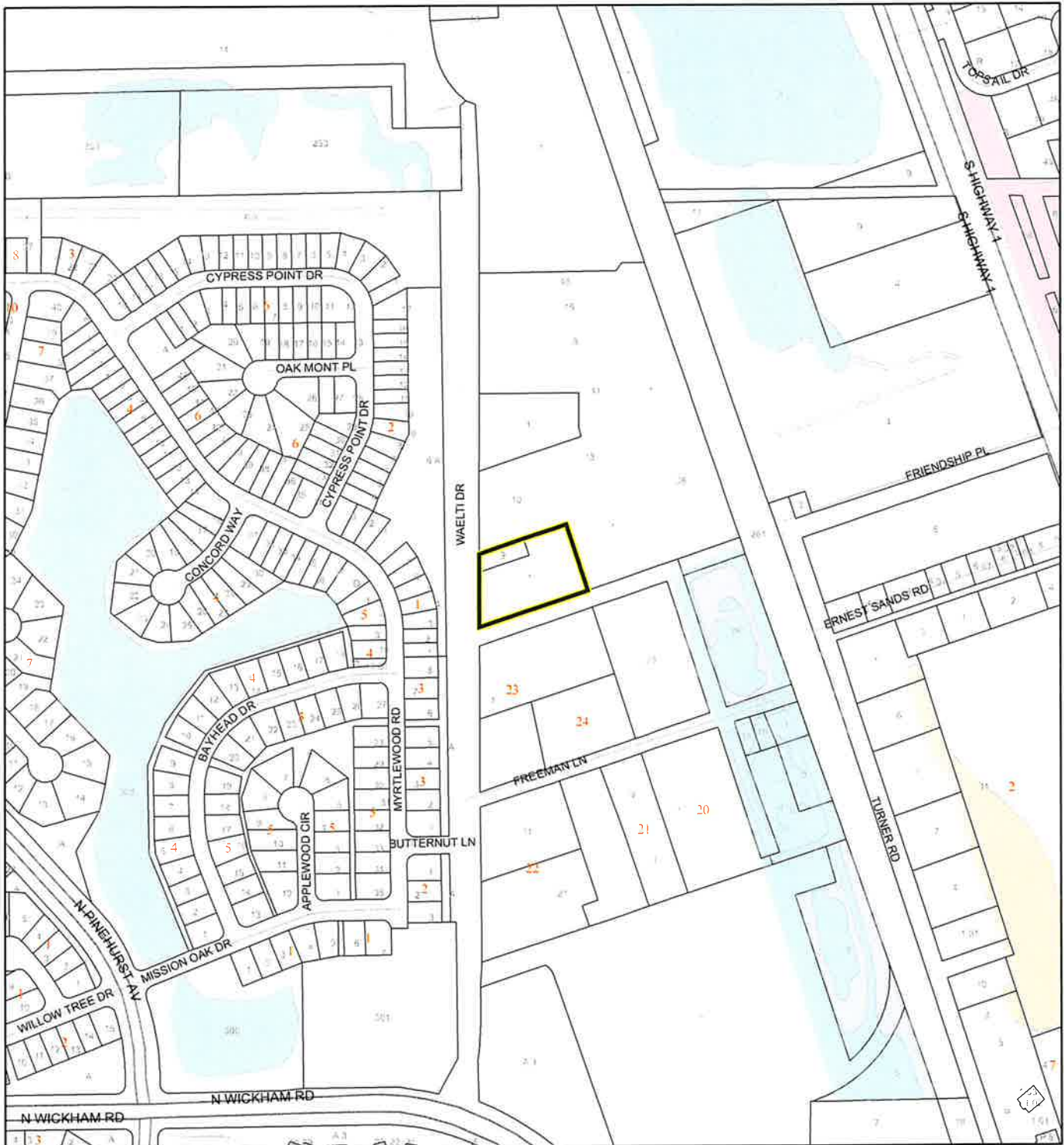
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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— Subject Property
□ Parcels

NWI WETLANDS MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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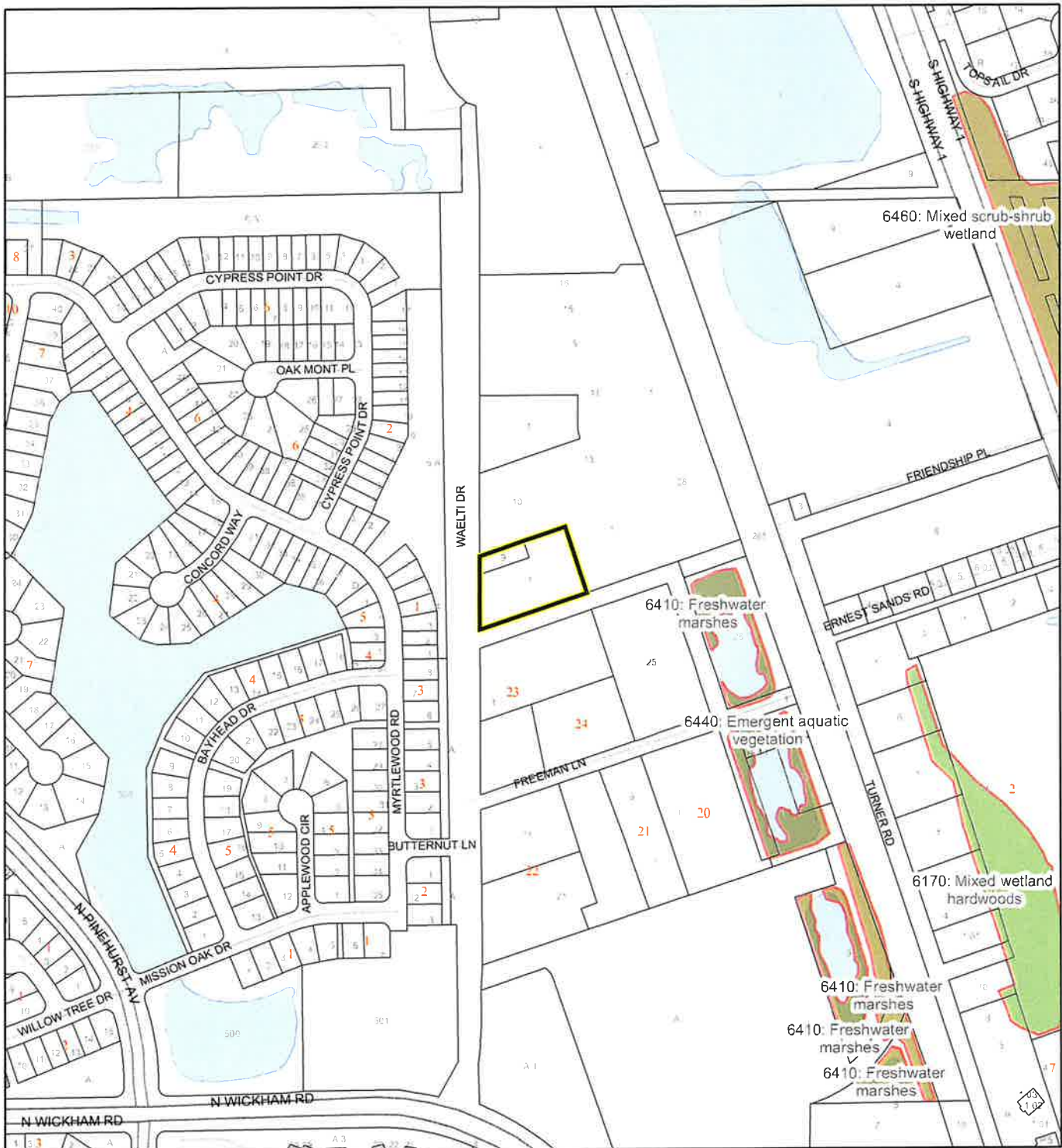
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National Wetlands Inventory (NWI)

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

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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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

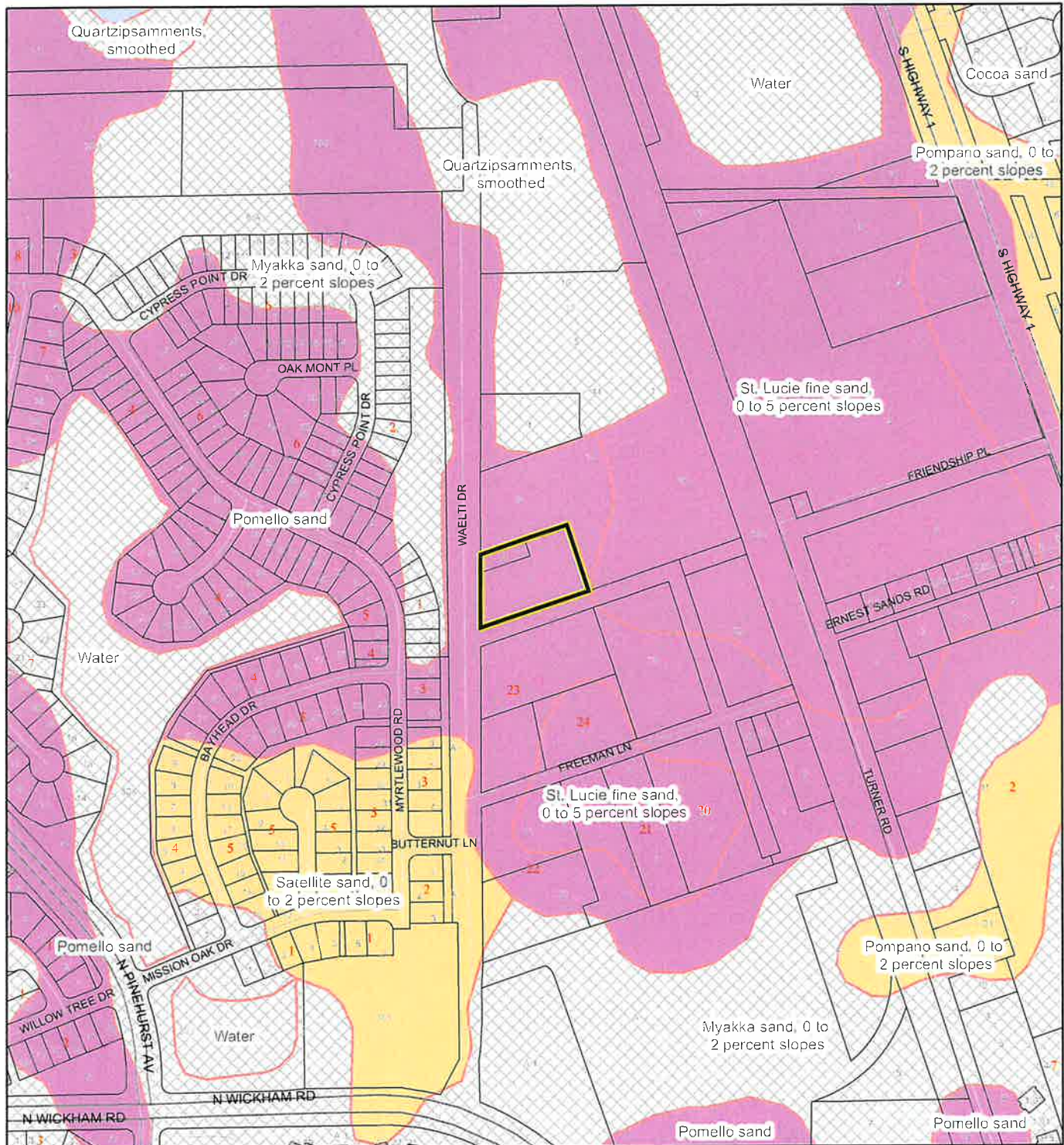
Subject Property

Parcels

USDA SCSSS SOILS MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

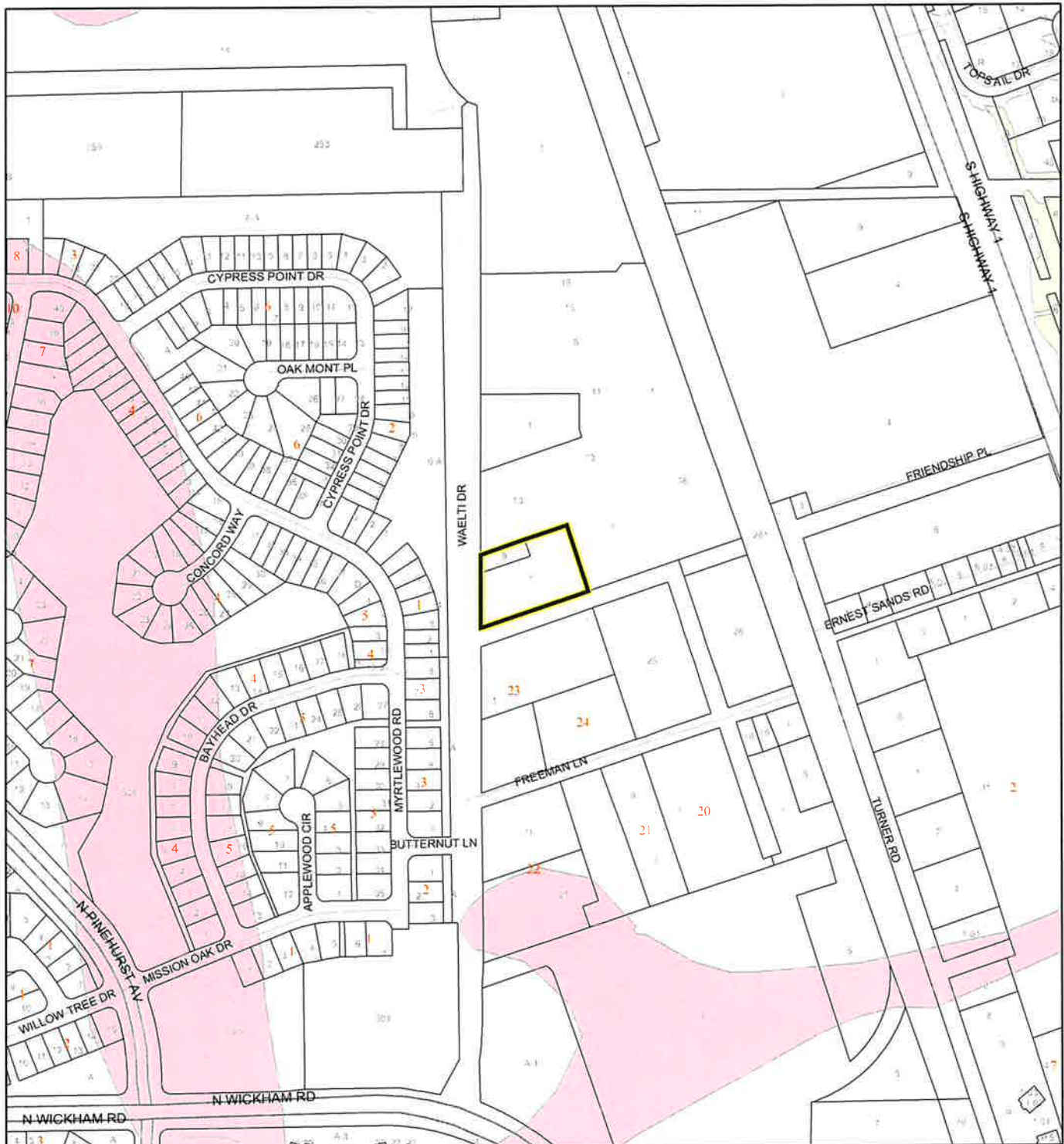
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

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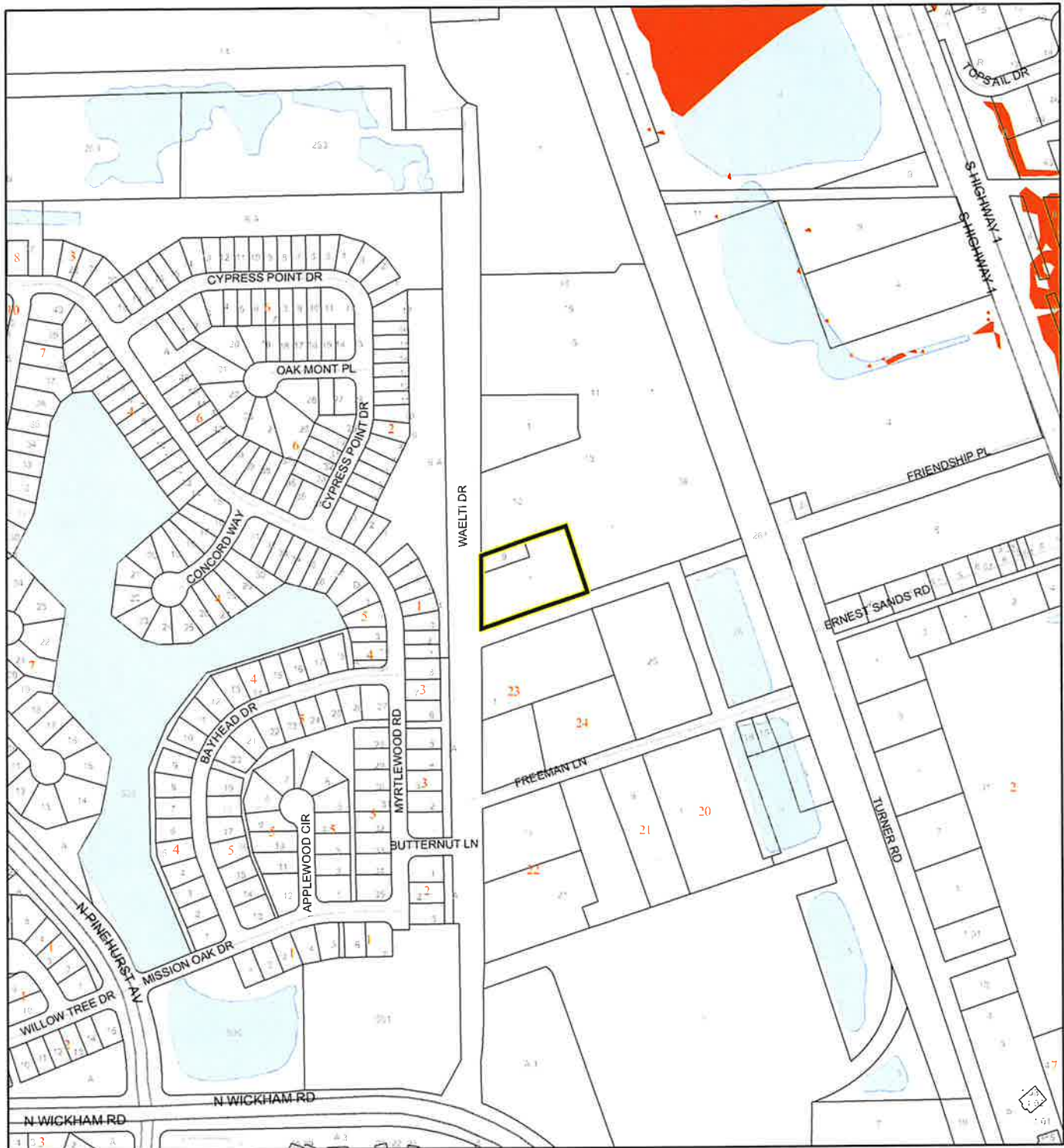
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FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

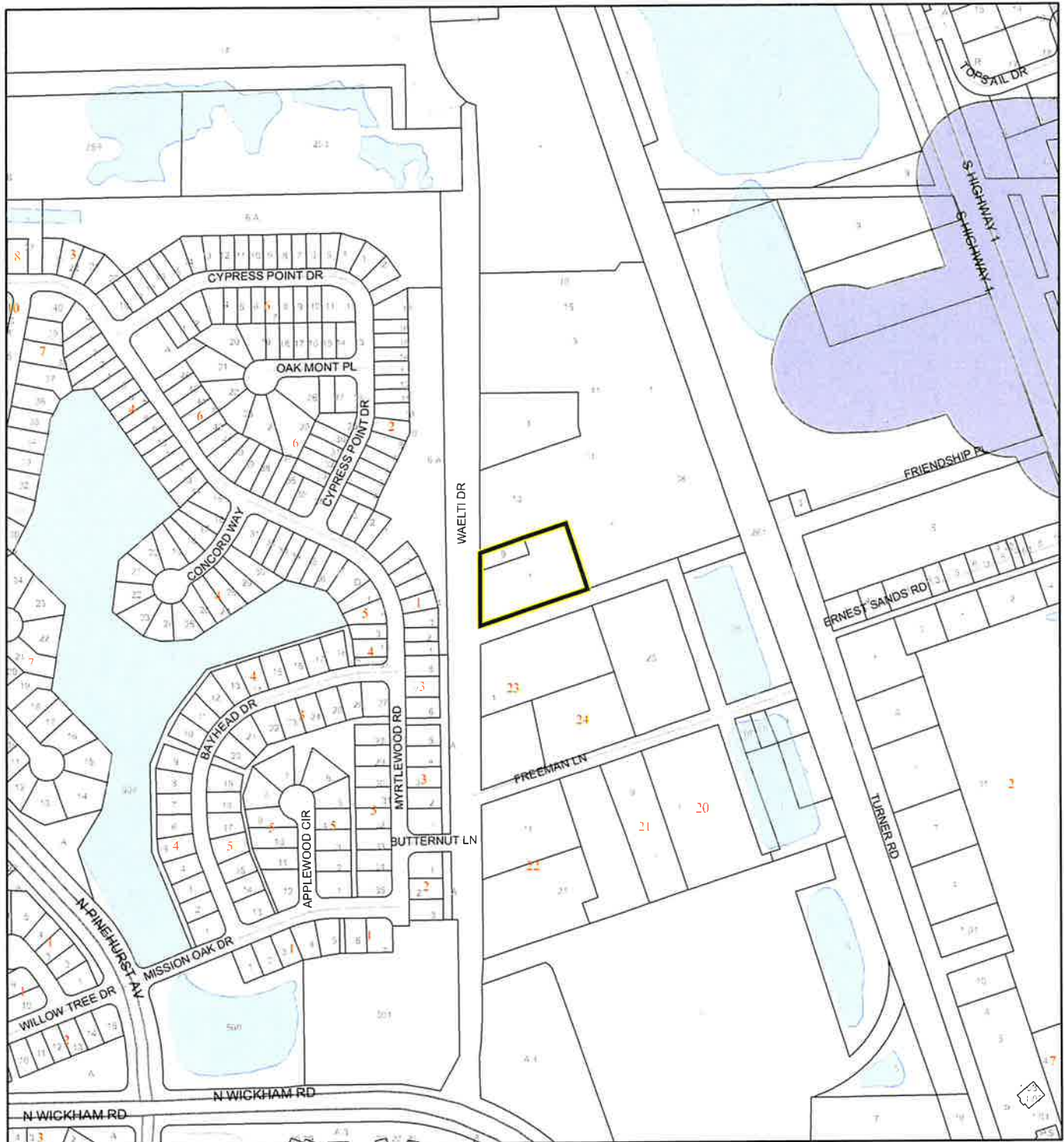
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

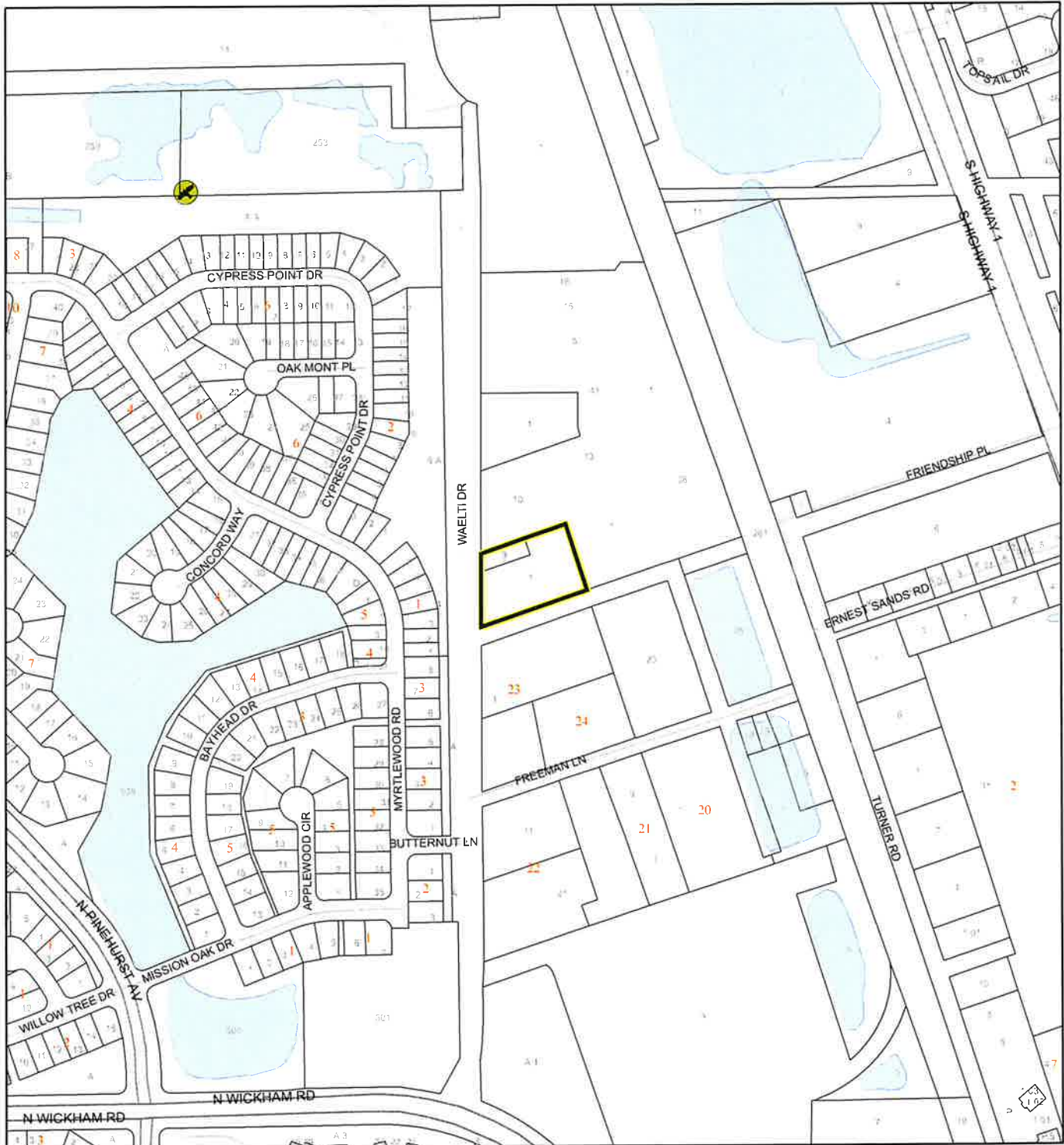
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

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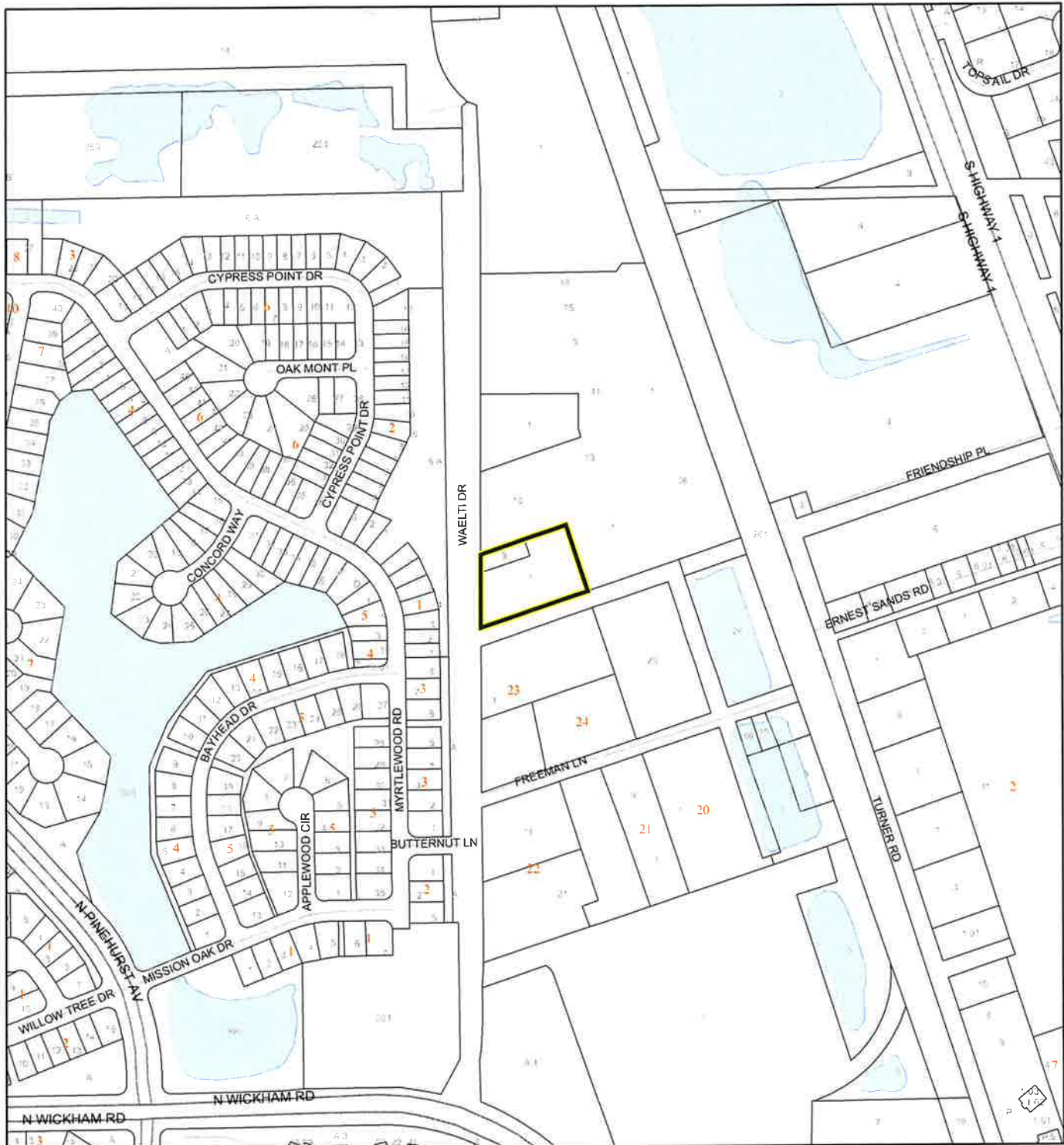
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KMM FL, LLC
24Z00024



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS Upland Forests

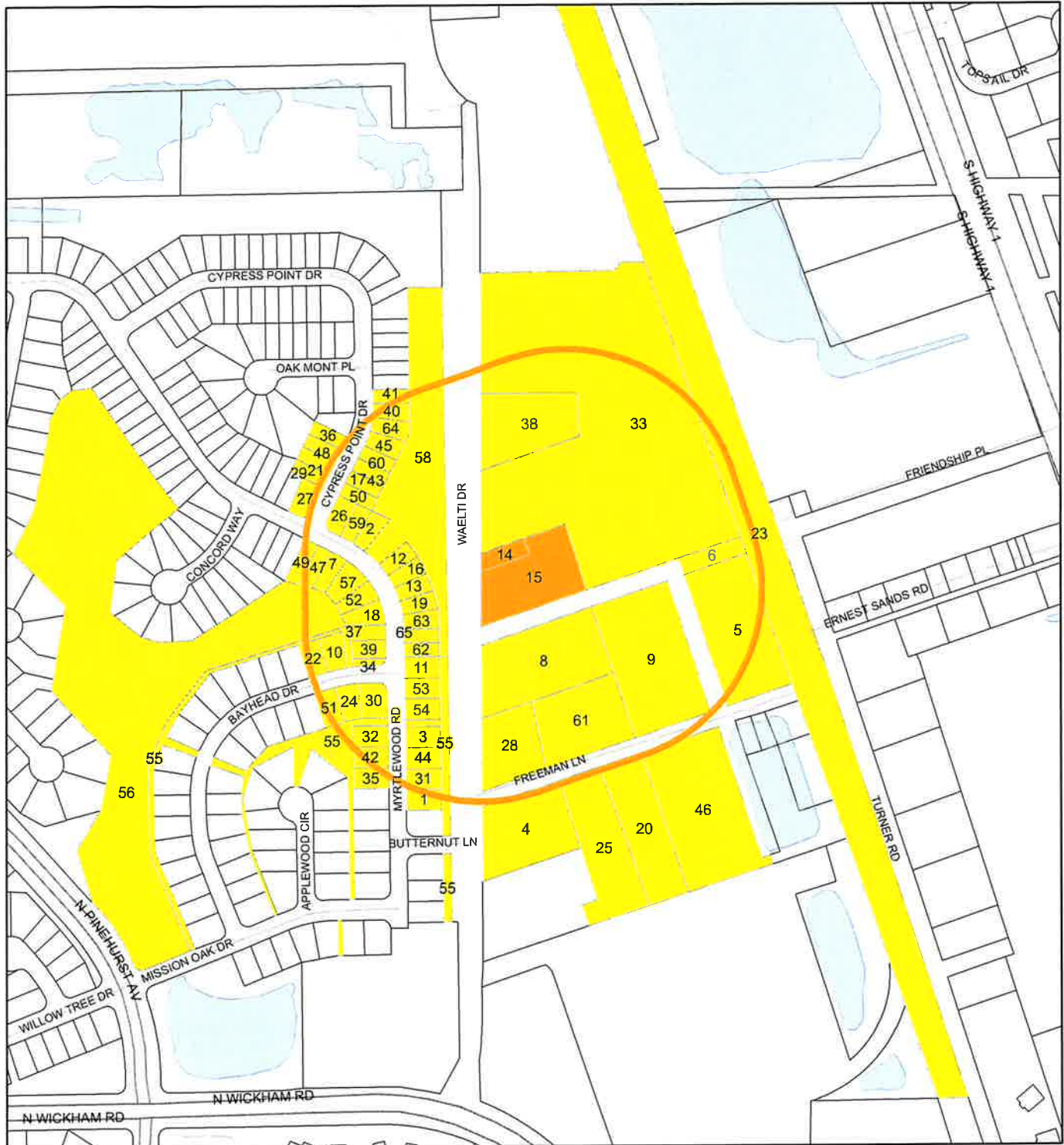
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property Parcels

RADIUS MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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- Buffer
- Subject Property
- Notify Property
- Parcels