



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

3/3/2022

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### **Subject:**

Brad A. Lange requests a change of zoning classification from BU-1 and RU-2-30 to RU-2-4. (21Z00047) (Tax Account 2318704) (District 2)

### **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 BU-1 (General Retail Commercial) and RU-2-30 (High Density Multi-Family Residential) to RU-2-4 (Low Density Multi-Family Residential).

### **Summary Explanation and Background:**

The applicant requests to change a portion of the 2.75-acre property from BU-1 and RU-2-30 to RU-2-4 in order to subdivide the property into a commercial portion and a residential portion. The existing RU-2-30 zoned portion (allows up to 30 units per acre), is nonconforming to the FLU (Future Land Use) Map and is not connected to centralized sewer. A Variance to reduce the lot width from 75 feet to 50 feet within the proposed RU-2-4 zoning classification was approved by the Board of Adjustment on January 19, 2022.

The applicant wishes to retain multi-family use while down-zoning the intensity to four units per acre to be consistent with the CC (Community Commercial) Future Land Use residential density limitation. There are three residential structures and one accessory building within the area affected by the rezoning. The western portion of the lot that is not part of this zoning request because the owner wishes to retain the BU-1 zoning on that portion of the parcel. One commercial building is located within the BU-1 portion of the site.

The subject property is currently designated as CC (Community Commercial) and NC (Neighborhood Commercial) FLU. The proposed RU-2-4 zoning is consistent with both the existing CC and NC FLU designations. The existing BU-1 zoned portion is consistent with the CC FLU designation.

The developed character of the surrounding area is a mixture of BU-1 and BU-2 commercial zoning classifications along N. Courtenay Parkway with abutting single-family residential zoning classifications to the east. Abutting the property to the north, south and west are currently unimproved. Property on the west side of N. Courtenay Parkway is zoned RA-2-4.

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

On February 10, 2022, the North Merritt Island Dependent Special District Board heard the request and voted 4:1 to recommend approval.

**Clerk to the Board Instructions:**

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

**Resolution 21Z00047**

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

**WHEREAS, BRAD A. LANGE** has requested a change of zoning classification from BU-1 (General Retail Commercial) and RU-2-30 (High Density Multi-Family Residential) to RU-2-4 (Low Density Multi-Family Residential), on property described as: (See Attached); and

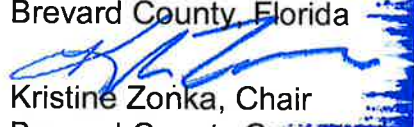
**WHEREAS**, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be approved; and

**WHEREAS**, the Board, after considering said application and North Merritt Island Dependent Special District 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 BU-1 and RU-2-30 to RU-2-4, 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 March 3, 2022.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
Kristine Zonka, Chair  
Brevard County Commission

As approved by the Board on March 3, 2022.

ATTEST:

  
RACHEL M. SADOFF, CLERK

(SEAL)

NMI Hearing – February 10, 2022

Please note: A Conditional Use Permit will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits 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.**

21Z00047

**Legal Description:**

Parcel B: A certain parcel of land in the N  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 35, Township 23S, Range 36E, Brevard County, Florida, said parcel being more particularly described as follows: commence at a point 30 ft. east of and 1,104 ft. south of the NW corner of said Section 35, thence S89deg05'22"E, on a line parallel with and 1,104 ft. south of the north line of said Section 35, a distance of 225 ft. to the point of beginning, thence continue S89deg51'22"E, along said parallel line, 383.10 ft. to a line that is 638.10 ft. east of, and parallel with, the west line said Section 35; thence run S00deg13'50"W, along said parallel line, a distance of 200 ft. to a line that is 1,304 ft. south of, and parallel with, the aforementioned north line of said Section 35, thence run N89deg15'22"W, along said parallel line, a distance of 635.78 ft. to the east right-of-way line of N. Courtenay Pkwy.; thence run N01deg47'34"W, along said east right-of-way line, a distance of 50.02 ft. to a line that is 1,254 ft. south of and parallel with the aforementioned north line of the Section 35; thence run south 89deg51'22"E, along said parallel line, a distance of 254.44 ft. to a line 255 ft. east of, and parallel with, the west line of said Section 35; thence run N00deg13'50"E, along said parallel line, a distance of 150 ft. to the point of beginning. (2.005 +/- acres) Located on the east side of N. Courtenay Pkwy., approx. 1,085 ft. south of Chase Hammock Rd. (4930 and 4940 N. Courtenay Pkwy., Merritt Island)

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

#### **(c) General Standards of Review.**

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



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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
- b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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Building A, Room 114

Viera, Florida 32940

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

**STAFF COMMENTS**

**21Z00047**

**Brad A. Lange**

**BU-1 (General Retail Commercial) and RU-2-30 (High-Density Multi-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential)**

Tax Account Number: 2318704  
Parcel I.D.: 23-36-35-00-260  
Location: 4910 N. Courtenay Parkway Merritt Island, FL 32953 (District 2)  
Acreage: 2.00 acres

North Merritt Island Board: 2/10/2022

Board of County Commissioners: 3/03/2022

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1 & RU-2-30**	RU-2-4
<b>Potential*</b>	43,560 sq. ft. commercial 8 residential units	8 residential units
<b>Can be Considered under the Future Land Use Map</b>	YES CC & NC	YES CC & NC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*The RU-2-30 zoning is nonconforming to the 1988 Comprehensive Plan's Future Land Use Map.

**Background and Purpose of Request**

The applicant requests to change a portion of the 2.75-acre property from BU-1 (General Retail Commercial) and RU-2-30 (High-Density Multi-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential) in order to subdivide the property into a commercial portion and a residential portion. The existing RU-2-30 zoned portion (allows up to 30 units per acre) is nonconforming to the Future Land Use Map and is not connected to centralized sewer. Variance action # **21PZ00094** heard by the Board of Adjustment on January 19, 2022 was approved. The variance reduced the lot width required from 75 feet down to 50 feet within the RU-2-4 zoning classification.

The applicant wishes to retain multi-family use and is down zoning the intensity to four (4) units per

acre to be consistent with the Community Commercial FLU residential density limitation. The western portion of the lot that is not part of this zoning request is developed as a CBS building. The owner wishes to retain the BU-1 zoning on that portion of the parcel. There are three residential structures and one accessory building within the RU-2-30 area. One commercial building is located within the BU-1 portion of the overall site.

The lot received both the BU-1 and RU-2-30 zoning designations under Zoning Resolution **Z-2407** adopted on April 3, 1969. The BU-1 portion covered the western 225 feet of lot depth. The RU-3 (now RU-2-30) zoning covered the eastern remainder depicted as three parcels in that zoning file. A conditional use permit for beer/wine on-premises alcoholic beverage consumption was approved under Zoning Resolution **14PZ-00098** adopted on February 5, 2015 for the previous bait and tackle shop over the BU-1 zoned area of the lot. Prior to that was a prior approval for a CUP for beer/wine accessory to a restaurant under **Z-11028** adopted on March 3, 2005.

### **Land Use**

The subject property is currently designated as Community Commercial (CC) and Neighborhood Commercial (NC) FLU. The proposed RU-2-4 zoning is consistent with both the existing Community Commercial (CC) and Neighborhood Commercial (NC) FLU designations. The existing BU-1 zoned portion is consistent with the CC FLU designation.

### **Applicable Land Use Policies**

#### **Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations**

**Policy 2.13** - Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neotraditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

**Policy 1.8** –The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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;

**The proposed zoning change is a down zoning and reduces the development potential from 30 to 4 units per acre. It is anticipated that offsite impacts will be reduced accordingly. The effects of lighting, site activity and traffic will be evaluated 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 appraisal can determine if material reduction has or will occur due to the proposed intensity to 4 units per acre.**

- 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 historic land use pattern has been strip commercial development along the N. Courtenay Parkway corridor with single-family zoning beyond the frontage lots. This site contains a developed commercial building along N. Courtenay Parkway.**

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

**It appears no changes to the immediate area have occurred within the last three years. This parcel is adjacent to unimproved parcels lying both north, east and south of this site.**

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

**To the west across N. Courtenay Parkway was a 48-unit attached (townhouse) residential development site planned under 18SD00016. This project has not received final plat approval and will expire in June, 2022.**

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

**As this site was previously developed and the uses are consistent with the BU-1 and RU-2-30 zoning classifications and those uses are also conforming or considered to be**

**nonconforming (predating) the 1988 Comprehensive Plan, no material violation of relevant policies have been identified.**

The subject property was not affected by the **2018 North Merritt Island Small Area Study (SAS)** boundary. The recommendation of the 2018 North Merritt Island SAS was for all parcels 2.5 acres in size designated as Residential 1 (RES 1) Future Land Use with Agricultural Residential (AU) zoning have their Future Land Use Map designation decreased to Residential 1:2.5 (RES 1:2.5). While the Board acknowledged the Recommendations of the 2018 North Merritt Island SAS, staff was not directed to implement this recommendation. This lot is not affected by the Report as this property is neither zoned AU nor has a Residential FLU.

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

The developed character of the surrounding area is a mixture of BU-1 and BU-2 commercial zonings along N. Courtenay Parkway with abutting single-family residential zonings to the east. Abutting property to the north, south and west are currently unimproved. Property on the west side of N. Courtenay Parkway is zoned RA-2-4. A 48-unit townhouse development was proposed for that lot. Project was reviewed under **18SD00016**. This lot's BU-1 zoned frontage is developed. The building is currently vacant. Additionally, zoning action # **21Z00042**, a recent request to change 2.79-acres from AU to RU-2-4, was heard by the North Merritt Island Special Dependent Board on January 06, 2022 and by the Planning and Zoning Board on January 10, 2022 and is planned to be heard by the Board on February 3, 2022. This property is located south of the current zoning request approximately 1,790 feet and lies on the west side of N. Courtenay Parkway.

The request to reduce the zoning residential density from 30 units per acre to 4 units per acre is consistent with the current Future Land Use designations (NC & CC) as connection to centralized sewer is not desired by the applicant. Three residential units exist on the property today and the density limitation will limit future growth to a total of 8-residential units.

#### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Undeveloped Land	AU	NC
<b>South</b>	Undeveloped Land	BU-1	CC
<b>East</b>	Single-family residence	AU	RES 2
<b>West</b>	Undeveloped Land	RA-2-4 with BDP	CC, NC and RES 4

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots.

RA-2-4 classification permits single-family attached development at a density of up to 4 units per acre. RA-2-4 is intended to provide a transition between single-family detached zoning classifications and multiple-family zoning classifications, permitting fee simple ownership of individual attached units.

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

There has been one zoning action within a half-mile radius of the subject property within the last three years. The request was heard under **18PZ00018** on July 26, 2018 and approved a zoning change from AU to EU, with a BDP recorded in ORB 8222, Pages 98 - 101, dated July 26, 2018, stipulating a conservation easement over the wetlands on the eastern portion of the property, limiting density to a maximum of 34 units, and limiting ingress and egress to one (1) access point. The site is located SE of the current track 2,050 feet to the east located on the north side of E. Hall Road. No recent development trends have been identified in this area.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N Courtenay Parkway, between Hall Road to N. Tropical Trail, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 37.36% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.11%. The corridor is anticipated to operate at 37.47% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer.

### **Environmental Constraints**

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees



- Protected Species

The subject parcel contains mapped hydric soils. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6) for multi-family parcels greater than five acres in area, and if applicable, mixed-use land development activities as specified in Section 62-3694(c)(5). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

#### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item # 21Z00047**

**Applicant:** Lange

**Zoning Request:** BU-1 & RU-2-30 to RU-2-4

**Note:** Applicant wants to split lot and develop 8 multi-family units on east portion.

**Tax ID No:** 2318704

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

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

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6) for multi-family parcels greater than five acres in area, and if applicable, mixed-use land development activities as specified in Section 62-3694(c)(5). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Land Use Comments:**

#### **Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Basinger sand and St. Johns sand depressional) as shown on the USDA Soil Conservation Service Soils Survey maps; an indicator that wetlands may be present on the property. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6) for multi-family parcels greater than five acres in area, and if applicable, mixed-use land development activities as specified in Section 62-3694(c)(5). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

#### **Aquifer Recharge Soils**

Basinger sand and St. Johns sand-depressional may also function as aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

#### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Septic 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. If applicable, NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts at time of building permit.

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

Aerials indicate mature canopy trees exist onsite. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Specimen Trees. Per Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at the time of any future site plan submittal. The applicant is

advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

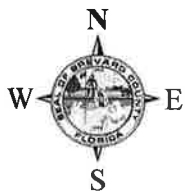
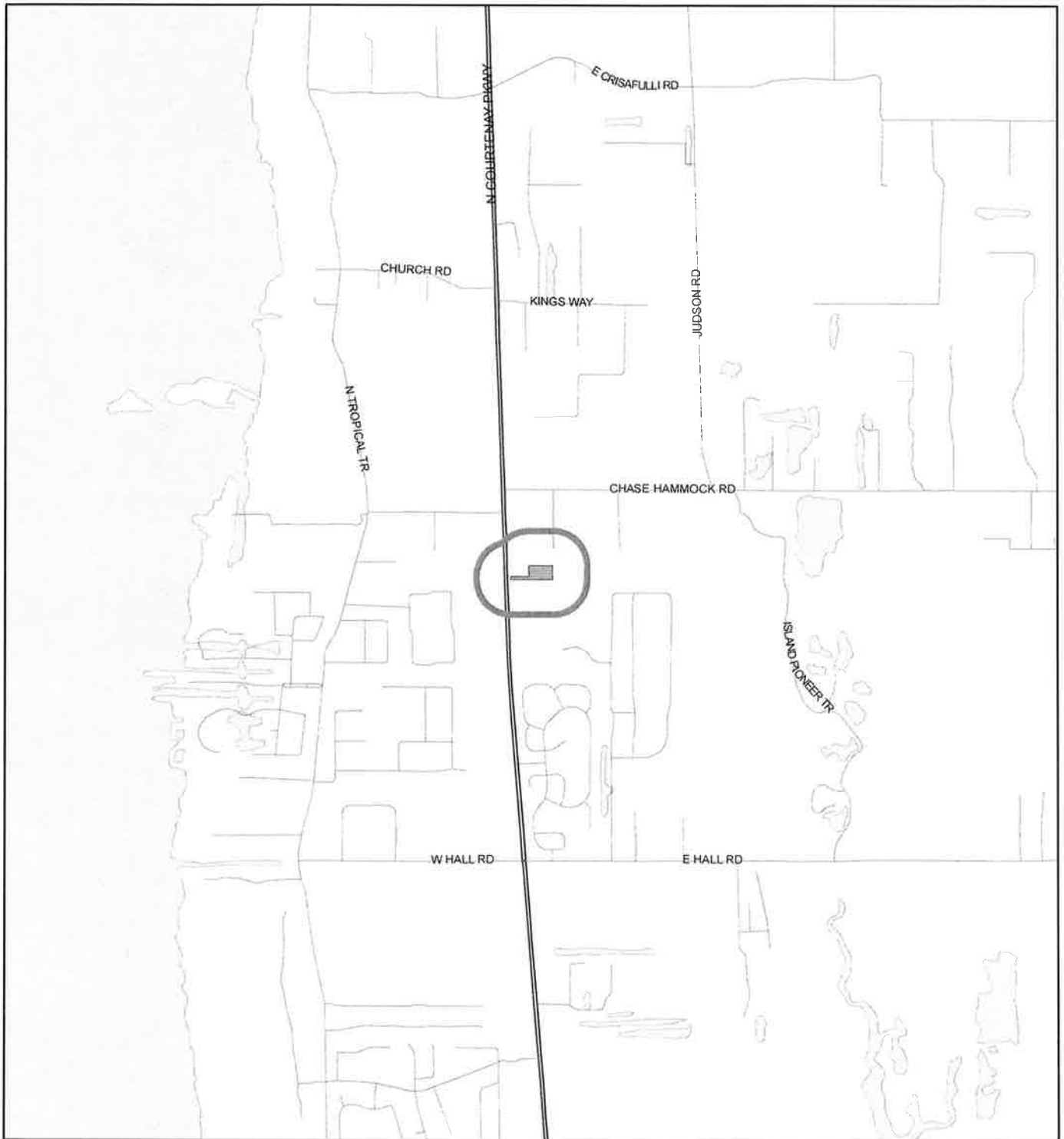
### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. The entire subject property is mapped within a Florida Scrub Jay polygon as shown on the Scrub Jay Occupancy Map. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

LANGE, BRAD A.

21Z00047



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.

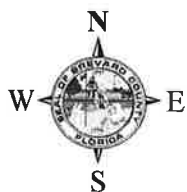
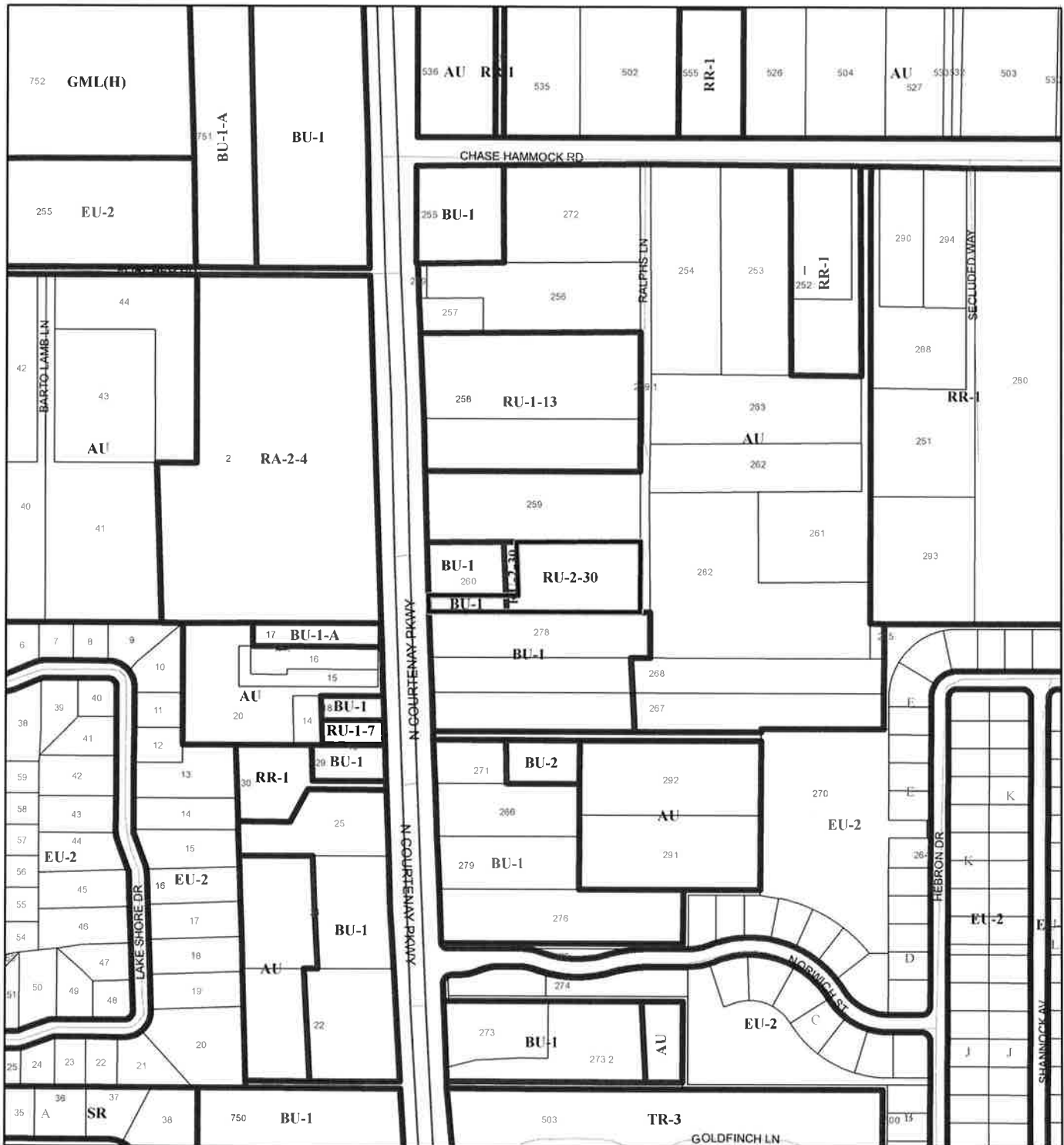
Produced by BoCC - GIS Date: 12/13/2021

— Buffer  
■ Subject Property

# ZONING MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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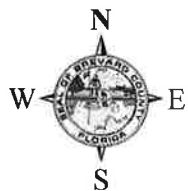
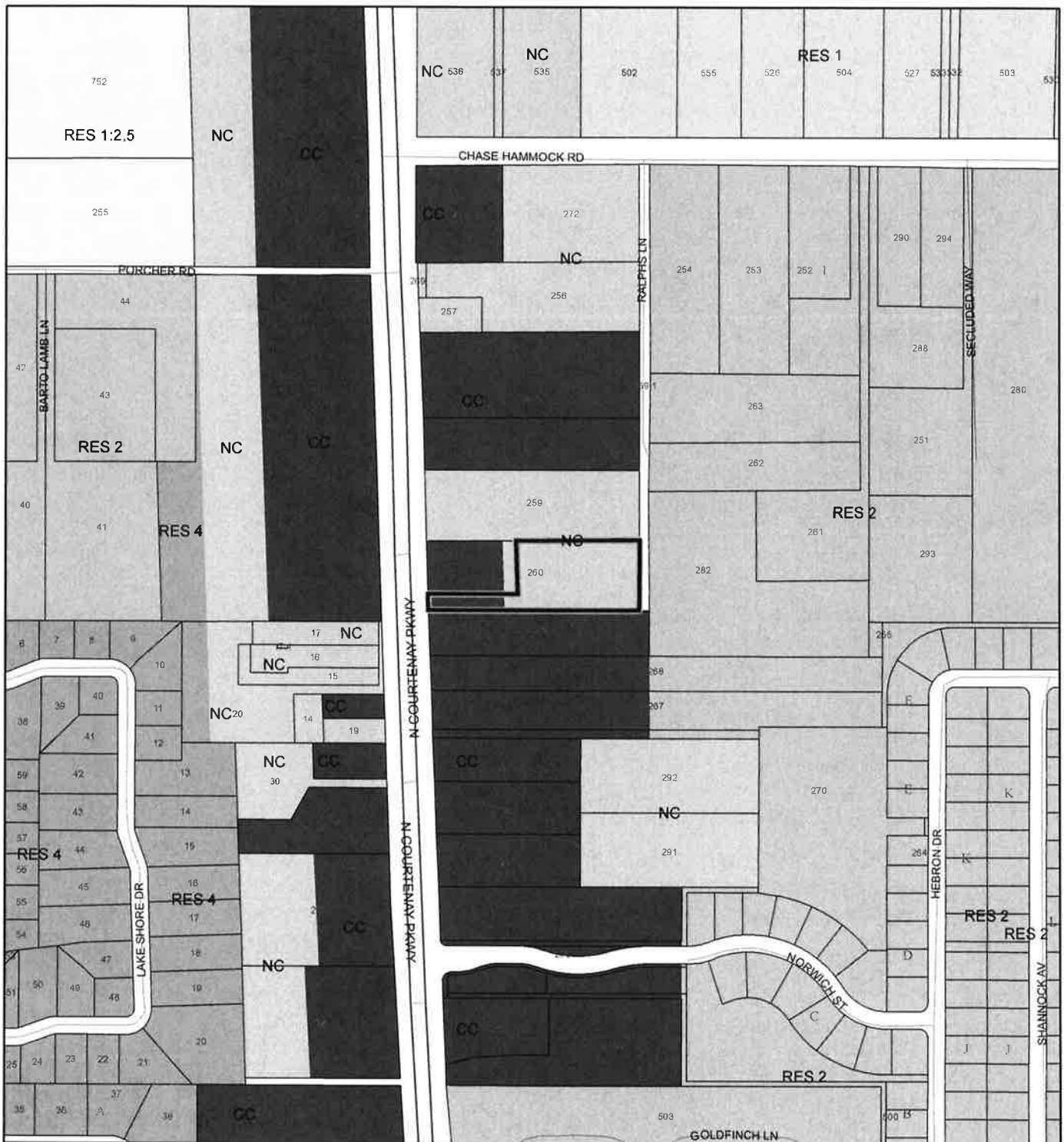
Produced by BoCC - GIS Date: 12/13/2021

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

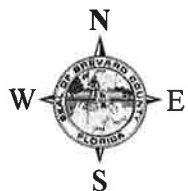
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Produced by BoCC - GIS Date: 12/13/2021

# AERIAL MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 12/13/2021

— Subject Property

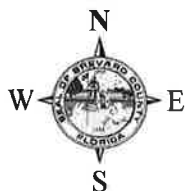
□ Parcels



# NWI WETLANDS MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

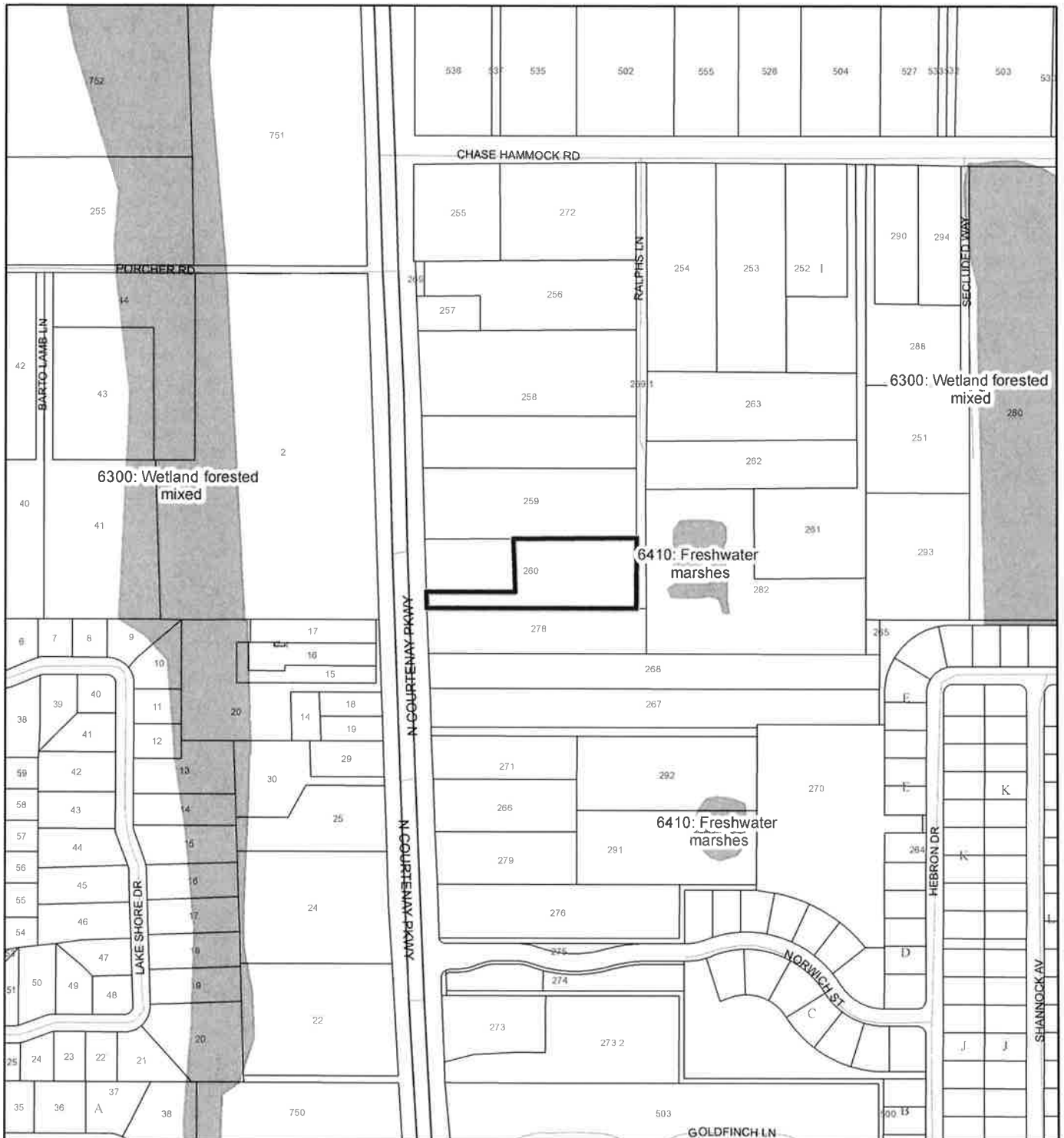
## National Wetlands Inventory (NWI)

	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

LANGE, BRAD A.

21Z00047



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: 12/13/2021

## 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

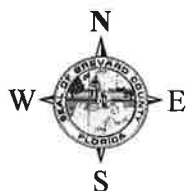
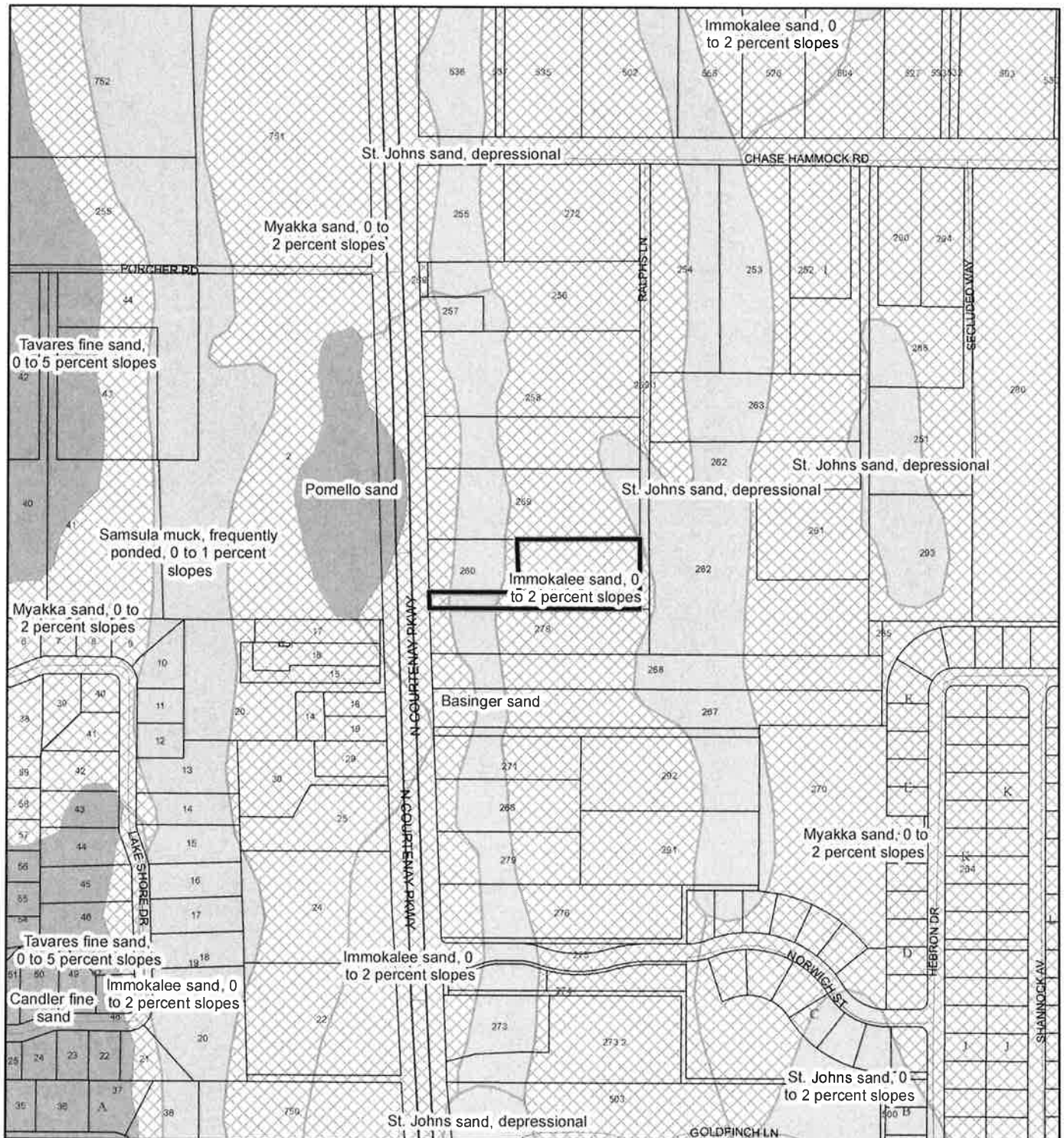
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

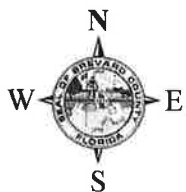
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/13/2021

# FEMA FLOOD ZONES MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

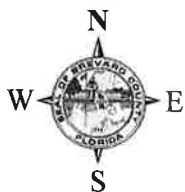
## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

# COASTAL HIGH HAZARD AREA MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

— Subject Property

□ Parcels

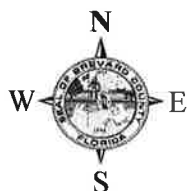
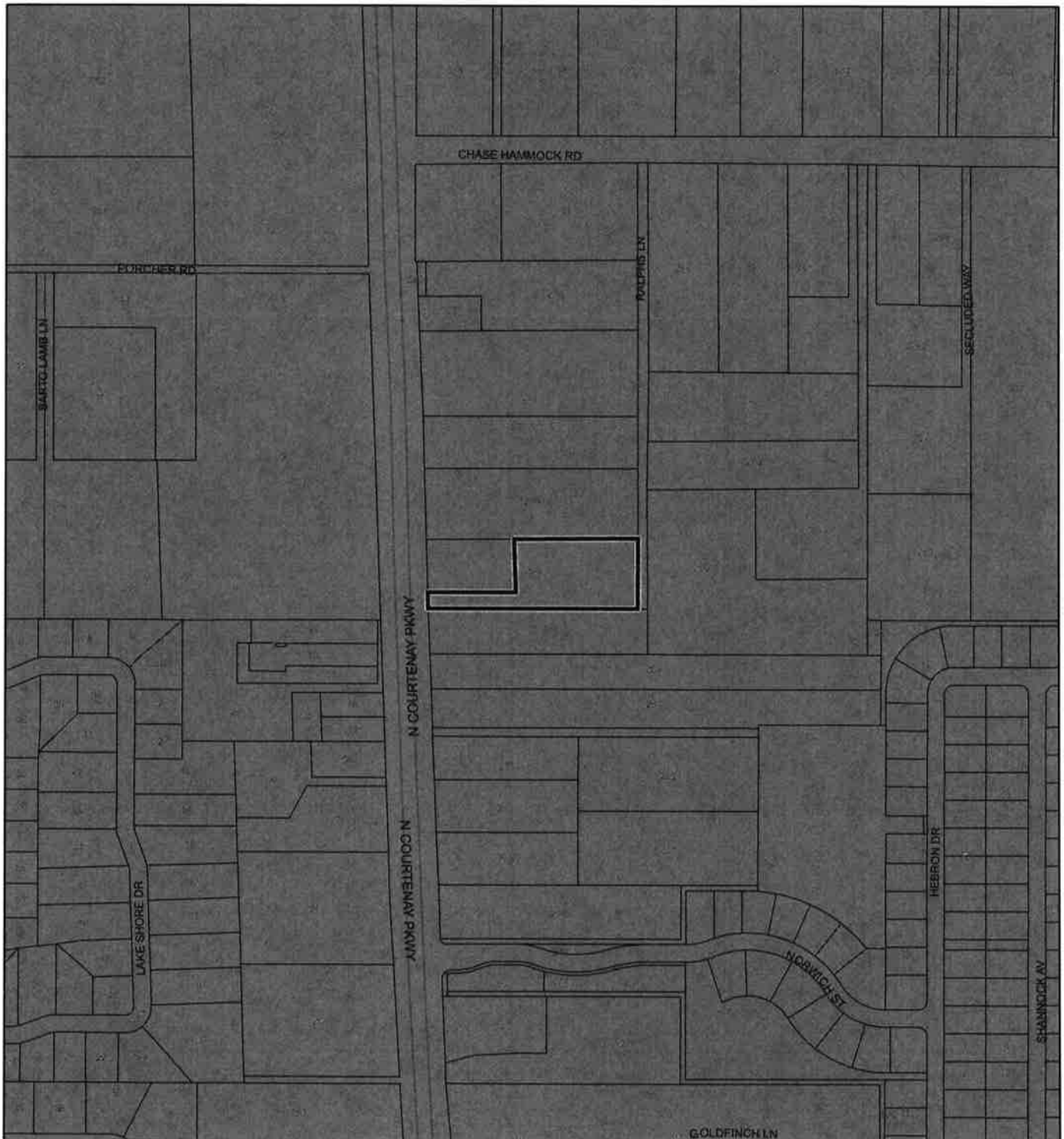
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

 All Distances



# EAGLE NESTS MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

 Subject Property

 Parcels

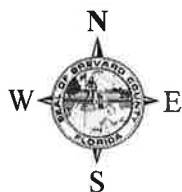
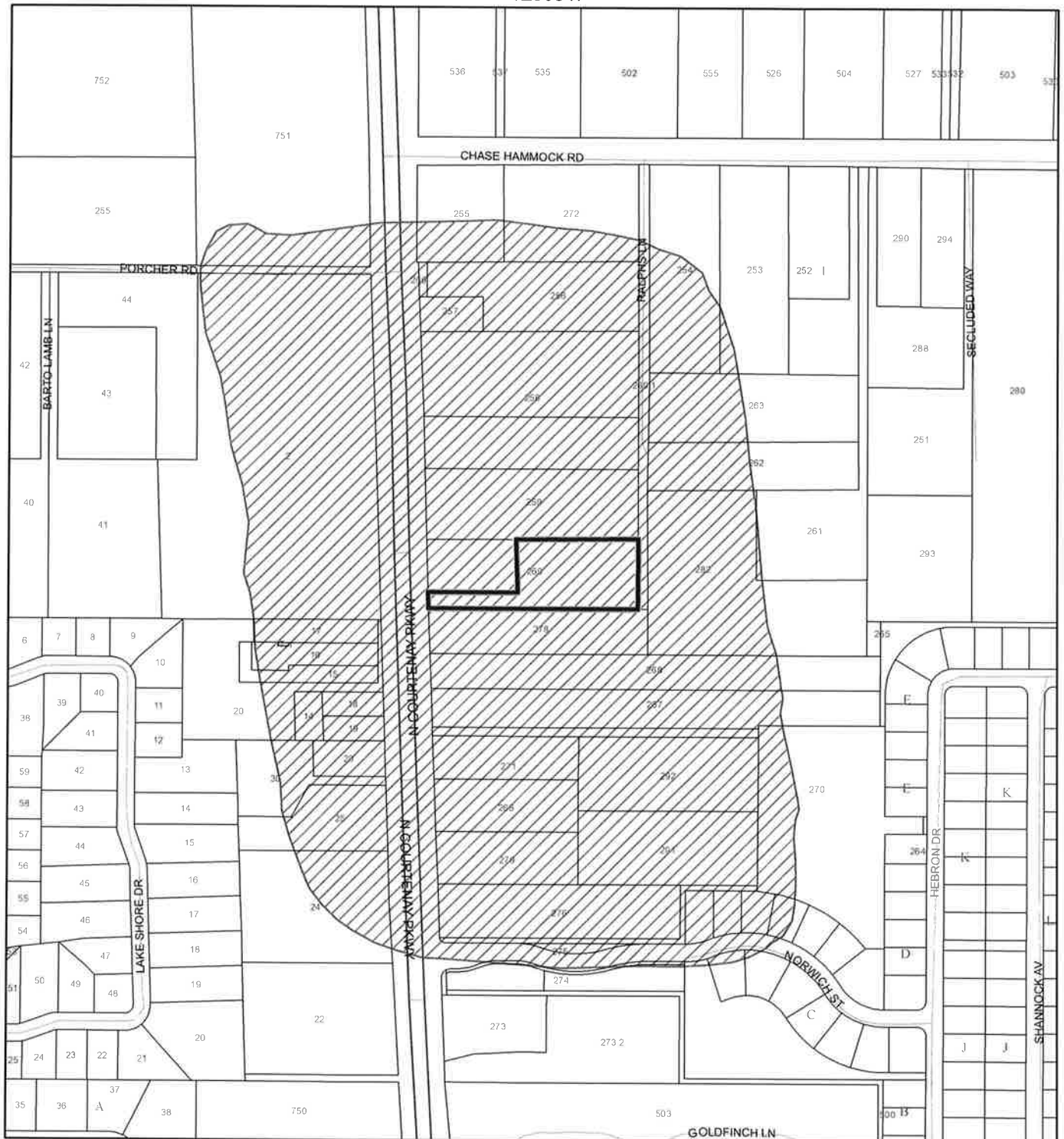


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

LANGE, BRAD A.




21Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2021

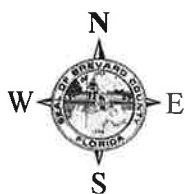
-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LANGE, BRAD A.

21Z00047



1:4,800 or 1 inch = 400 feet

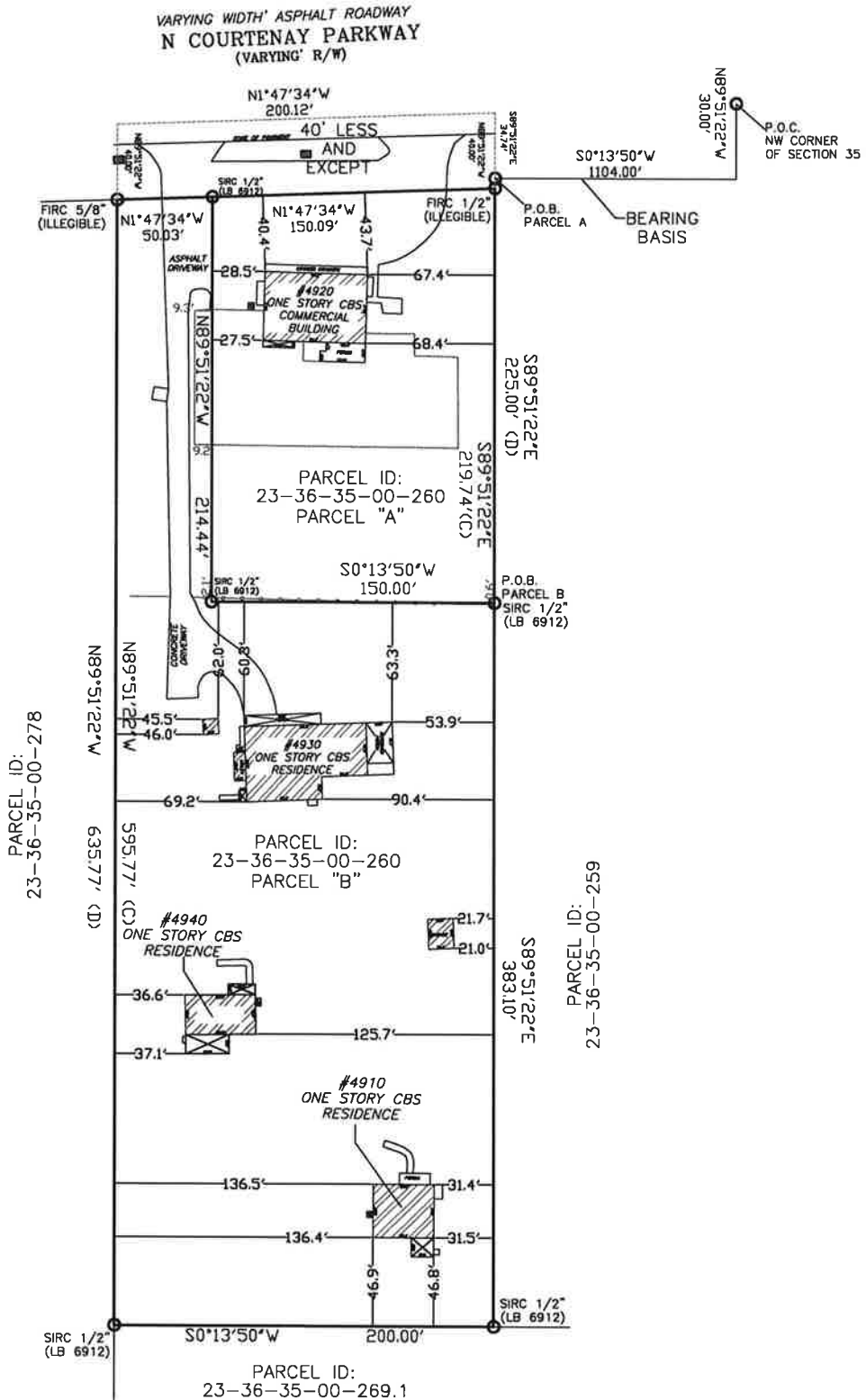
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/13/2021

## SJRWMD FLUCCS Upland Forests

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

Subject Property  Parcels



**NOTES:**

ALL BEARINGS AND DISTANCES SHOWN ARE RECORD AND MEASURED, UNLESS OTHERWISE SHOWN.  
BEARINGS ARE BASED UPON THE RECORD BEARING FOR THE EASTERLY RIGHT OF WAY LINE OF N COURTENAY PARKWAY.



NORTH ARROW &  
GRAPHIC SCALE



JOB # - 2111-165	REVISION -
FIELD DATE - 11/16/2021	REVISION -
DRAWN BY - D.B	REVISION -
REVISION - REVISED POB'S 12 17 21	REVISION -
REVISION -	REVISION -
REVISION -	REVISION -

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

**KNOW IT NOW, INC.**  
PROFESSIONAL SURVEYING AND MAPPING  
5220 US HIGHWAY 1, #104  
VERO BEACH, FL 32967  
PHONE - (888) 396-7770  
[WWW.KINSURVEY.COM](http://WWW.KINSURVEY.COM)



**LEGAL DESCRIPTION:****PARCEL A:**

A CERTAIN PARCEL OF LAND IN THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 35 AND THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 34, ALL IN TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT 30 FEET EAST OF AND 1,104 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 35 FOR A POINT OF BEGINNING, THENCE SOUTH 89°51'22" EAST, ON A LINE PARALLEL WITH AND 1,104 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 35, A DISTANCE OF 225.00 FEET TO A LINE THAT IS PARALLEL WITH THE WEST LINE OF SAID SECTION 35; THENCE RUN SOUTH 00°13'50" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 150.00 FEET TO A LINE THAT IS 1,254 FEET SOUTH OF, AND PARALLEL WITH, THE AFOREMENTIONED NORTH LINE OF SAID SECTION 35; THENCE RUN NORTH 89°51'22" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 254.44 FEET TO THE EAST RIGHT OF WAY LINE OF NORTH COURTENAY PARKWAY, THENCE RUN NORTH 01°47'34" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 150.09 FEET TO A LINE THAT IS 1,104 FEET SOUTH OF AND PARALLEL WITH THE AFOREMENTIONED NORTH LINE OF SECTION 35; THENCE RUN SOUTH 89°51'22" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 34.74 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 32,564 SQUARE FEET, MORE OR LESS.

**PARCEL B:**

A CERTAIN PARCEL OF LAND IN THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT 30 FEET EAST OF AND 1,104 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 35; THENCE SOUTH 89°05'22" EAST, ON A LINE PARALLEL WITH AND 1,104 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 35, A DISTANCE OF 225.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 89°51'22" EAST, ALONG SAID PARALLEL LINE, 383.10 FEET TO A LINE THAT IS 638.10 FEET EAST OF, AND PARALLEL WITH, THE WEST LINE OF SAID SECTION 35; THENCE RUN SOUTH 00°13'50" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 200.00 FEET TO A LINE THAT IS 1,304 FEET SOUTH OF, AND PARALLEL WITH, THE AFOREMENTIONED NORTH LINE OF SAID SECTION 35; THENCE RUN NORTH 89°51'22" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 635.78 FEET TO THE EAST RIGHT-OF-WAY LINE OF NORTH COURTENAY PARKWAY, THENCE RUN NORTH 01°47'34" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 50.02 FEET TO A LINE THAT IS 1,254 FEET SOUTH OF AND PARALLEL WITH THE AFOREMENTIONED NORTH LINE OF THE SECTION 35; THENCE RUN SOUTH 89°51'22" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 254.44 FEET TO A LINE 255.00 FEET EAST OF, AND PARALLEL WITH, THE WEST LINE OF SAID SECTION 35; THENCE RUN NORTH 00°13'50" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 2.005 ACRES MORE OR LESS.

LESS AND EXCEPT THE WEST 40' BY PERPENDICULAR MEASUREMENT OF BOTH PARCELS DESCRIBED ABOVE.

**JOB NUMBER:** 2111-105

**FIELD WORK DATE:** 11/16/2021

**PROPERTY ADDRESS:**

4910 NORTH COURTENAY PARKWAY, MERRITT ISLAND, FL 32953 AND  
4920 NORTH COURTENAY PARKWAY, MERRITT ISLAND, FL 32953 AND  
4930 NORTH COURTENAY PARKWAY, MERRITT ISLAND, FL 32953 AND  
4940 NORTH COURTENAY PARKWAY, MERRITT ISLAND, FL 32953 AND

**FLOOD INFORMATION:**

**PANEL NUMBER:** 12009C0329H

**FIRM DATE:** JANUARY 29, 2021

**FLOOD ZONE:** X

**BASE FLOOD ELEVATION:** NA

**COMMUNITY NAME:** BREVARD COUNTY

**COMMUNITY NUMBER:** 125092

**AERIAL PHOTOGRAPH****SURVEYOR'S LEGEND**

A/C = AIR CONDITIONING

BB = BEARING BASIS

BFP = BACKFLOW PREVENTER

BLDG = BUILDING

BLK = BLOCK

BM = BENCHMARK

C = CURVE

CATV = CABLE T.V. RISER

CB = CATCH BASIN

CL = CENTERLINE

CLF = CHAIN LINK FENCE

CLP = CONCRETE LIGHT POLE

CONC = CONCRETE

CP = CONTROL POINT

CPW = CONCRETE POWER POLE

D = DEED

DP = DRAINFIELD

ELEV = ELEVATION

EM = ELECTRIC METER

EW = EDGE OF WATER

EP = EDGE OF PAVEMENT

F = FIELD

FCM = FOUND CONCRETE MONUMENT

FDH = FOUND DRILL HOLE

FFE = FINISHED FLOOR ELEVATION

FIP = FOUND IRON PIPE

FIPC = FOUND IRON PIPE AND CAP

FIR = FOUND IRON ROD

FIRC = FOUND IRON ROD AND CAP

FN = FOUND NAIL

FN&D = FOUND NAIL AND DISC

FND = FOUND

FPK = FOUND PK NAIL

FPKD = FOUND PK NAIL AND DISC

FRRSPK = FOUND RAILROAD SPIKE

GAR = GARAGE

HYD = FIRE HYDRANT

ID = IDENTIFICATION

L = LENGTH

LB # = LICENSED BUSINESS

LS # = LICENSED SURVEYOR

M = MEASURED

MB = MAP BOOK

MBS = METERED END SECTION

MH = MANHOLE

MLP = METAL LIGHT POLE

OHW = OVERHEAD WIRES

P = PLAT

PB = PLAT BOOK

PC = POINT OF CURVATURE

PCC = POINT OF COMPOUND CURVATURE

PCP = PERMANENT CONTROL POINT

POB = POINT OF BEGINNING

POC = POINT OF COMMENCEMENT

PP = POOL PUMP

PRC = POINT OF REVERSE CURVATURE

PRM = PERMANENT REFERENCE MONUMENT

PT = POINT OF TANGENCY

R = RADIUS

RNG = RANGE

R/W = RIGHT OF WAY

S = SEPTIC

SEC = SECTION

SIR = SET IRON ROD AND CAP

SPKD = SET PK NAIL AND DISC

SV = SEWER VALVE

TBM = TEMPORARY BENCHMARK

TOB = TOP OF BANK

TWP = TOWNSHIP

TR = TELEPHONE RISER

TYP = TYPICAL

WLT = WITNESS

WLP = WOOD LIGHT POLE

WM = WATER METER

WPP = WOOD POWER POLE

WV = WATER VALVE

**LINETYPES**

———— = BOUNDARY LINE

———— = STRUCTURE LINE

———— = CENTERLINE

———— = EASEMENT LINE

———— = FENCE LINE

———— = OLD LOT LINE

**SYMBOLS**

= FIRE HYDRANT



= WATER METER



= POWER POLE



= GAS SERVICE



= LIGHT POLE



= WELL



= BENCHMARK



= CATCH BASIN



= SANITARY MANHOLE



= CABLE T.V. SERVICE



= ELECTRIC SERVICE



= TELEPHONE SERVICE



= DRAINAGE MANHOLE



= SANITARY SERVICE

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2. THE SURVEYOR DID NOT RESEARCH OR ABSTRACT THE LAND RECORDS FOR RIGHTS-OF-WAY, EASEMENTS, RESERVATIONS, DEED RESTRICTIONS, ZONING REGULATIONS, SETBACKS, LAND USE PLAN DESIGNATIONS, ADJOINING DEEDS, LIENS, MURPHY ACT RIGHTS-OF-WAY, AREAS OF LOCAL CONCERN, OR OTHER SIMILAR JURISDICTIONAL DETERMINATIONS. TO THE EXTENT THAT THIS TYPE OF INFORMATION IS SHOWN, IT IS SHOWN SOLELY ON THE BASIS OF INFORMATION PROVIDED BY THE CLIENT OR INFORMATION OTHERWISE KNOWN TO THE SURVEYOR AND MAY NOT BE COMPLETE.

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5. THE SURVEY DATE IS THE FIELD DATE SHOWN IN THE TITLE BLOCK, NOT THE SIGNATURE DATE.

6. THIS SURVEY MAP OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ELECTRONIC OR ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

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9. MONUMENTS FOUND OR SET ARE SHOWN, CALCULATED LINES AND INFORMATION IS NOTED BY (C).

10. COMPUTATIONS OF LINES AND OR DATA NOT FOUND ARE SHOWN AS (C).

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12. PRIOR TO SURVEY INFORMATION OBTAINED WAS LEGAL DESCRIPTION FROM CLIENT OR FROM PUBLICLY PUBLISHED COUNTY TAX COLLECTOR SITE, RECORDED PLATS AND OR SECTION CORNER RECORDS IF APPLICABLE.

13. IF ONLY A DIGITAL SURVEY COPY IS REQUIRED A SURVEY REPORT WILL BE PLACED IN FILE. THE DIGITAL SURVEY IS NOT FULL AND COMPLETE WITHOUT THE SURVEY REPORT FILE.

**SURVEYOR'S SIGNATURE**

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR BELOW. THE SURVEYOR HEREBY CERTIFIES THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES SET FORTH IN CHAPTER 5J-17.062 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.025, FLORIDA STATUTES. THE SURVEYOR HEREBY CERTIFIES THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE FOR SURVEYS, SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER 5J-17.051 AND 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

**Bill Hyatt**

Digitally signed  
by Bill Hyatt  
Date: 2021.12.17  
11:20:25 -05'00'

**BILL HYATT**  
SURVEYOR AND MAPPER #4636  
STATE OF FLORIDA

DATE

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

**CERTIFIED TO:**

BRAD A. LANGE

**KNOW IT NOW, INC.**

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## NORTH MERRITT ISLAND

### DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, February 10, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2<sup>nd</sup> Floor, Merritt Island, Florida.

**Board members present were:** Mary Hillberg, Chair; Gina Lindhorst; Jack Ratterman, Vice Chair; Jim Carbonneau; and Ted Balke.

**Planning and Development staff present were:** Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

#### **Approval of January 6, 2022, Minutes**

Motion by Jim Carbonneau, seconded by Jack Ratterman, to approve the minutes from January 6, 2022. The motion passed unanimously.

**(21Z00047) BRAD A. LANGE** requests a change of zoning classification from BU-1 (General Retail Commercial) and RU-2-30 (High Density Multi-Family Residential) to RU-2-4 (Low Density Multi-Family Residential), on 2 acres, located on the east side of N. Courtenay Pkwy., approx. 1,085 ft. south of Chase Hammock Rd. (4930 and 4940 N. Courtenay Pkwy., Merritt Island)

Jeffrey Ball - This request is a little different than the request the board heard last month. RU-2-30 is the highest residential zoning classification, and the applicant is down-zoning to RU-2-4, which allows for up to four units per acre. Existing on the property right now are three residential structures.

Brad Lange - I have property at 4910, 4920, 4930, and 4940 N. Courtenay Parkway; 4920 is currently zoned BU-1, and the other three addresses are zoned RU-2-30. I'm trying to sell off the BU-1 property, and in order to do that, I have to reduce the RU-2-30 to RU-2-4.

Mary Hillberg - Can you tell me again the properties you own?

Brad Lange - It is a 2.78-acre property and there are four addresses; 4910 is a single-family two-bedroom, one bath home; 4920 is the commercial building that has been used for many things; 4930 is a five-bedroom, four-bath, two-kitchen home; and 4940 is another two-bedroom, one-bath home.

Jim Carbonneau - Where is the accessory building?

Brad Lange - There is one garage on the property that is approximately 15 feet wide by 15 feet long, and I use it for my tractor.

Ted Balke - If you're selling it off, why can't you just go to one family per acre, or two families per acre, instead of all the density. There are no other low-densities there, it's something we don't really want to start developing, and if you're going to sell it that way, they're already licensed to do that.

Brad Lange - I was under the understanding that 30 units per acre was not going to be allowed in the current plan for North Merritt Island.

Ted Balke - That's not what I'm saying, I'm saying you're looking to put eight residential units there.

Brad Lange - I'm not looking to do that. I'm not selling the residences, I'm just selling the BU-1 commercial portion. That's all I'm doing, I'm keeping everything else the same.

Ted Balke - Couldn't you make it RR-1 for each of those?

Brad Lange - I'm not required to.

Ted Balke - I know you're not required to, but it's more consistent with the area.

Mary Hillberg - The pictures that we have show a flag lot

Jeffrey Ball - My understanding is Mr. Lange owns the flag lot property, and he also owns the property in the front, it's just the configuration right now, and if the rezoning is approved, Mr. Lange would have to apply for an Administrative Approval for the flag lot to create that lot itself.

Mary Hillberg - This sketch is the whole lot, and the front part is what you want to sell.

Brad Lange - It's 150 feet wide by 225 feet deep.

Ted Balke - You've got the 2.5 acres in the back that's mis-coded now, but it doesn't have any access to it if you don't create an easement on your BU-1.

Brad Lange - In 1964 it was originally two parcels, but the County's records don't go back that far. I have the original deed with the BU-1, which is what we're trying to take off as a separate parcel. The other one is a separate parcel.

Mary Hillberg - On the survey, is the blue part what you're talking about?

Jeffrey Ball - That's the commercial piece and it's not part of this application.

Mary Hillberg - What do you plan to do with the front part?

Brad Lange - I plan to sell it. That's the reason I'm here, I'm here today as part of the process in order for me to sell the BU-1 piece, and in order to sell it I have to have a certain amount of frontage for my driveway that's been there since 1964; however, in order to meet the current code I have to have 50 feet of frontage, of which I've been granted a variance.

Mary Hillberg - You've been to the Board of Adjustment for a variance?

Brad Lange - Yes, and it passed 4:1 in my favor.

Jeffrey Ball - Typically, the requirement is 75 feet, and Mr. Lange got a variance to shrink it down to 50 feet.

Mary Hillberg - And you have three homes on the rear portion already?

Brad Lange - Correct.

Mary Hillberg - RU-2-4 would be how many units?

Jeffrey Ball - Four units per acre.

Mary Hillberg - Do you use the whole property?

Jeffrey Ball - For density purposes we use the whole property. On the two acres, potentially, the density would allow for eight units, assuming all of the infrastructure would be able to be supported.

Mary Hillberg - Mr. Lange, are you planning on eight units?

Brad Lange - The problem with eight units is I would have to bore under Courtenay to get to the sewer, and that would be expensive to do, so it's probably cost-prohibitive.

Ted Balke - Wouldn't you just change the code to be for four units?

Brad Lange - Four is what I was instructed to request.

Ted Balke - It says eight here. Two units per acre maximum?

Brad Lange - I'm going by the County's suggestion.

Jeffrey Ball - RU-2-4 is our lowest density multi-family zoning category.

Mary Hillberg - He has three homes here, so he could have another home?

Jeffrey Ball - Correct. He could have another five.

Brad Lange - But I'd have to go to sewer, correct?

Mary Hillberg - Yes.

Jeffrey Ball - Anything four units or more you have to have central water and sewer.

Mary Hillberg - So, the housing is staying the same, you're just wanting the driveway?

Ted Balke - We're saying that in the future he can put eight units on there. What I'm considering looking at is the fact that once you do this and you permit him to put eight units there it's going to create the next lot up to look to do the same thing. You're establishing a precedent, which is what we didn't want to do.

Mary Hillberg - You're correct, except that this particular property already has RU-2-30.

Ted Balke - I understand that, I'm just saying he doesn't necessarily need to go to the RU-2-4, he can go to an RR-2.

Mary Hillberg - RU-2-4 is the lowest he can go to have the three houses he already has. He's down-zoning, which is a good thing.

Ted Balke - I still think he's establishing precedence for future developments in that area.

Mary Hillberg - He already has it.

Ted Balke - I know he does. It's impractical at this point.

Brad Lange - I'm the only RU-2-30 in the entire area.

Ted Balke - Correct.

Public Comment.

Kim Smith - I'm Kim Smith and I'm here to represent the North Merritt Island Homeowners Association, PO Box 542372, Merritt Island. This is regarding this request, 21Z00047, Tax Account 2318704, and the reason I'm reading that is now we know for sure this is about 4910, 4930, and 4940 N. Courtenay, but it doesn't have anything to do with 4920, the commercial property. The HOA does have strong reservations about RU-2-4 because it seems like it might allow eight residences on the two acres. They had concerns about that being inconsistent with Administrative Policy 3, with historical developed land use, and Administrative Policy 4, the adverse effects on the character of the surrounding residential neighborhoods, and specifically that if it were fully built with eight residences it could create substantial aggravation in drainage. Drainage problems already exist at the east end of the property, and it is outlined not to do that in Administrative Policy 7. This is why they were initially asking instead for it to be rezoned something else, to SR, which would be one residence per one-half acre, and that would accommodate all of the existing residences that are on the property already. I went back to the County Planner, George Ritchie, and he explained it more to me, and he said SR zoning is a single-family zoning classification, which is only one residence for the whole lot, and in this case that won't work because there are already three individual residential structures on the one lot, so SR won't work. They had to go to multi-family usage on the one lot, and that allows multi-family zoning classification, and the lowest one that exists is RU-2-4, that's the zoning with the lowest intensity that they could use for this parcel to accommodate for the full-time family housing that's there. In order for Mr. Lange to develop the four units or higher per acre, sanitary sewer connection would be required, so Mr. Lange would have to bore under Courtenay and connect to that, and he doesn't want to do that. Also, RA-2-4 development, single-family attached zoning, is another possibility, but that would require this property to be platted into individual lots and then they would have to each have their own driveway, so that's going to eat into the property and that's the only way to increase more than four residences on this entire lot. County ordinances only allow two residences to share a driveway, but I don't know if that's for residential or multi-family zoning, but it would be more driveways Mr. Lange would have to add and it would be cutting into the property some more. He did mention limiting the density with a binding development plan to two units per acre would be a possibility. My question for Mr. Lange is if he is ever going to connect to the sewer line running up N. Courtenay, and if he is not going to have any more buildings or residences on it, then the homeowners association would ask the dependent special district board to approve a zoning that would accommodate the existing buildings, but will discourage more building on the same site to avoid those negative impacts that I was talking about, especially in Administrative Policy 7, the drainage problems that are already going on, as building more there would exacerbate the drainage problems for the surrounding neighbors.

Robert Scolah - I'm Robert Scolah, I live at 4950 Ralph's Lane, directly behind Mr. Lange's property, and my only objection would be if there were going to be more buildings on the lot, because I'm already getting runoff from the lot, and they have a pond that was dug behind him that hit the aquifer, so I'm getting water from both sides. As long as the buildings stay the same and there's no increase, then I have no objection. I have a ditch that runs down Ralph's Lane and it doesn't do me any good

because none of my water goes in the ditch, and the only one it helps is the properties that back up to that, and I shouldn't have to maintain something for the County.

Mary Hillberg - The question was if you plan to connect to sewer.

Brad Lange - There is no plan, it's too cost prohibitive to do that.

Ted Balke - Are you planning to sell off those lots?

Brad Lange - It's possible. That would be a future board meeting, right?

Ted Balke - No.

Jeffrey Ball - The County does not regulate the private sale of property.

Ted Balke - I'm looking at it from a realtor's point of view. If you have the opportunity to build eight units on that, it makes it much more valuable, and it also makes the adjacent lots to you much more valuable because they can also change to be the same eight units per your two acres.

Brad Lange - I think the more valuable would be 30 units per acre.

Ted Balke - Yes, but you don't have that in the area. You're establishing a precedence for low-density up there that doesn't exist anywhere.

Mary Hillberg - I notice in the back there, the property is in a little bit of the floodplains, and all of the properties along Ralph's Lane have portions in the floodplains.

Gina Lindhorst - This gentleman's property on Ralph's Lane is definitely impacted by the residential development that happened, they drain into that because of the wetlands.

Mary Hillberg - What is the pleasure of the board?

Ted Balke - Is there any way that he can get a different code to keep the three residences, or expand it to four residences on two acres?

Jeffrey Ball - There isn't a different zoning classification to go to, but if you're having some reservations about the density you can cap the density in a BDP, whether it's two units, four units, or three units, that is something you can do.

Ted Balke - BDP's never hold, they're not substantial enough and again, you're setting an out of area precedent up there, so that you're going to get low density on the next lot adjacent to it.

Jeffrey Ball - The precedence is already set for high density.

Ted Balke - Where?

Jeffrey Ball - On the property.



Ted Balke - I know it is, but it's just mis-coded at this point, I believe. I don't think you ever had high-density intentions there from all of your buildings. It's something that exists out of the nature of the area. He's the only one with a 30 high density in that entire area.

Jeffrey Ball - That's correct, but keep in mind that across the street you have RA-2-4, which allows four units per acre. The difference between RA and RU is that one only allows for an attached product where RU-2-4 is an apartment product. RA will not work on the subject property because what is existing on the property is not an attached product and it's not a fee-simple configuration.

Jack Ratterman - I don't see an objection to it, and I would make a motion to accept the change from BU-1 and RU-2-30 to RU-2-4.

Gina Lindhorst - Second.

Ted Balke - Would you accept a binding development plan to keep it at four?

Mary Hillberg - We've closed it to the applicant. We have a motion on the floor and a second.

Ted Balke - You want a binding development plan with that, and then I could go along with it.

Gina Lindhorst - We're essentially right-sizing it to the code.

Jack Ratterman - He's already got three.

Jim Carbonneau - And as you said, Ted, binding development plans don't do anything. I would like to know who owns the property to the north, Lot 259.

Jeffrey Ball - It is James Ditello who owns the property and it's zoned AU.

Mary Hillberg called for a vote on the motion as stated and it passed 4:1, with Ted Balke voting nay.

Upon consensus, the meeting adjourned at 6:35 p.m.