



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

2/2/2023

Subject:

Michael C. McLain and Kelsey Barnes request a change of zoning classification from RR-1 to AU. (22Z00055)
(Tax Account 2802103) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RR-1 to AU on a 3.03-acre parcel for the purpose of having farm animals; chickens & roosters for breeding and eggs, goats and alpacas for wool. There was a code enforcement case (22CE-01119) on the parcel which was brought into compliance and closed on October 19, 2022. The subject parcel is developed with a single-family home.

The proposed AU zoning classification permits single-family residences and agricultural uses on 2.5-acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU zoning classification permits all agricultural pursuits, including the raising/grazing of animals, plant nurseries, and the packing and processing of commodities raised on the property. The AU zoning classification only limits the number of hogs on the property without a Conditional Use Permit.

The developed character of the surrounding area within the block is Agricultural with one lot zoned RU-1-7 with lots of one acre in size or larger with single-family residential uses. Parcels east, south, and west of this block are zoned RU-1-7 and developed with single-family residential uses.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the potential impacts of agritourism activities in the area.

On January 9, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00055

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

WHEREAS, Michael C. McLain and Kelsey Barnes, have requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 42, as recorded in ORB 3857, Pages 1052 - 1053, of the Public Records of Brevard County, Florida. **Section 12, Township 28, Range 36.** (3.03 acres) Located on the east side of Maple St., approx. 450 ft. north of Milwaukee Ave. (2405 Maple St., 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 RR-1 to AU be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of February 2, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Rita Pritchett, Chair
Brevard County Commission
As approved by the Board on February 2, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – January 9, 2023


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

STAFF COMMENTS

22Z00055

Michael C. McLain and Kelsey Barnes

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

Tax Account Number: 2802103
Parcel I.D.: 28-36-12-00-42
Location: East side of Maple Street approximately 450 feet north of Milwaukee Ave.
(District 5)
Acreage: 3.03 acres
Planning & Zoning Board: 01/09/2023
Board of County Commissioners: 02/02/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RR-1	AU
Potential*	3 SF units	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a 3.03-acre parcel for the purpose of having farm animals; chickens & roosters for breeding and eggs, goats and alpacas for wool and developed with a single-family home. There was a code enforcement case (**22CE-01119**) on the parcel for having a rooster which was brought into compliance and closed on October 19, 2022.

The parcel was rezoned from AU to RR-1 per zoning action **Z-7314** on November 18, 1985 for the purpose of subdividing the parcel creating one Flag Lot parcel and a one-acre parcel.

On April 10, 1986, the parcel was administratively granted approval for one flag lot per Administrative Action **AA-196**. The parcel has since been recombined to the previous configuration before the flag lot was subdivided. Upon Board approved the proposed rezoning to AU, the Administrative Action **AA-196** for the flag lot will be rescinded.

Land Use

The subject property is currently designated as Residential 4 (RES 4) FLU (Future Land Use). The existing RR-1 zoning can be considered consistent with the existing RES 4 FLU designation.

The proposed AU zoning can be considered consistent with the existing RES 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicants request of AU zoning may be considered consistent with the existing RES 4 Future Land Use.

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

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

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

Criteria:

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

The applicant proposes of having farm animals; chickens & roosters, goats and alpacas. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity. As the parcel is abutting three parcels with AU zoning with agricultural uses on these parcels, the proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhood within the area.

- 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 request.

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

- 1. historical land use patterns;

The surrounding area has a FLU designation of RES 4.

2. actual development over the immediately preceding three years.

There has not been any actual development within this area in the preceding three (3) years.

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

While there has not been any actual development within this area in the preceding three (3) years, there has been one zoning actions has been approved within one-half mile.

21Z00010, approved by the Board on May 27, 2021, was a request to rezone from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential) on 0.67 acres located approximately 1,512 feet northeasterly of the subject property on the east side of Hoover Lane.

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

No material violation of relevant policies has been identified. No change in the Comprehensive Plan is proposed.

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

The developed character of the surrounding area within the block is Agricultural with one lot zoned RU-1-7 with lots of one (1) acre in size or larger with single-family residential uses. Parcels east, south and west of this block are parcels zoned RU-1-7 and are developed with single-family residential uses.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-Family residence with a Plant Nursery	AU	RES 4
South	Single-Family residences	AU/RU-1-7	RES 4
East	Single-Family residence with Boarding of Horses	AU	RES 4
West	Right-of-Way with Single-Family residences west of ROW	RU-1-7	RES 4

To the north, is a 4.01-acre parcel with AU zoning developed with a single-family residence and a commercial agricultural use for a plant nursery. To the east is a 5.19-acre parcel with AU zoning developed with a single-family residence and boarding of horses. To the south is a 1.09-acre parcel with AU zoning and developed with a single-family residence and structures for agricultural use. Also, to the south is a 1-acre parcel with RU-1-7 zoning with a single-family residence.

The current RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

The proposed 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 zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

Florida Statute 570.86 defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Road, from Highway 192 to Milwaukee Ave, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of C, and currently operates at 78.10% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.00%. The corridor is anticipated to operate at 78.10% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not service the Brevard County utilities service area for public water or sewer. The closest Brevard County sewer line is approximately 6.4 miles north of the parcel at the east end of Kennesaw Place. The closest Brevard County water line is approximately 8.4 miles northwest of the parcel at the south end of Akarad Drive.

Environmental Constraints

- Hydric Soils
- Protected and Specimen Trees

No noteworthy land use issues were identified. 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 if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the potential impacts of agritourism activities in the area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00055

Applicant: McClain & Barnes

Zoning Request: RR-1 to AU

Note: Homestead and animal husbandry

Zoning Hearing Date: 01/09/23; **BCC Hearing Date:** 02/02/2023

Tax ID Nos: 2802103

- 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
- Protected and Specimen Trees

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

Land Use Comments:

Hydric Soils

The entirety of the subject property contains hydric soils (Malabar, Holopaw, and Pineda soils), an indicator that wetlands may be present on the property. National Wetlands Inventory maps show a freshwater pond on the south side of the site. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62 3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

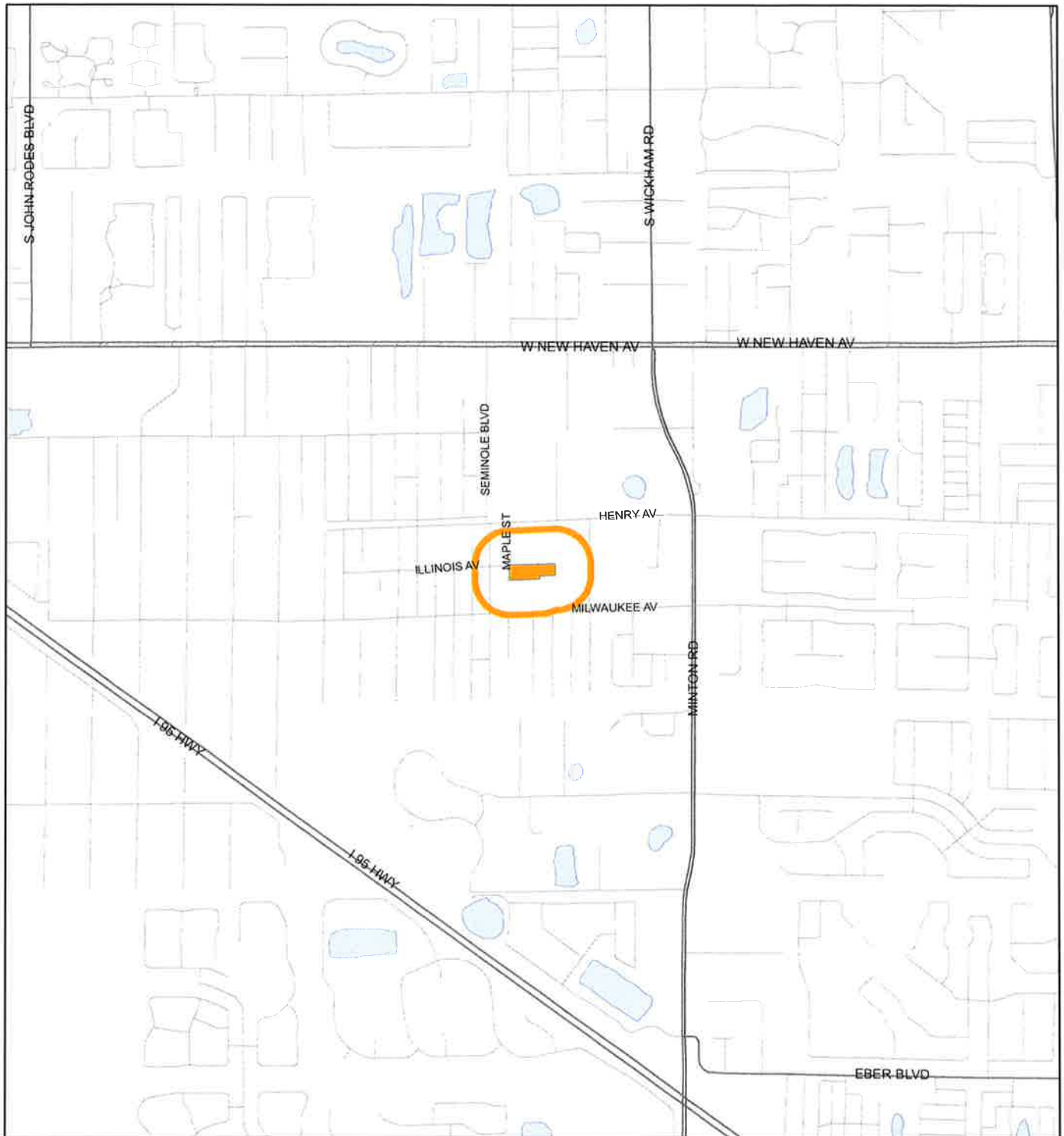
Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

MCLAIN, MICHAEL C

22Z00055





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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 10/17/2022

-  Buffer
-  Subject Property

ZONING MAP

MCLAIN, MICHAEL C


22Z00055



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: 10/17/2022

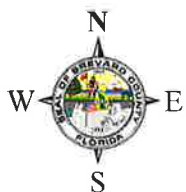
 Subject Property

 Parcels

 Zoning

FUTURE LAND USE MAP

MCLAIN, MICHAEL C
22Z00055



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 10/17/2022

AERIAL MAP

MCLAIN, MICHAEL C

22Z00055




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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

Produced by BoCC - GIS Date: 10/17/2022

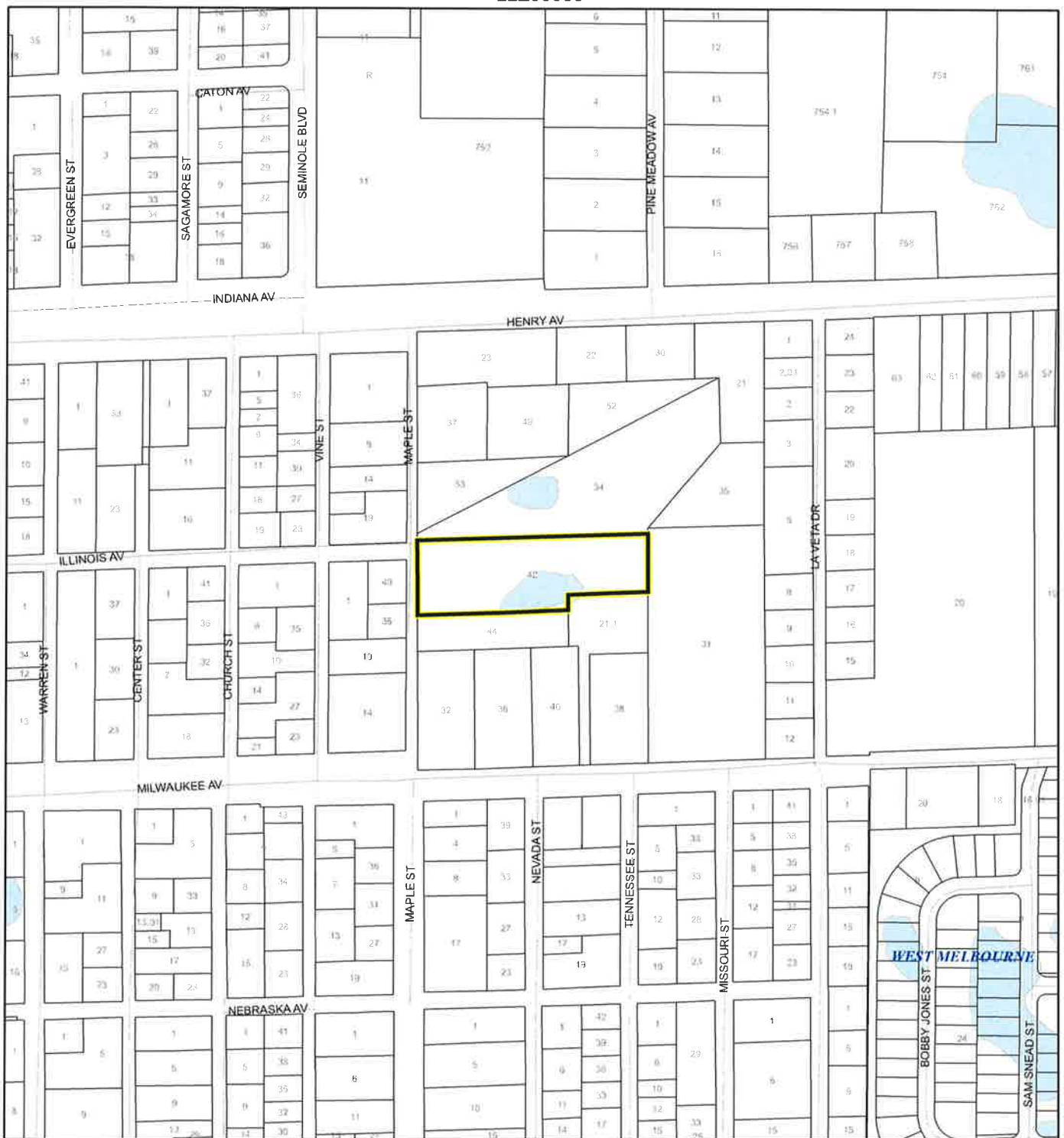
 Subject Property

 Parcels

NWI WETLANDS MAP

MCLAIN, MICHAEL C

22Z00055



1:4,800 or 1 inch = 400 feet

National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |

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

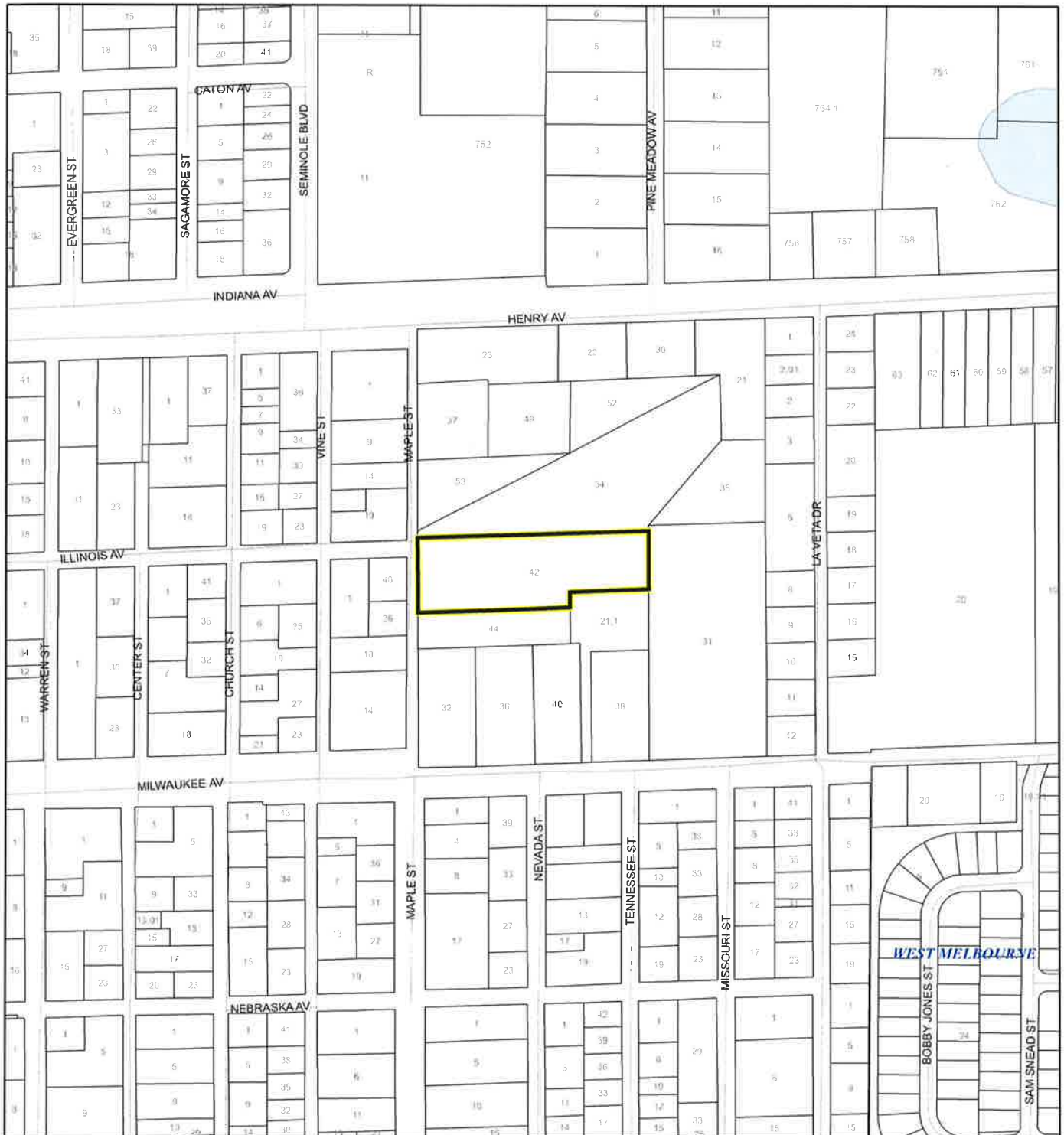
Produced by BoCC - GIS Date: 10/17/2022

- | | |
|--|------------------|
| | Subject Property |
| | Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

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

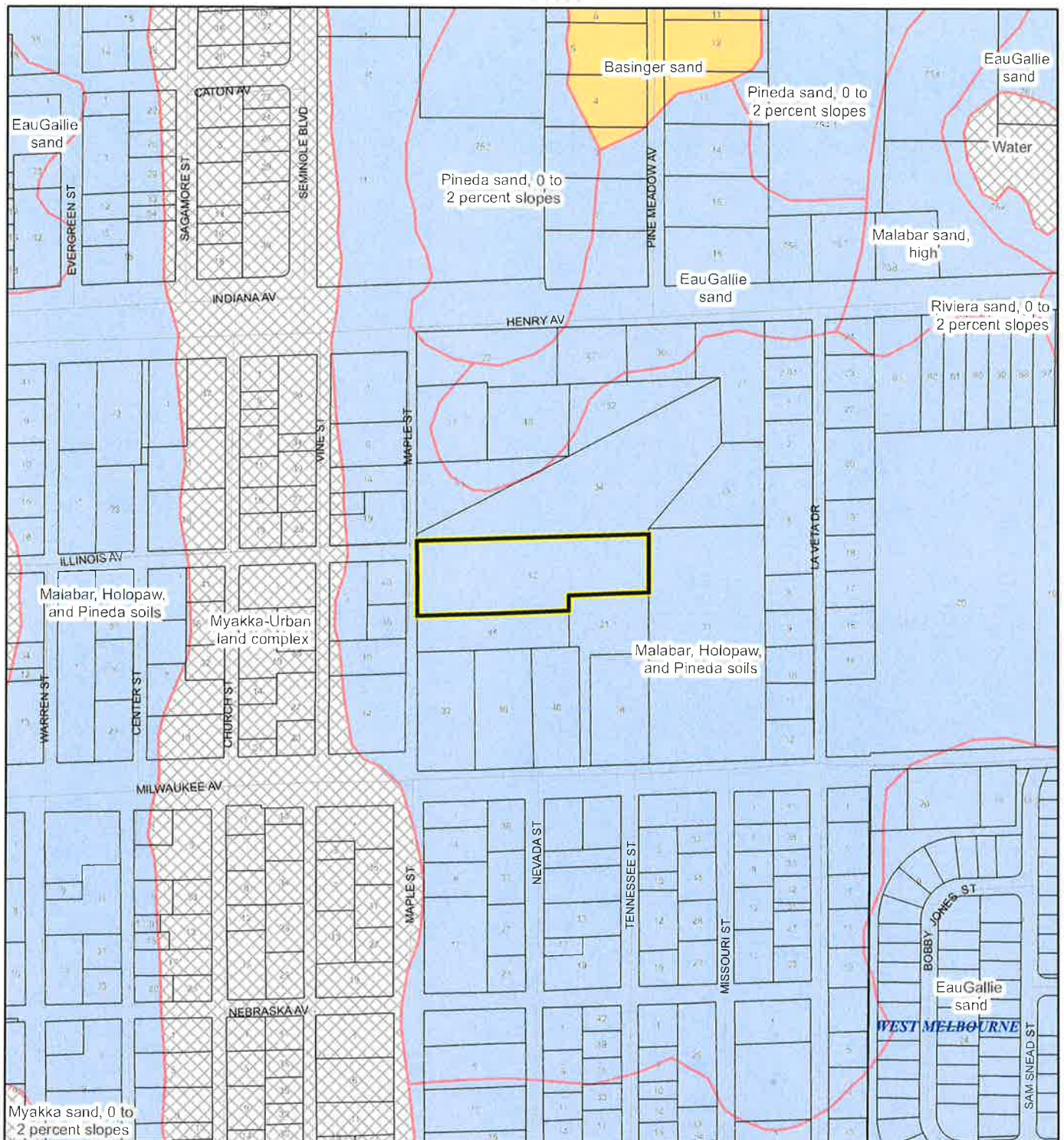
Subject Property

Parcels

USDA SCSSS SOILS MAP

MCLAIN, MICHAEL C

22Z00055



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

Subject Property

Parcels

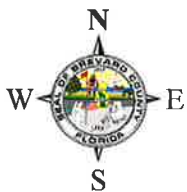
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/17/2022

FEMA FLOOD ZONES MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

FEMA Flood Zones

 A	 AO	 x
 AE	 Open Water	
 AH	 VE	
 Subject Property	 Parcels	

COASTAL HIGH HAZARD AREA MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

 Subject Property

 Parcels

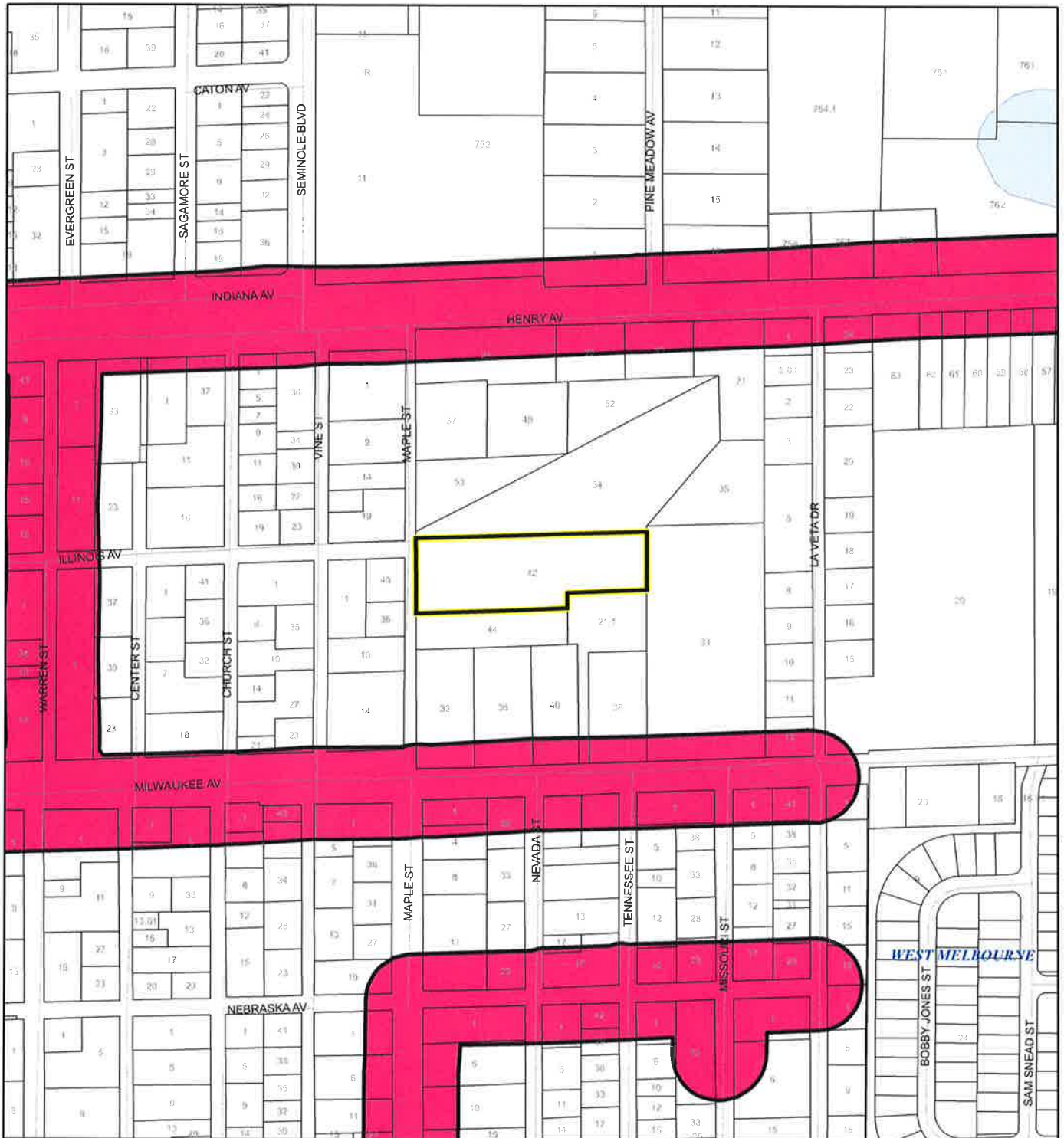
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

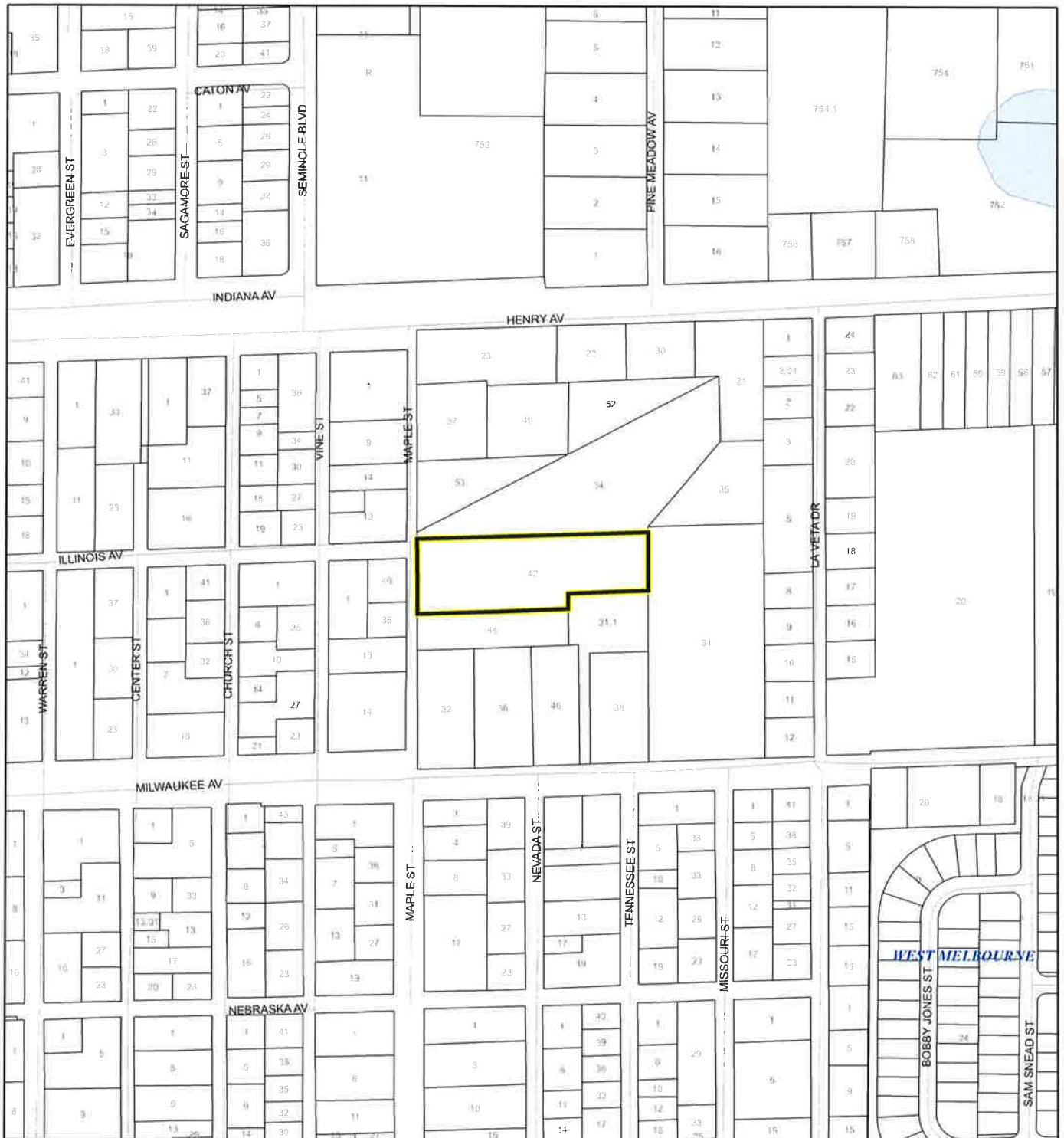
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

 Subject Property

 Parcels

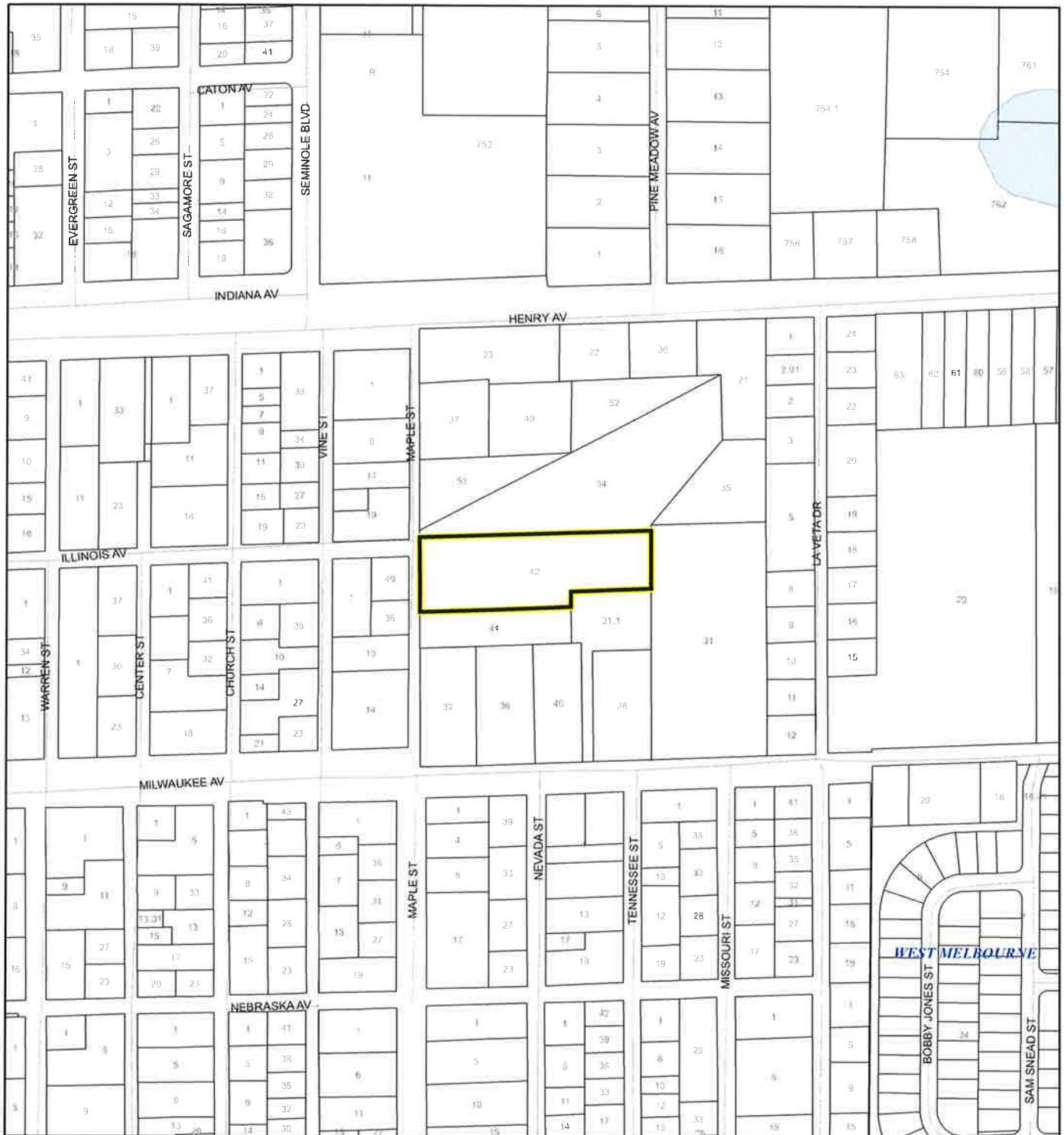


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MCLAIN, MICHAEL C

22Z00055




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: 10/17/2022

 Subject Property

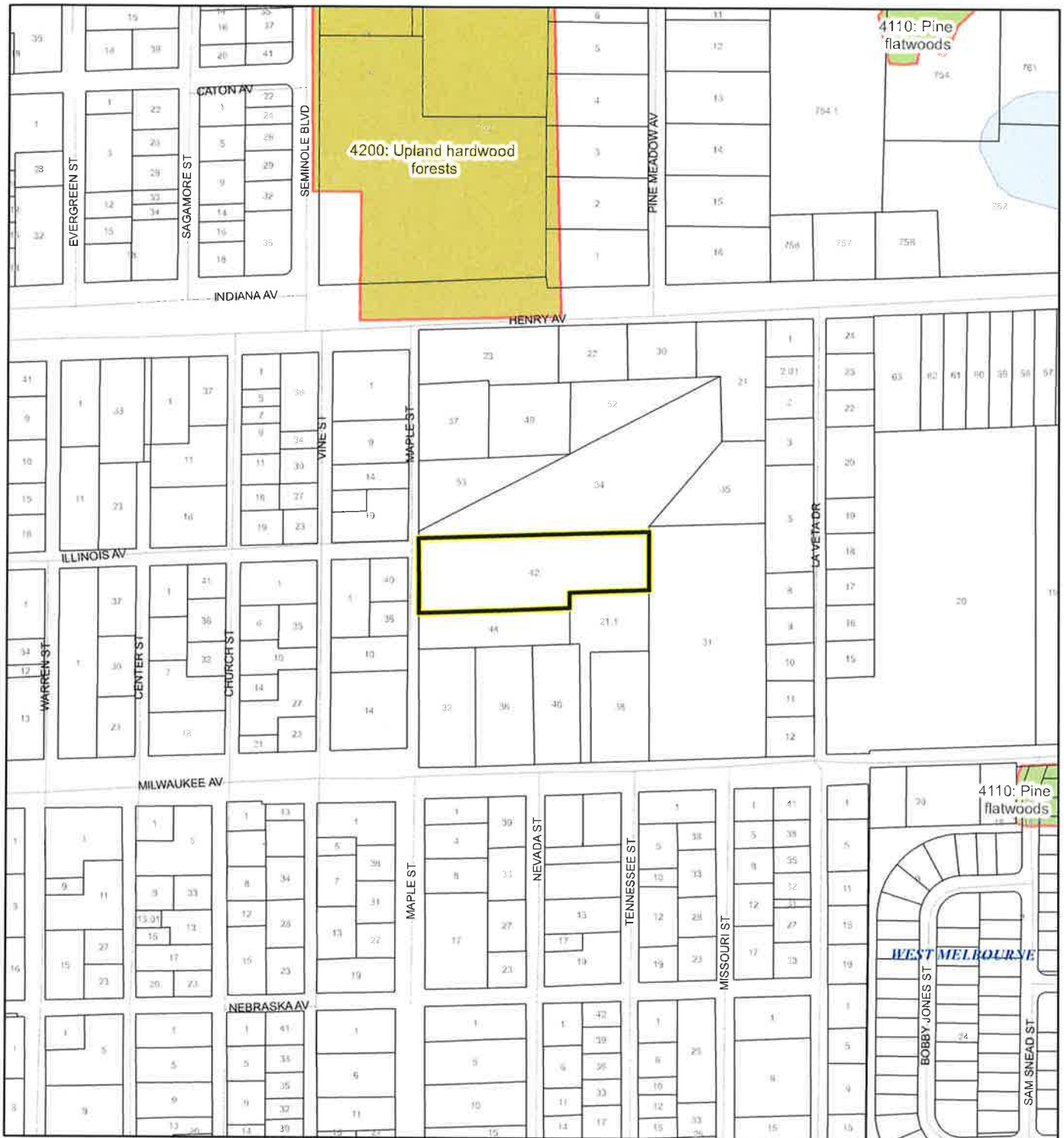
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MCLAIN, MICHAEL C

22Z00055



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: 10/17/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

Brevard County Planning and Zoning Committee
Brevard County Board of County Commissioners. Attention: Jennifer Jones

This letter is in reference to application #22Z00055. Kelsey Barnes and Michael C. McLain 2405 Maple Street Melbourne, FL. 32904 Parcel I. D. 28-36-12-00-42, applying for a change in zoning from RR to AU. Their application states that they want to breed chickens and doesn't mention the roosters they already own. **They applied for this zoning change (10-06-22) while they were being sighted by Code enforcement to remove their roosters.** They have given the 3 roosters to a neighbor whose property is 170' away from us (we would not wish this noise on anyone) to hold until they get rezoned. Let us explain.

In 2020 we asked Kelsey and Michael to get rid of 2 roosters. These roosters crowed simultaneously and continuously for 8-12 hours daily. We offered to compensate. **We told them they were not zoned for roosters. We asked 5 times.** Kelsey refused to talk, they were her "pets." The two roosters died. Kelsey has **accused us twice of killing her roosters.**

In the next year they purchased 4 more roosters. They fenced the 4 roosters with several chickens **20' from our property.** The loud crows and the long durations went on all day until sunset. They never put them in early knowing they were disturbing the peace. They knew that the noise bothered us. The noise runs through our home. They knew they were not zoned to have roosters. The property has been in the family for many years.

We own 652' of a shared property line to the north of this property.
We have asked 8 times to have a conversation.

We contacted code enforcement. They had us contact Christen Champion and she confirmed the property is RR. **No roosters allowed.** So the roosters were moved off the property to the afore mentioned neighbor, 170' from our property. They are hoping to get them back.

While they were being sighted they put in a complaint to code enforcement about our culvert. The culvert has never been a problem. The culvert was installed before we purchased our property in 1987 and their property has been in the family since 1998. Code enforcement (Ricky Mays) let them know it was not a code enforcement issue.

They are changing the zoning so they can have roosters. Currently zoned RR they can have farm animals and eggs, but have restrictions **(no roosters.)** (Section 62-1927)

This will have an adverse impact of future potential use of our property.

The area is primarily changing to residential with a few of us still AU and no one has ever been unthoughtful by having roosters that **disturbed the peace.**

There is little drainage on the back of their property for runoff. Fowl excrement, causes several respiratory illnesses. The quality of life with multiple roosters and breeding

Brevard County Planning and Zoning Committee
Brevard County Board of County Commissioners. Attention: Jennifer Jones

chickens will affect everyone around them. With roosters and other animals there will be high noise levels, odor, and runoff that can cause illness. We would not wish this constant noise on anyone. There is nowhere on this property that the roosters will not be a nuisance.

It is in our opinion that this property is not large enough for what they have proposed without affecting the neighbors adversely.

This public hearing is to hear from the neighbors that are being affected by this proposed zoning change. They are suppose to talk with us and work out these differences. We have asked several times. They have refused.

Please do not approve this property to have multiple roosters. The decibel level of daytime noise above normal (75 db) can lead to anxiety, loss of sleep, high blood pressure, and tinnitus. Please consider the health and well being and the desire and future to live in this area.

Thank you for your time and consideration.

Roy Brent and Sharon Dolan
2395 Maple Street Melbourne, FL 32904
phone 321-223-6147

You are welcome to come out to our property anytime and view the situation. Open the gate it is not locked.

Note: The sound of a rooster crowing can reach **142 decibels** (when measured at the rooster's head). To put that in context, a chainsaw produces about 120 db and a jet taking off 25 meters away is about 150 db and can lead to eardrum rupture. Jul 2, 2019 (google)

December 21, 2022

Re: 22Z00055

Ms. Jones,

My name is Patrick Horn. My wife Susan and I reside on the property North of the Dolan's. We have been neighbors for over 30 years. The Dolan's property is right up against the property that is petitioning to be rezoned to AU. Even though Susan and I are approximately 80 yards from the property in question, we can clearly hear their roosters. The roosters are a nuisance all day long and has been quite annoying in our residential neighborhood.

They had 4 roosters on their property until they were told they couldn't have roosters on a RR-1 zoned land. It is my understanding that the roosters are being housed on the property South of the land in question.

Susan and I can hear the roosters all day even though they are another 100 yards away (180 yards total).

The Dolan's ran a very successful nursery (quietly) for several decades. Now, they are retired and have to battle with their neighbors about roosters of all things. The said property wants to have 4 or more roosters. Can you imagine having worked all these years to begin retirement and now have to deal with roosters out your front door? If this request to rezone the property to AU is granted, it is going to severely disrupt our quiet piece of Brevard County. It will also cause a lot of neighborly tension.

Respectfully,

Patrick and Susan Horn
2335 Maple Street
Melbourne, FL 32904
321-403-2891

#22Z00055

Brevard County Planning and Zoning Committee
Brevard County Board of Commissioners.

Jennifer Jones, Kristen Zonka Brevard County District 5 commissioner,

We would like to add to our previous submitted comment pertaining to application #22Z00055.
Kelsey and Michael McLain 2405 Maple Street, Melbourne, FL. 32904.

There are approximately 9-11 single family residential homes surrounding this property all in hearing distance of these roosters.

Our home (2395 Maple Street) has always sat between two RR-1 Zoned properties since we moved here in 1987.

We have run a native plant nursery business (Maple Street Natives) for 35 years and always have had respect for noise levels for our neighbors residence.

We have had quiet neighbors without continuous noise for 33 years because of this RR-1 zoning, until Kelsey bought roosters which is explained in our previous comment.

Why would someone that has been disrespectful (Kelsey and Michael) be able to now do whatever they want and cause continuous noise by changing the zoning to AU just to have roosters?

We tried to have a conversation with Michael and let him know he can talk about anything with us. We wanted to have a good neighbor relationship.

Kelsey walked up told Micheal to go back to work and in anger said "You have cost me 3,000.00 to take down trees and put up a fence." For the second time she accused us of killing 2 of her roosters. She went on with other personal accusations and said to me personally **"Whatever the worst thing that can happen to someone is I hope it happens to you."**

We did not engage.

We have never had a conversation with Kelsey. She has refused. She has however yelled in anger at us on 2 occasions. Both times accusing us of killing her roosters among other things.

Sharon and Roy Brent Dolan
2395 Maple Street
Melbourne, FL. 32904
321-223-6146

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Jim Padgett, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: Jim Padgett Date: 1-4-2023

Address: _____

Contact: 772-633-1843

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Siler Baller, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: 

Date: 01-04-2023

Address: 3280 Milman Ave
West Melbourne
FL 32904

Contact: 32407-520-2505

January 7, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Andrew Matsko, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: Andrew Matsko Date: 1/7/23
Address: 440 Vine St
Melbourne FL
32904
Contact: 321-299-7228

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Lennie Ballard, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

We have no objection

Signature: Lennie Ballard

Date: 1-4-2022

Address: 3280 Milwaukee Ave.
W. Mello 32904

Contact: 321-961-3403

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Krystal Sinclair, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

The neighbors have been very friendly and helpful and we have no issues with them applying for rezoning.

Signature: Krystal Sinclair Date: 1-4-23

Address: 2420 Maple St
Melbourne FL
32904

Contact: 321-349-4886

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, JERRY BALLARD, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

I HAVE NO ISSUES WITH
THE ABOVE REZONING.



Signature:  Date: 1-4-23

Address: 3280 MILWAUKEE

Contact: 381.313-9777

January __, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Michael Scott, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Let these people do what they want with their property. They don't bother anyone. And they keep to themselves.

Signature: Michael Scott Date: 1-4-23

Address: 525 Vine St.
W. Melbourne, FL 32904

Contact: _____

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Jennifer Curry, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: Jennifer Curry Date: 1-4-23
Address: 525 Vine St
West Melbourne FL
32904
Contact: 321-952-9963

January 4, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Samantha Carter, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Our neighborhood is a farm friendly neighborhood. I actually love to hear the roosters crow, and see all the animals.

Signature: S. Carter

Date: Jan. 4, 2023

Address: 3330 Milwaukee Ave
W. Melb. Fl
32904

Contact: 321-557-1046

January 7, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Melvin & Linda Durand, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

As being their neighbors and living in our house for 29 years, we have had roosters, chickens, horses, donkeys, goats, cows & dogs at our home for our kids. They want the same experience for their children. Just about all of our neighbors have chickens and roosters and many other animals. Actually roosters protect hens from predators we have seen this on our property it's amazing to witness. we think this would be a great learning experience for their family and teaching responsibilities.

Signature: Melvin and Linda Durand

Date: Jan. 7, 2023

Address: 3320 Milwaukee Ave.
W. Melb, Fl.

32904

Contact: 321-984-7115 (House)
321-508-5112 (cell)

January 8, 2023

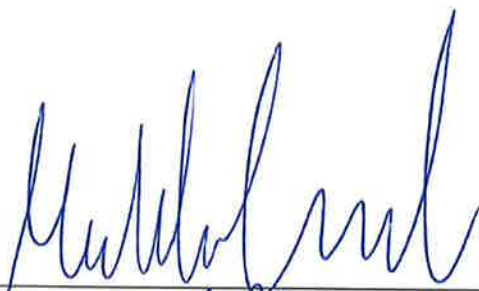
In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Matthew D. Landay, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

I ACTUALLY WISH MY
PROPERTY WAS
AGRICULTURAL
ALSO.

I HAVE NO ISSUE
WITH IT

Signature: _____



Date: _____

1/8/2023

Address: _____

2405 MAPLE STREET
MELBOURN FL 32904

Contact: _____

321-367-7430

January 7, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, Petrick Suddley, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: P73

Date: 1-7-23

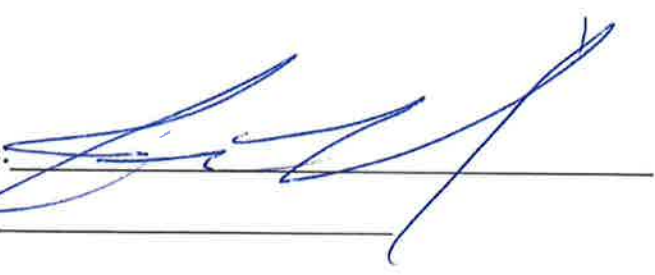
Address: 520 Vine St
W. Melbourne FL
32909

Contact: _____

January 7, 2023

In regards to Kelsey Barnes and Michael McLain requesting to rezone their property to AU status, I, TASON MITON, have no issues or complaints with the zoning change for the property at 2405 Maple Street.

Additional Comments:

Signature: 

Date: 1-7-23

Address: _____

Contact: _____

From: [Commissioner, D5](#)
To: [Sharon Dolan](#)
Cc: [Zonka, Kristine](#); [Roig, Janette](#); [Jones, Jennifer](#); [Brown, Charlene](#)
Subject: RE: Thank you for contacting Commissioner Kristine Zonka
Date: Friday, January 6, 2023 2:57:07 PM

Hi Sharon,

I am very sorry for your situation. I am copying Jennifer Jones with Planning and Zoning on this email so that she can make sure that your opposition is noted in the agenda package for the meeting on Monday and the one on February 2nd. I want her to also understand why you won't be showing up in person. It would be beneficial if others against the zoning change did come and voice their concerns. They are also welcome to email our office.

Again, I have shared all your emails with the Commissioner and she will definitely consider your concerns when making an informed decision on this item.

Danielle Stern
Chief of Staff
Brevard County Commissioner Kristine Zonka
District Five
490 Centre Lake Drive NE
Suite 175
Palm Bay, FL 32907
(321)253-6611

From: Sharon Dolan <maplestreet@earthlink.net>
Sent: Friday, January 06, 2023 2:12 PM
To: Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: Re: Thank you for contacting Commissioner Kristine Zonka

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

Commissioner Zonka

You do realize we can not be around someone that has wished the worst for me.
I can not attend the meeting.
We are 2 seniors and this is so stressful. We need to keep that stress level down.

Hope you can help.

We have never run into or thought we would ever have to deal with neighbors that are so spiteful.

The roosters still cry through our home every day all day from 7am, and they are over 200' away and if this is approved they will be back to 20' away from our property, and they don't care.

Come out at 7 -7:30 am and appraise the situation.

Sharon and Roy Brent Dolan
2395 Maple Street
Melbourne FL 32904
321-223-6146

Sent from my iPhone

On Jan 6, 2023, at 12:24 PM, Commissioner, D5 <D5.Commissioner@brevardfl.gov> wrote:

Hi Mrs. Dolan,

I am so sorry for the delayed response. I see that this zoning issue comes before the Planning and Zoning Board on Monday. I encourage you and any neighbors against this change to attend the meeting that starts at 3pm in Viera. You can put in a speaker card and express your concerns to the board members. The Planning and Zoning Board will then make a recommendation to the BOCC in regards to the change.

This item will not come before Commissioner Zonka until February 2nd at the 5 pm Commission Zoning Meeting. You are also welcome to attend this meeting. I will make sure that she is aware that you are against this zoning change. I have already shared your prior letter with her as well as one from your neighbor. She will consider all the facts and feedback regarding this item when making an informed decision.

Please feel free to reach out with any additional questions.

Danielle Stern
Chief of Staff
Brevard County Commissioner Kristine Zonka
District Five
490 Centre Lake Drive NE
Suite 175
Palm Bay, FL 32907
(321)253-6611

From: Sharon Dolan <maplestreet@earthlink.net>
Sent: Friday, January 06, 2023 11:44 AM
To: Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: Re: Thank you for contacting Commissioner Kristine Zonka

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

Commissioner Zonka

Have not had a response to our email.

Thank you for your attention to our issue.
Sharon and Brent Dolan
2395 Maple Street
Melbourne FL
321-223-6146

Sent from my iPhone

On Jan 2, 2023, at 6:03 PM, Commissioner, D5
<D5.Commissioner@brevardfl.gov> wrote:

Thank you for taking the time to contact me by email. Each day I review my emails and I use this automated response to verify and acknowledge receipt of your correspondence.

My staff and/or I will respond to each and every email as it pertains to my District or specific questions directed towards me. In order to better serve you and your concerns, it is important to include your name, complete address and phone number.

Should you require additional information or assistance, feel free to call my office and a staff member will promptly discuss your concerns with you.

My office address is

Commissioner, District 5
490 N.E. Centre Lake Drive,
Suite 175
Palm Bay, Florida 32907
(321) 253-6611

Sincerely,

Kristine Zonka

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

From: [Sharon Dolan](#)
To: [Jones, Jennifer](#)
Subject: Re: Automatic reply: Rooster and Personal attack from 2405 Maple Street
Date: Friday, January 6, 2023 2:41:37 PM

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

Jennifer,

Commissioner Zonka's response today said we need to attend this meeting on Monday.

We cannot attend this meeting and be around someone that has wished the worst for me.

The stress is unbearable.

Is there any hope with the comments we have expressed that this zoning change will not be approved?

Anyone from the Planning and Zoning board can come out at 7-7:30 am and appraise the situation. The roosters crow all morning and throughout the day. They can be heard through our home at 200' away.

Sharon and Roy Brent Dolan
2395 Maple Street
Melbourne, FL. 32904
321-223-6146

On Jan 4, 2023, at 9:34 AM, Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

Yes, your comments will be included in the next agenda packet update later this week.

Jennifer

From: Sharon Dolan <maplestreet@earthlink.net>
Sent: Tuesday, January 3, 2023 8:33 PM
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: Re: Automatic reply: Rooster and Personal attack from 2405 Maple Street

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

Jennifer

Just checking to see if you received this comment.

Sharon Dolan

Sent from my iPhone

On Jan 2, 2023, at 5:58 PM, Sharon Dolan <maplestreet@earthlink.net> wrote:

Corrected a few typo's.

On Dec 30, 2022, at 10:11 AM, Jones, Jennifer
<jennifer.jones@brevardfl.gov> wrote:

I will be out of the office Thursday, December 29th, through Monday, January 2nd. I will return Tuesday, January 3rd. Please note that all County offices are closed Monday, January 2, 2023.

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 9, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgess (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Mark Wadsworth, Chair (D4); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Planner III; Alex Essee, Deputy County Attorney; Billy Prasad, Special Projects Coordinator IV; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Michael C. McLain and Kelsey Barnes

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) The property is 3.03 acres, located on the east side of Maple St., approx. 450 ft. north of Milwaukee Ave. (2405 Maple St., Melbourne) (22Z00055) (Tax Account 2802103) (District 5)

Michael McLain, 2405 Maple St., Melbourne, stated they would like to raise chickens and breed them with a few roosters to make hybrid chickens and to produce eggs to sell locally. He added, they would also like to have a couple of goats and an alpaca as family pets.

Public comment:

Patrick Horn, 2335 Maple St., Melbourne, stated it is not that the neighbors do not want them to have a family farm, it comes down to the roosters. He said at one time they had four roosters, and even though he lives 200 yards from their fence line it felt like the roosters were in his backyard. He noted he is not as affected as the immediate neighbors, Steve and Sharon Dolan. He stated it comes down to the roosters, and asked if four roosters are necessary. He asked if there was an option to let them have the other animals they want, but not roosters.

Brenda Piccirillo, 2470 Vermont St., Melbourne, stated she is in favor of the request. She said she moved to June Park so that she would have the freedom to have animals.

Darrell Duran stated he and his parents live near the subject property and do not have a problem with the request.

Peter Filiberto asked the applicants if they plan to do any agritourism on the property, such as charging for pony rides. Mr. McLain replied not at this time, but maybe in the future, right now they just want family pets, and chickens and eggs to sell to the community.

Mr. Filiberto asked if they needed four, or any, roosters. Mr. McLain replied they would like to have 3 to 4 roosters for breeding, but right now, they have 2 roosters that a neighbor is taking care of because they are in violation and can't have them at the moment.

Kelsey Barnes stated most of their neighbors have roosters.

Mr. McLain explained the current coop is near the fence line, but he is building a new coop so that the chickens will be free-range.

Mr. Filiberto asked staff if a conditional use is needed for a petting zoo. Mr. Ball replied yes, they would need a conditional use permit for a zoological park.

Mr. Hopengarten asked the nature of the code violation. Ms. Barnes replied it is for the roosters, but they have been re-homed until the rezoning process is complete.

Motion by Ben Glover, seconded by Brian Hodggers, to approve the change of zoning classification from RR-1 to AU. The motion passed unanimously.

From: Vikki
To: Jones, Jennifer
Subject: Application #22Z00055, Parcel ID 28-36-12-00-42
Date: Tuesday, January 31, 2023 1:11:00 PM

H.2

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

This letter is for consideration in making a decision for zoning.
RE: Rezoning 2405 Maple Street, West Melbourne, FL 32904

I, Victoria McLain, lived at 2405 Maple Street from 2006, until recently (2022) leaving to my son Michael McLain and his wife. At that time the property was my home with ducks, dogs, cats, chickens, Koi fish, and at times Big barn Owls, 2 foxes and 4 hawks.

One neighbor, Sharon Dolan at 2395 Maple St, constantly interfered. I was harassed to not mow my yard, to not pick up my palm branches, and to not trim any of my trees. If I trimmed my palm trees or removed a palm tree I was yelled at, called a murderer, and once she called the deputy sheriff. I showed the sheriff I was trimming my trees on my property and he assured me that the neighbor would be spoken to. They were asked to stop trespassing. It continued and is on video. The neighbor continued to interfere with my daily life outside. Verbal insults, demeaning comments, trespassing, and threats to all help /work men. This neighbor has harassed me for many years with this verbal assault and now my son.

Other neighbors for years have had roosters, goats, cows, donkeys, horses, chickens within our neighborhood with no complaints. This area is great for livestock. It is a natural pleasant sound we enjoy from cranes to owls to roosters. Please do not allow one neighbor who does not respect the view of many to stop a whole neighborhood from enjoying a farmish life in a style permitted already by many.

Thank you, Victoria McLain