



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.13.

7/13/2023

Subject:

Alan B. MacIntyre Living Trust (John Schulte) requests a change of zoning classification from BU-1 to BU-2. (23Z00032) (Tax Account 2316311) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from BU-1 to BU-2 on a 2.98-acre lot to develop as a business with outdoor storage. The subject parcel is currently developed with a retail store built in 1954 and one (1) single family residence built in 1955. The site has frontage on N. Courtenay Parkway and W. Crisafulli Road.

The BU-1 and BU-2 classifications both allow outdoor storage of retail items of substantial size (i.e., motor vehicles, utility sheds, nursery items, boats, and mobile homes); however, the BU-2 classification allows more intensive commercial uses including, but not limited to, contractors' plants and storage yards, major automobile repairs, dry-cleaning plants, and warehousing.

The developed character of the surrounding area is commercial along N. Courtenay, with agricultural residential to the west on W. Crisafulli Road. The proposed commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

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

On June 8, 2023, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended denial.

Clerk to the Board Instructions:

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

Resolution 23Z00032

On motion by Commissioner Goodson, seconded by Commissioner Steele, the following resolution was adopted by a 4:1 vote, with Commissioner Feltner voting nay:

WHEREAS, Alan B. MacIntyre Living Trust has requested a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 760, as recorded in ORB 8004, Pages 16 - 20, of the Public Records of Brevard County, Florida. **Section 22, Township 23, Range 36.** (2.98 acres) Located on the northwest corner of N. Courtenay Pkwy. and W. Crisafulli Rd. (5995 & 5999 N. Courtenay Pkwy., Merritt Island); 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 denied; 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, finds that the application should be denied 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 to BU-2, be denied. The Planning and Development Director, or designee, is hereby directed to make a notation on the official zoning maps of Brevard County, Florida, indicating this action.

BE IT FURTHER RESOLVED that this resolution shall become effective as of July 13, 2023.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on July 13, 2023.

ATTEST:



RACHEL M. SADOFF, CLERK

(SEAL)

NMI Hearing – June 8, 2023

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.**

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
23Z00032**

Alan B. MacIntyre Living Trust

BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2316311
Parcel I.D.: 23-36-22-00-760
Location: Northwest corner of N. Courtenay Parkway and W. Crisafulli Road
(District 2)
Acreage: 2.98 acres

North Merritt Island DSD: 6/08/2023
Board of County Commissioners: 7/13/2023

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	BU-1	BU-2
Potential*	129,809 sq. ft. commercial (based on FAR of 1.0)	129,809 sq. ft. commercial (based on FAR of 1.0)
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant is requesting to change the zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on a 2.98-acre lot to develop as a business with outdoor storage. The subject parcel is currently developed with a retail store built in 1954 and one (1) single family residence built in 1955. The site has frontage on N. Courtenay Parkway and W. Crisafulli.

The parcel was originally zoned AU and was rezoned from AU to BU-1 on November 10, 1966, as zoning action **Z-2015**. A CUP for on-premise consumption of alcohol (beer and wine) was approved February 5, 2009 under zoning action **Z-11471**.

There is one (1) active lien on open code enforcement cases (11CE-01358 and 13CE-01918) associated with this property including violations for failure to maintain commercial property.

Land Use

The subject property is currently designated as Community Commercial (CC) FLU. Both the existing BU-1 as well as the proposed BU-2 zoning classifications are consistent with the CC FLUM designation.

Applicable Land Use Policies

FLUE Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

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

Criteria:

- A. Permitted/prohibited uses;
While BU-1 and BU-2 zoning classifications both allow outdoor storage of retail items of substantial size (i.e., motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes), the BU-2 retail, warehousing and wholesale commercial zoning classification also allows more intensive commercial uses including, but not limited to, contractors' plants and storage yards, major automobile repairs, dry-cleaning plants, and warehousing.
- B. Existing commercial zoning trends in the area;
There has been a commercial zoning trend in the immediate area. The developed character of the surrounding area is predominantly commercial in the vicinity of N. Courtney Parkway and W. Crisafulli Road, with agricultural activities (plant nursery) immediately to the west of the subject site. There is an existing pattern of BU-1 zoning to the north, south, and east of the subject parcel.
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
The requested zoning change from BU-1 to BU-2 could be considered to be consistent with the immediate surrounding area as this is along a commercial corridor. The predominant zoning classification in the surrounding area is BU-1, which is the current zoning classification of the subject property.
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service. The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is adjacent to the east of the subject property on N. Courtney Parkway.
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
The following land use issues were identified:
 - **Hydric Soils/Wetlands Protection**
 - **Floodplain Protection/North Merritt Island**
 - **Indian River Lagoon Nitrogen Reduction Septic Overlay**

- **Aquifer Recharge Soils**
- **Land Clearing and Landscape Requirements**

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

- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.
This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

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

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

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

Criteria:

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

The applicant requests to rezone 2.98 acres to BU-2 zoning classification for the purpose of developing the site as a business with outdoor storage. BU-1 and BU-2 zoning classifications both allow outdoor storage of retail items of substantial size (i.e., motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes); however, the BU-2 zoning classification also allows more intensive commercial uses including, but not limited to, contractors' plants and storage yards, major automobile repairs, dry-cleaning plants, and warehousing. As provided in Section 62-1833.5, storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence. Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272.

- 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 is commercial in character that transitions to residential on lots greater than 2.5 acres to the west on W. Crisafulli Road. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 1, and RES 1:2.5. The predominant FLU designation along this section of N. Courtenay Parkway is CC.

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.

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, three zoning actions have been approved within one-half mile:

22Z00038, approved by the Board on October 6, 2022, was a request to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) on 1.15 acres located approximately 1,930 feet northeast of the subject property.

21Z00009, approved by the Board on September 15, 2021, was a request to rezone from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.02 acres located approximately 706 feet southeast of the subject property.

21PZ00018, approved by the Board on May 2, 2019, was a request to rezone from Agricultural Residential (AU) to General Retail Commercial (BU-1) on 1.13 acres located approximately 1,080 feet southeast of the subject property.

There are no pending zoning actions within one-half mile of the subject property.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The developed character of the surrounding area is commercial, with agricultural residential to the west on W. Crisafulli Road. The subject site has frontage on N. Courtenay Parkway (SR 3), a commercial corridor that serves regional markets.

The proposed commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Commercial	BU-1	CC
South	Vacant Commercial (across W. Crisafulli Road)	BU-1	CC
East	Commercial	BU-1	CC
West	Agricultural	AU	RES 1:2.5

To the north is a 0.48-acre parcel with BU-1 zoning being utilized as vehicle and equipment storage for a landscaping business.

To the south, across W. Crisafulli Road, is vacant commercial land (2.24-acres) with BU-1 zoning.

To the east, across N. Courtenay Boulevard, is a 1.14-acre parcel with BU-1 zoning developed as commercial autobody paint shop.

To the west is an 8.7-acre parcel with AU zoning utilized as a plant nursery.

The current BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. The BU-1 classification allows for the outdoor storage of retail items that may include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's more intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered.

The 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 and plants nurseries.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

Three zoning actions have been approved within a half-mile radius of the subject property within the last three years: **22Z00038**, approved by the Board on October 6, 2022, was a request to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) on 1.15 acres located approximately 1,930 feet northeast of the subject property. **21Z00009**, approved by the Board on September 15, 2021, was a request to rezone from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.02 acres located approximately 706 feet southeast of the subject property. **21PZ00018**, approved by the Board on May 2, 2019, was a request to rezone from Agricultural Residential (AU) to General Retail Commercial (BU-1) on 1.13 acres located approximately 1,080 feet southeast of the subject property.

There are no pending zoning actions within a half-mile radius of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Parkway, from 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 37.21% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.39%. The corridor is anticipated to operate at 37.60% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is adjacent to the east of the subject property on N. Courtney Parkway.

Environmental Constraints

- Hydric Soils/Wetlands Protection
- Floodplain Protection/North Merritt Island
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements

The western one-third of the subject parcel contains a swath of mapped hydric soils, an indicator that wetlands may be present on the property. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00032

Applicant: Jon Schulte

Zoning Request: BU-1 to BU-2

Note: Wants outdoor storage

NMI Board: 06/08/2023; **BCC Hearing Date:** 07/13/2023

Tax ID No: 2316311

- 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 Protection
- Floodplain Protection/North Merritt Island
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements

The western one-third of the subject parcel contains a swath of mapped hydric soils, an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The western one-third of the subject parcel is also mapped as being within the floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-

3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

The property is located on North Merritt Island north of Hall Road (Area), thus, is subject to the flood protection criteria contained in Section 62-3724(4), including compensatory storage. Additionally, all development, land alteration, or grading in the Area requires certification by the engineer of record that the proposed development will not increase flood stages, and will not increase the duration of the peak flood stages.

Land Use Comments:

Hydric Soils/Wetlands Protection

The western one-third of the subject parcel contains a swath of mapped hydric soils (Wabasso sand, 0 to 2 percent slopes), an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing or alteration activities. The wetland delineation shall be verified at time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require 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.

Floodplain Protection/ North Merritt Island

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

The property is located on North Merritt Island north of Hall Road (Area), thus, is subject to the flood protection criteria contained in Section 62-3724(4), including compensatory storage. Additionally, all development, land alteration, or grading in the Area requires certification by the engineer of record that the proposed development will not increase flood stages, and will not increase the duration of the peak flood stages.

Indian River Lagoon Nitrogen Reduction Overlay

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

Aquifer Recharge Soils

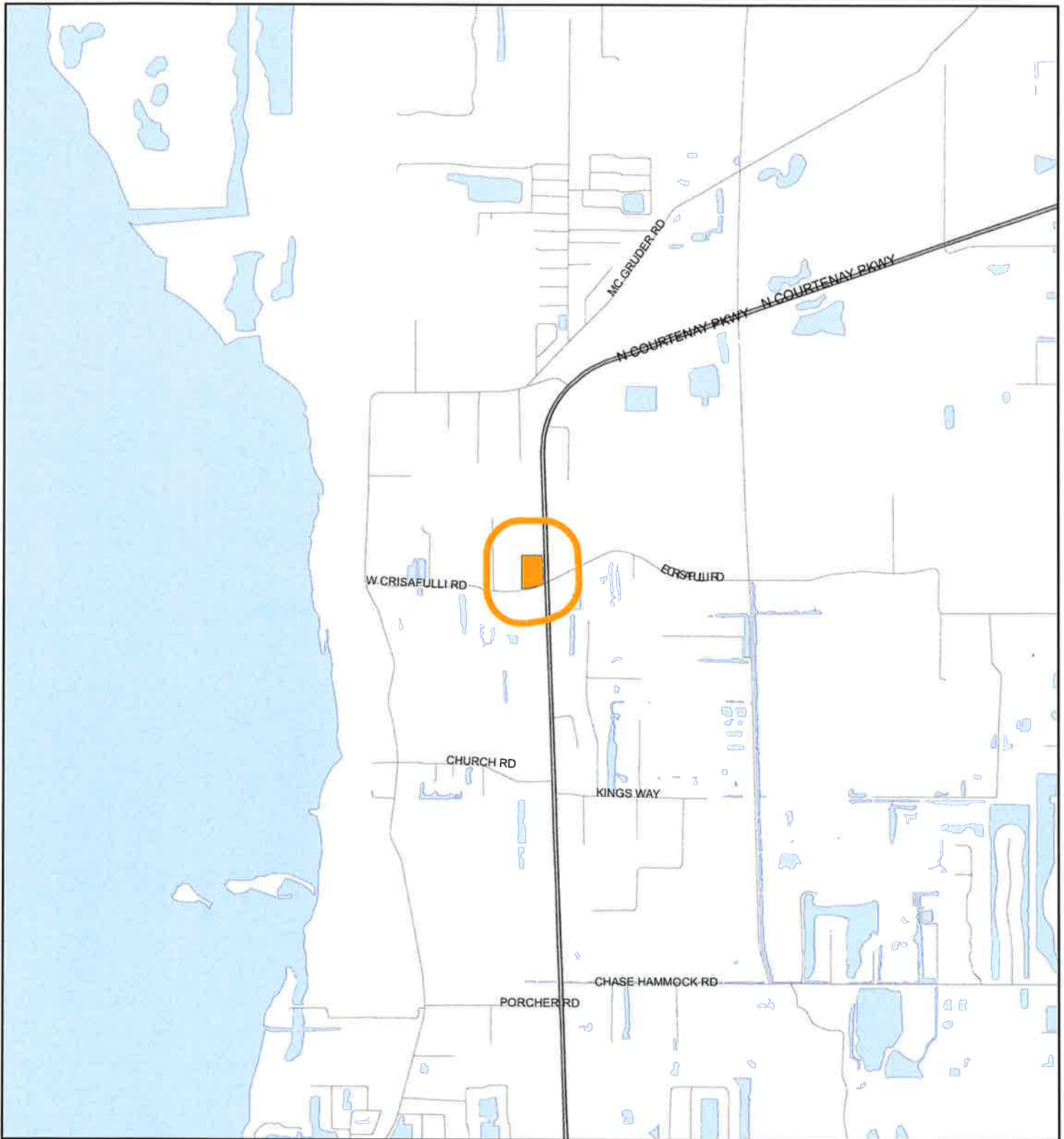
The eastern portion of the subject parcel contains of mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing and Landscape Requirements

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 trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

MacIntyre, Alan, Margo & Melanie
23Z00032



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

Buffer Distance: 500 feet

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

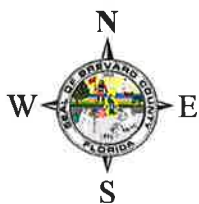
Produced by BoCC - GIS Date: 5/2/2023

— Buffer
— Subject Property

ZONING MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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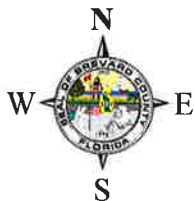
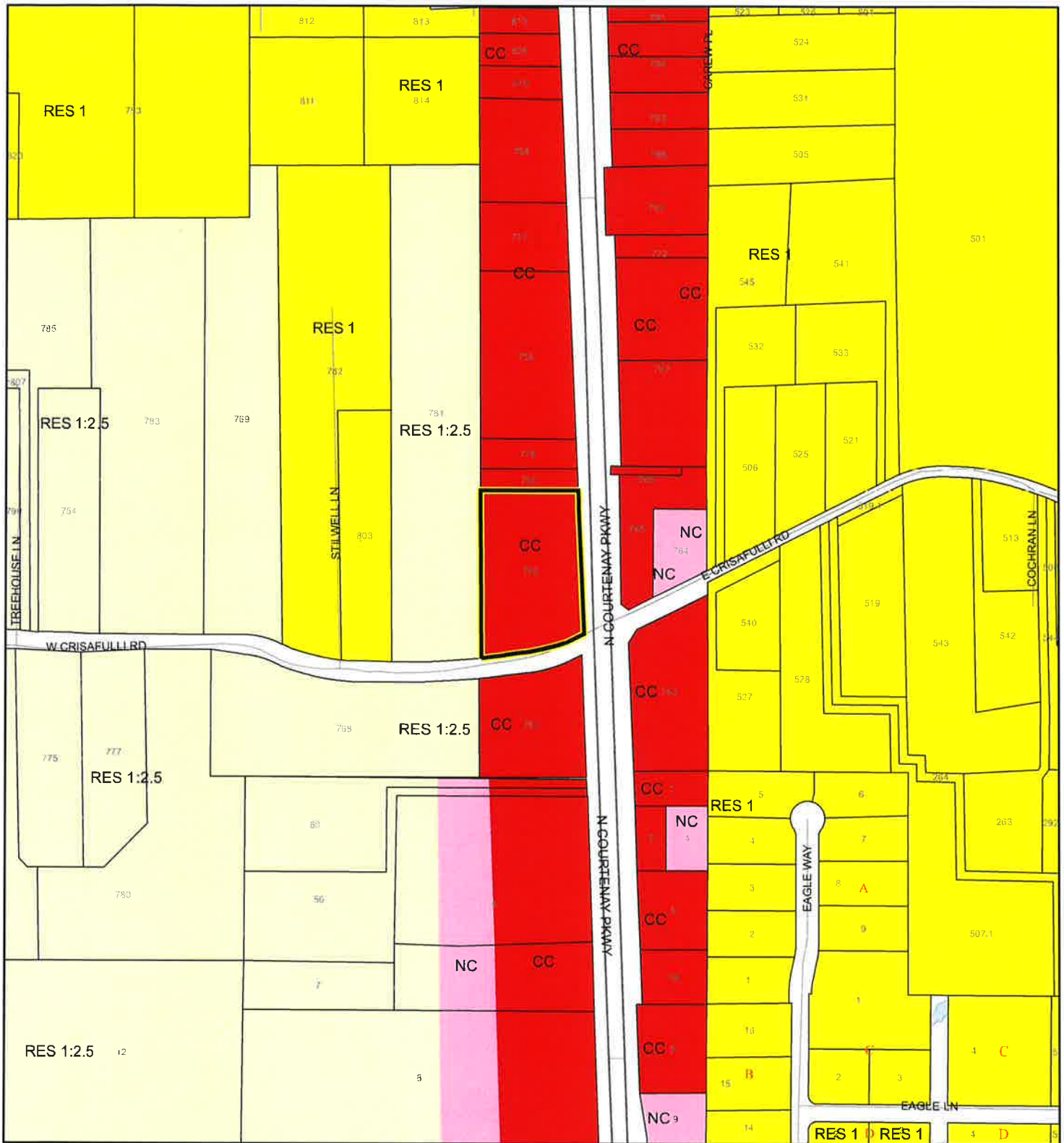
Produced by BoCC - GIS Date: 5/2/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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Produced by BoCC - GIS Date: 4/24/2023

AERIAL MAP

MacIntyre, Alan, Margo & Melanie
23Z00032



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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Produced by BoCC - GIS Date: 4/24/2023

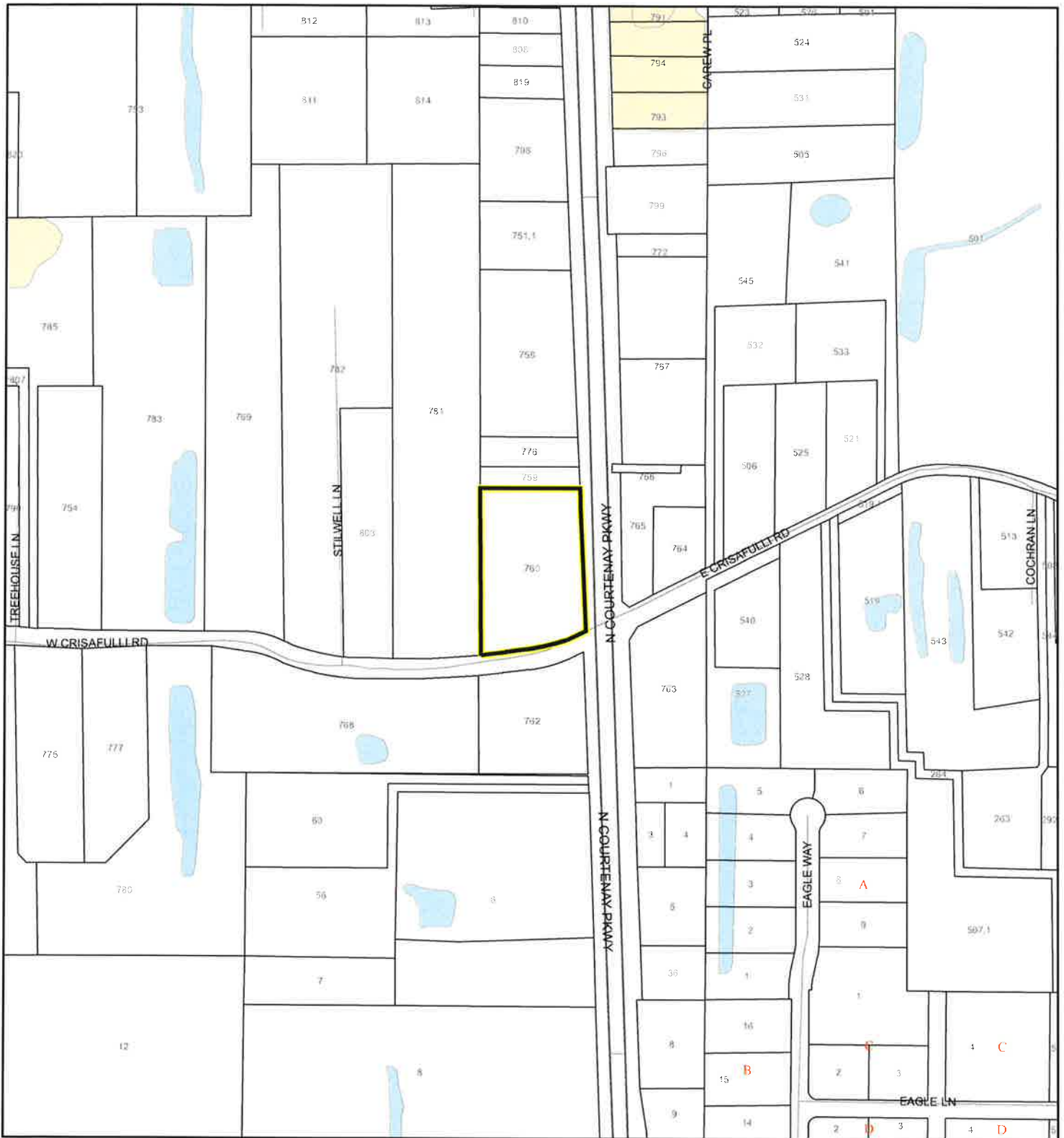
— Subject Property

□ Parcels

NWI WETLANDS MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/24/2023

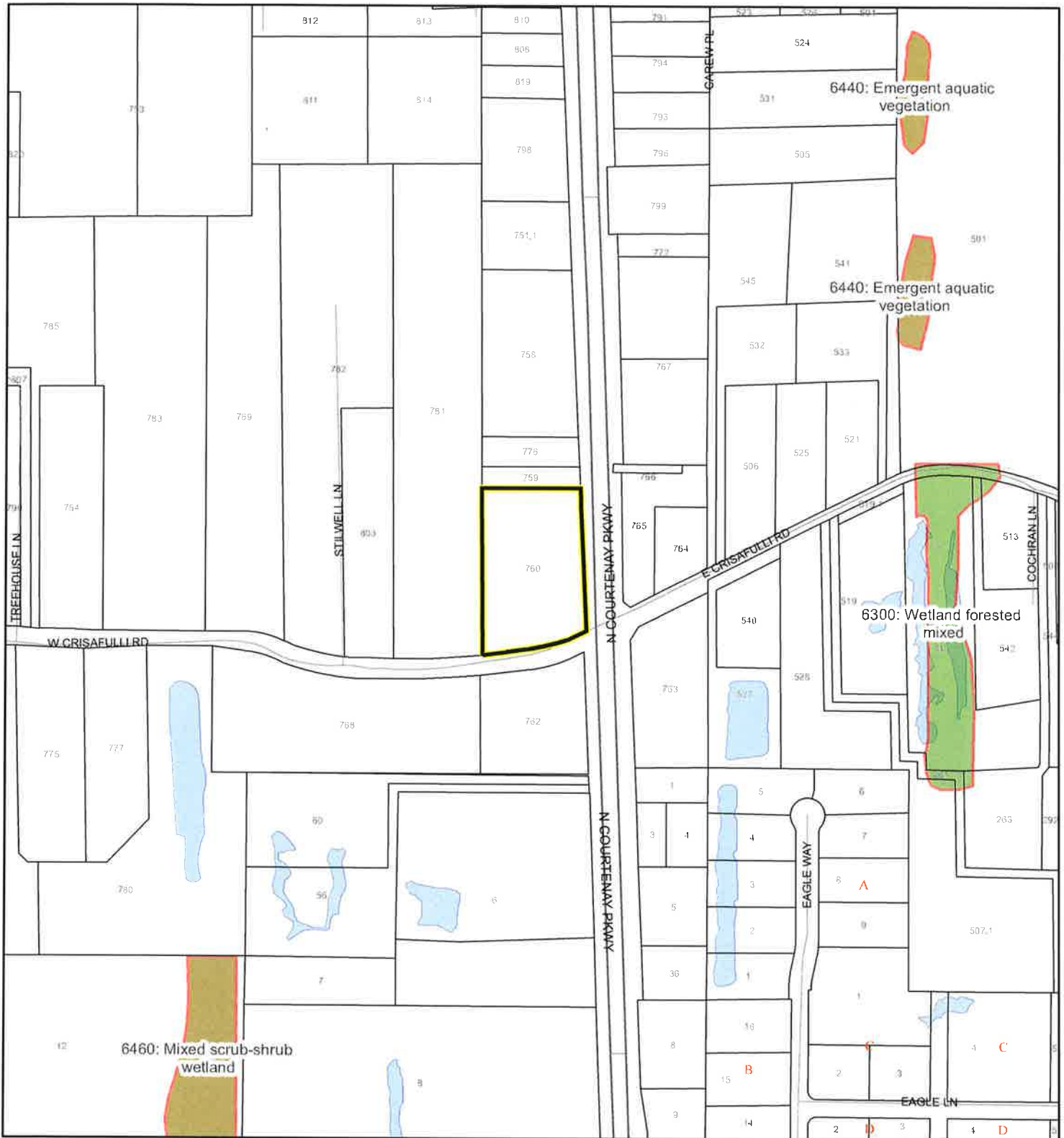
National Wetlands Inventory (NWI)

	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

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/24/2023

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

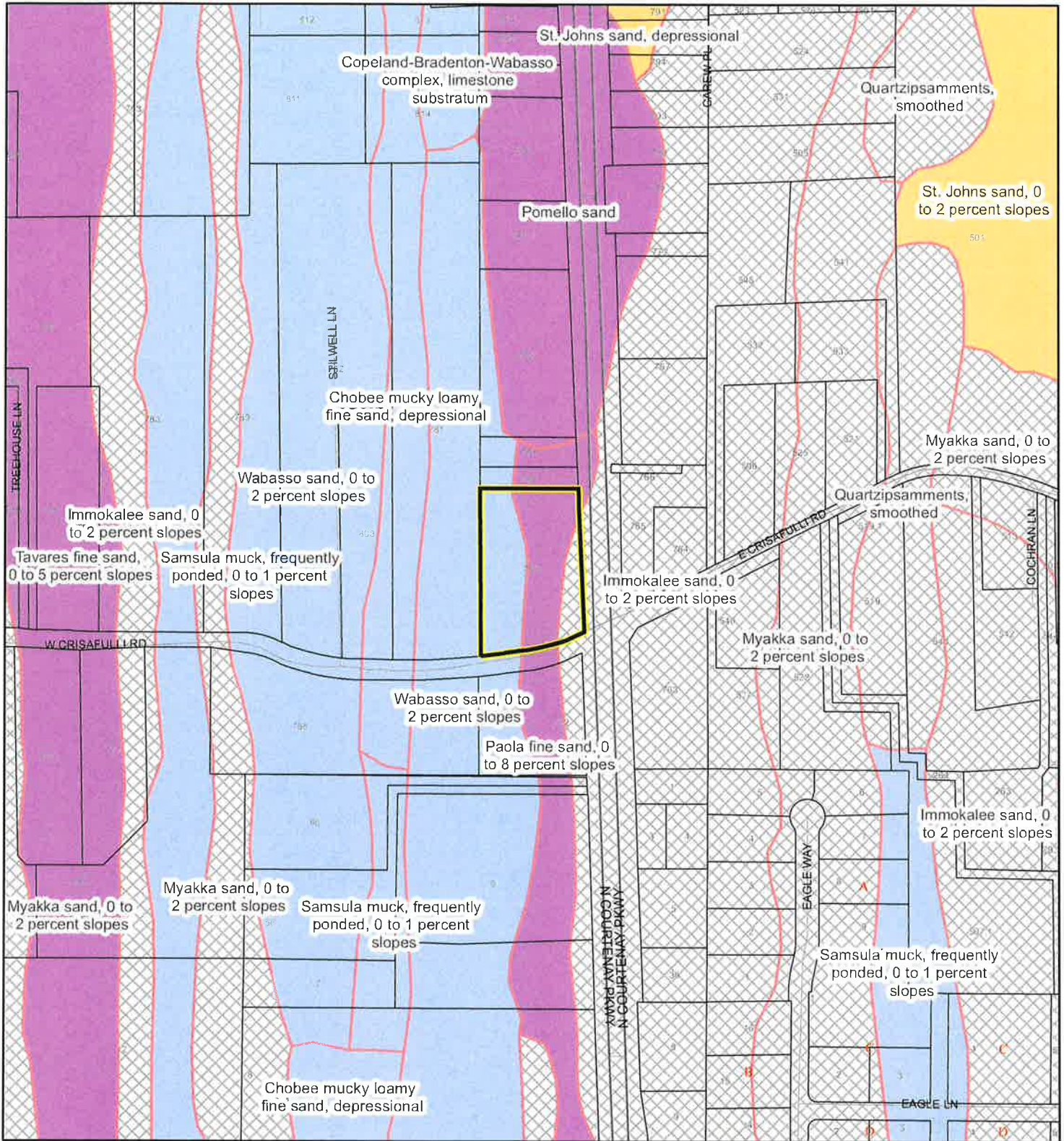
Subject Property

Parcels

USDA SCSSS SOILS MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/24/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

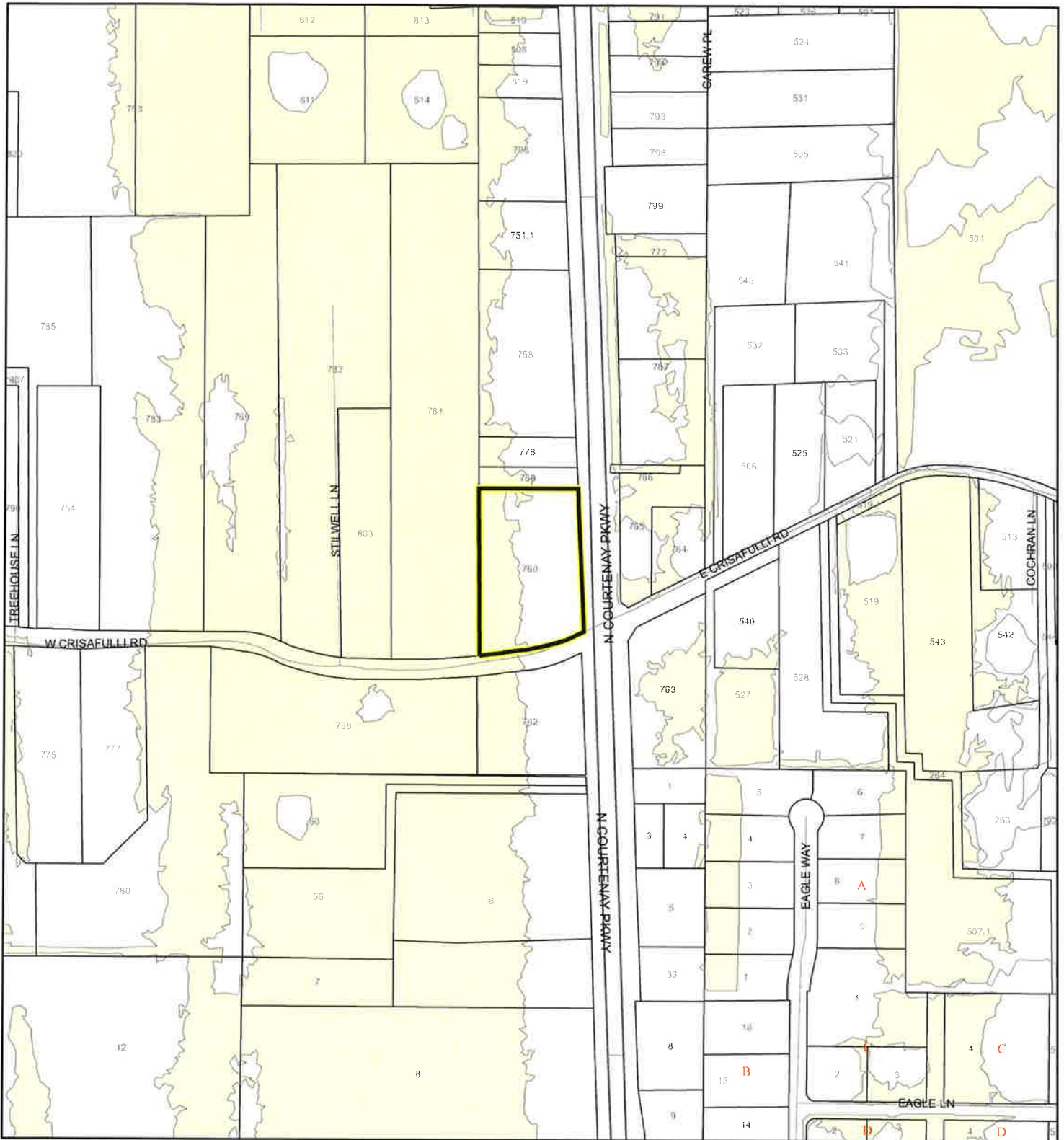
Subject Property

Parcels

FEMA FLOOD ZONES MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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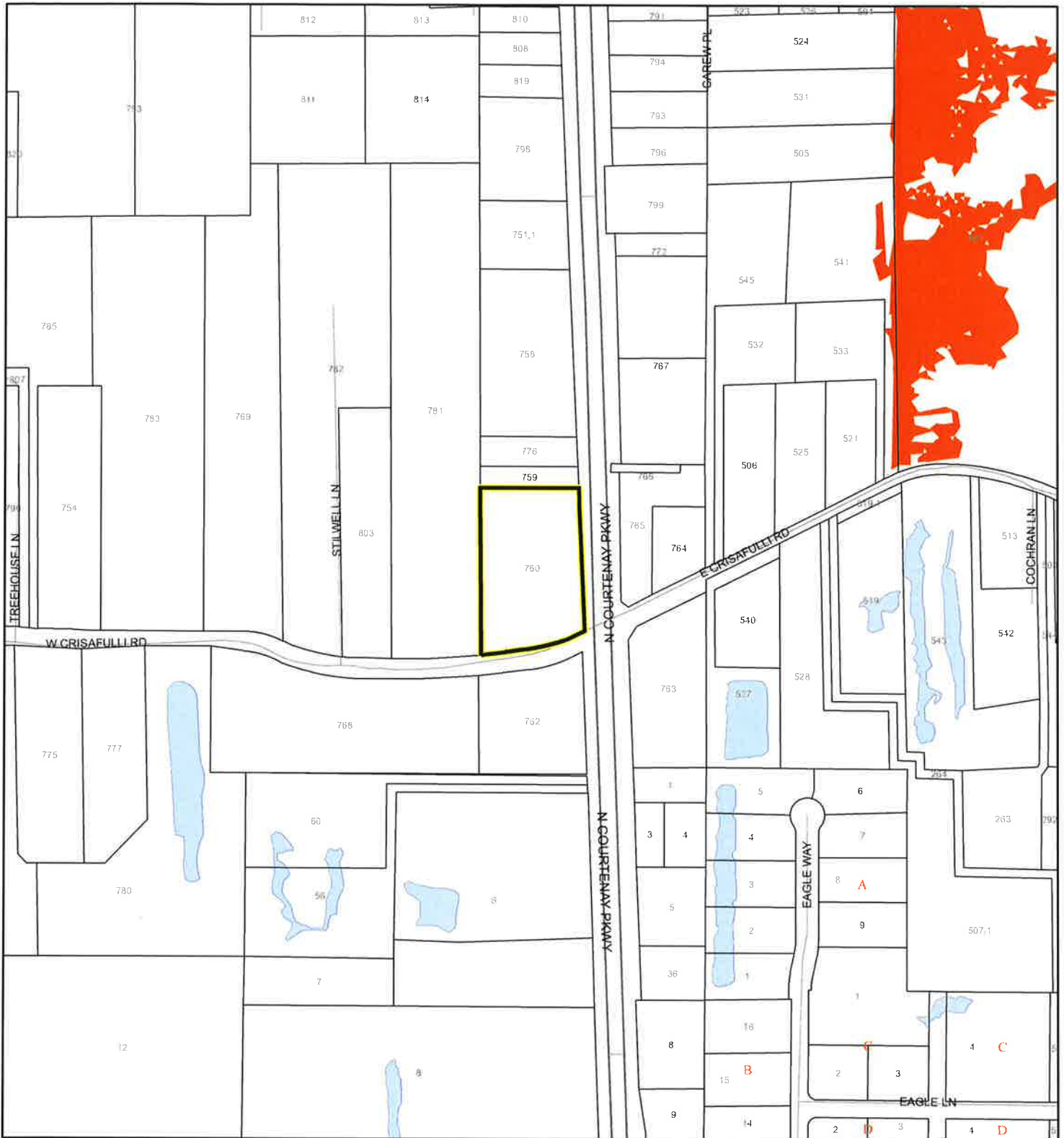
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 4/24/2023

 Subject Property

 Parcels

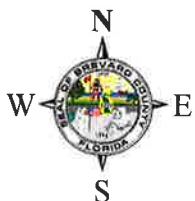
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/24/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

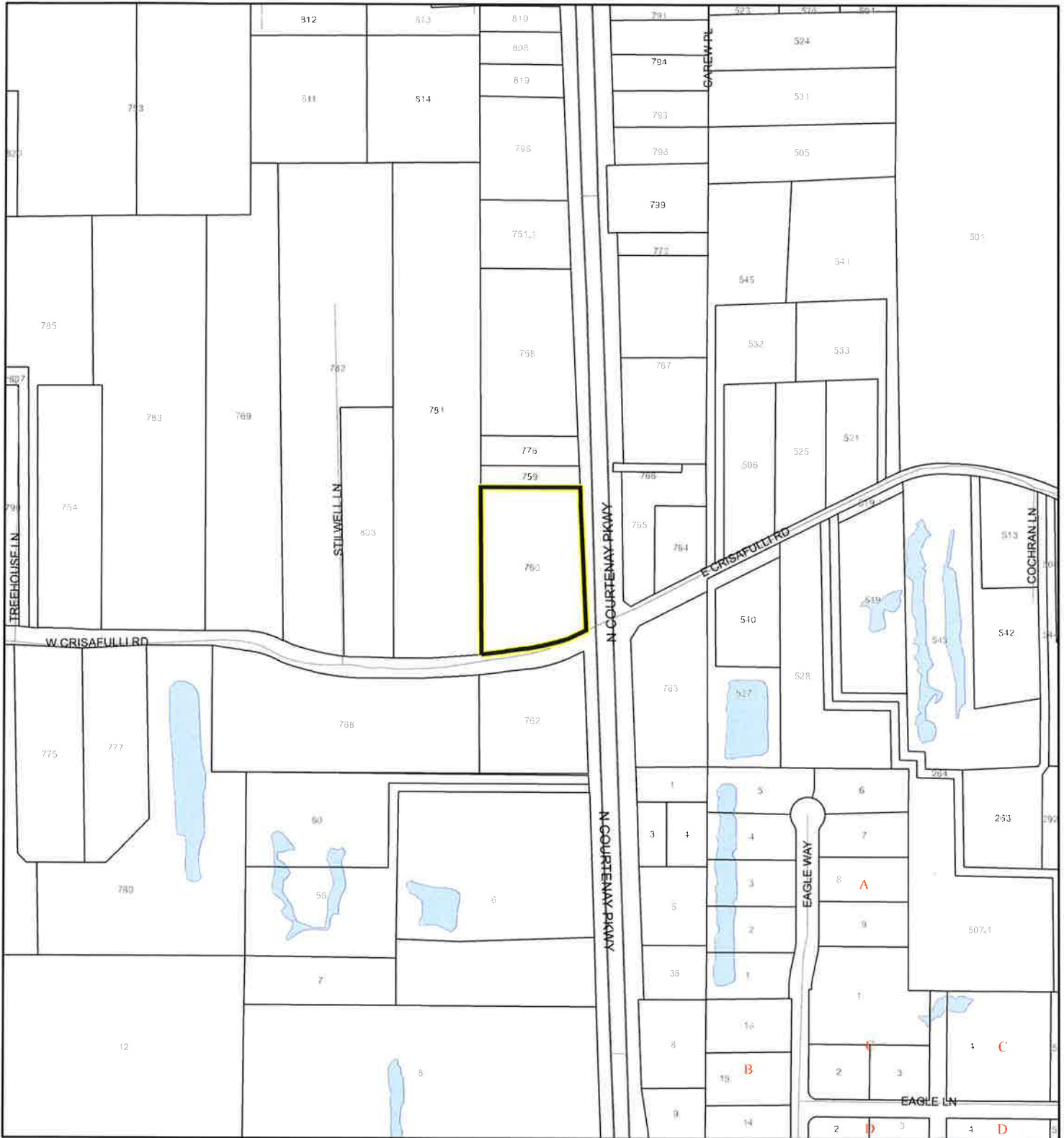
 60 Meters

 All Distances

EAGLE NESTS MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



N

W

E

S

1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/24/2023

 Subject Property

 Parcels

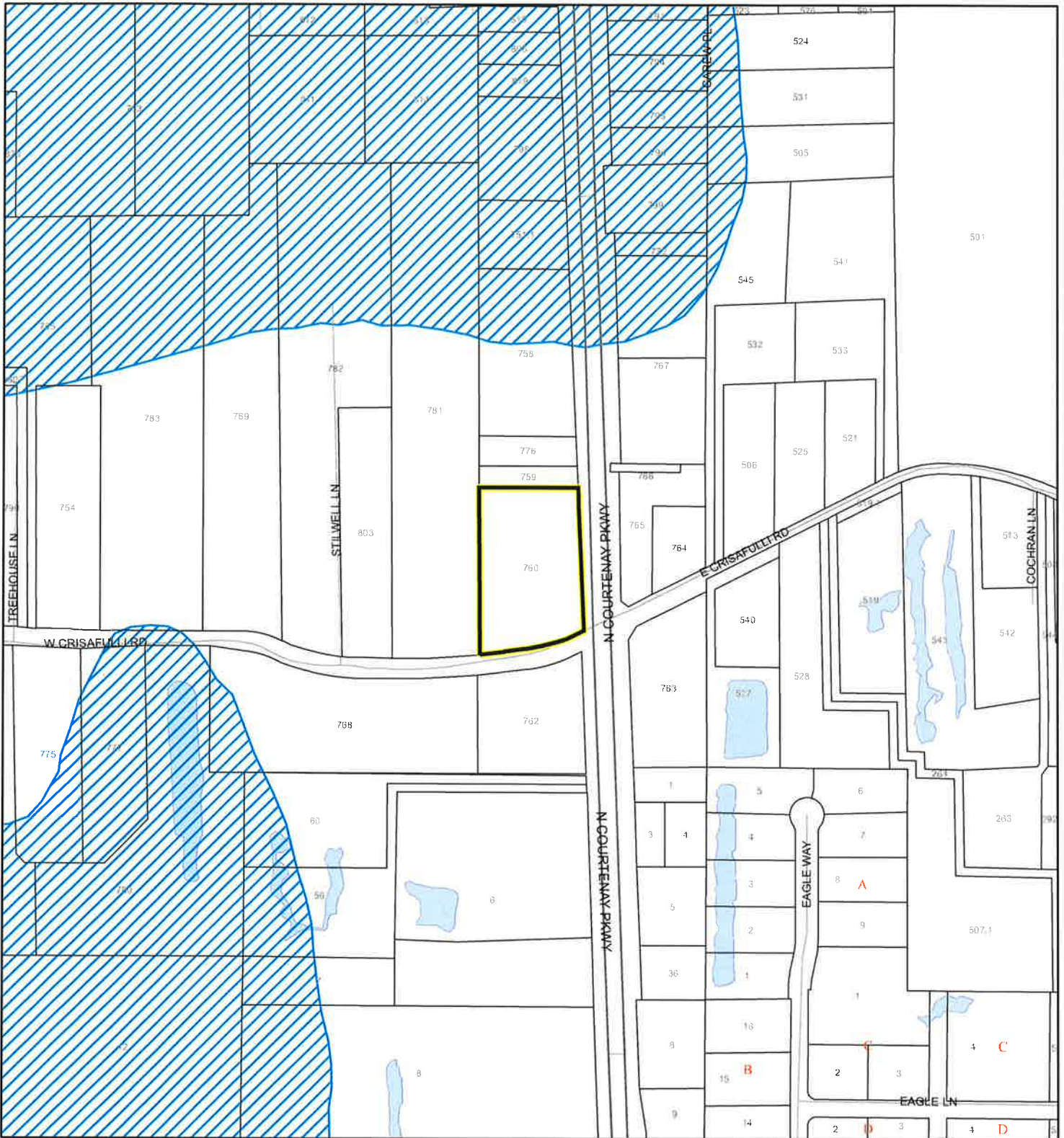


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

MacIntyre, Alan, Margo & Melanie




23Z00032



1:4,800 or 1 inch = 400 feet

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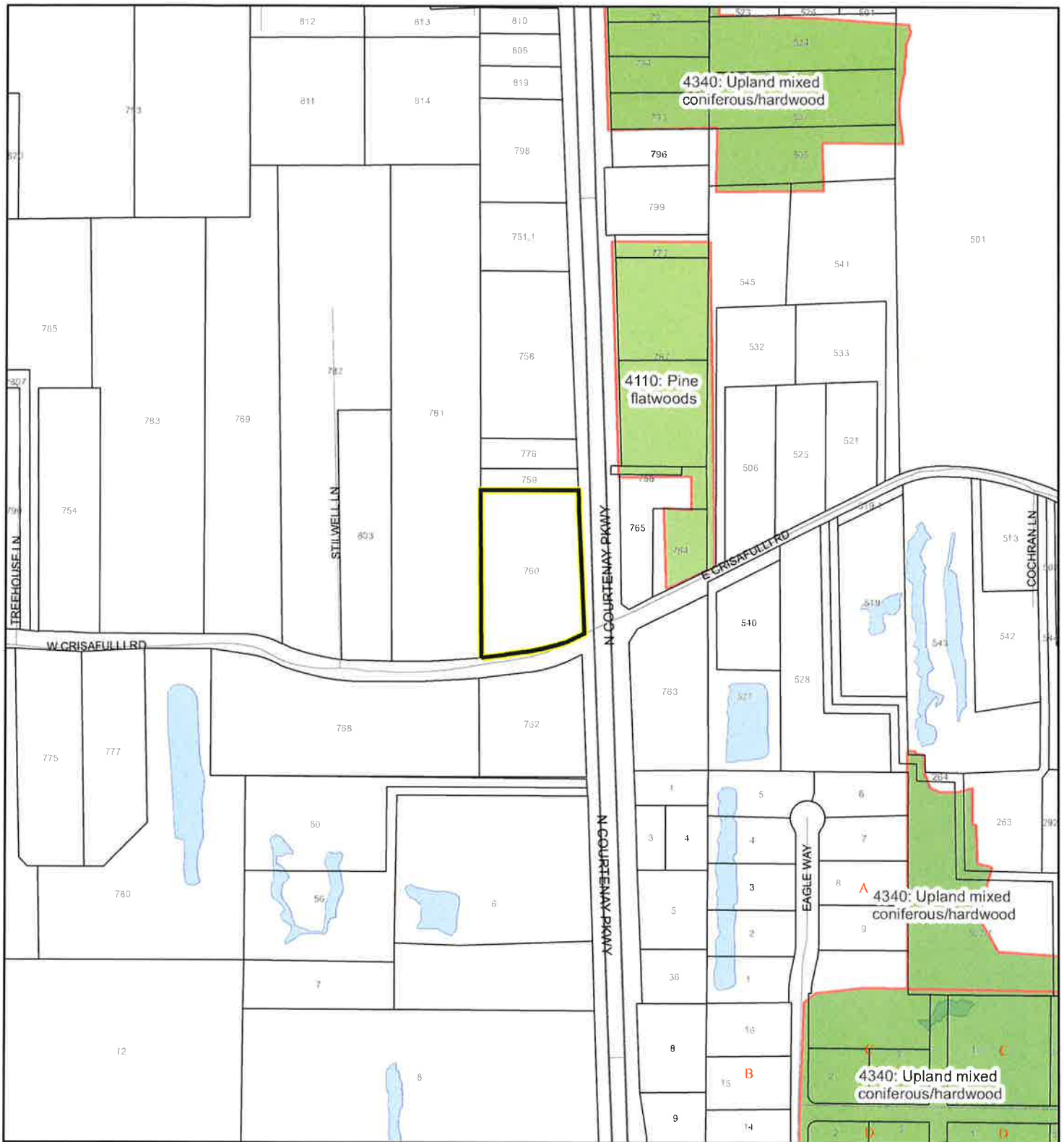
Produced by BoCC - GIS Date: 4/24/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MacIntyre, Alan, Margo & Melanie

23Z00032



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: 4/24/2023

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

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, June 8, 2023**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Chris Cook; Jack Ratterman, Vice Chair; Jim Carbonneau; and John Speck, Jr.

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

Excerpt of Complete Agenda

Alan B. MacIntyre Living Trust (John Schulte)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 2.98 acres, located on the northwest corner of N. Courtenay Pkwy. and W. Crisafulli Rd. (5995 & 5999 N. Courtenay Pkwy., Merritt Island) (23Z00032) (Tax Account 2316311) (District 2)

John Schulte – I represent Decks and Docks Lumber Company and the Trustees of the Alan B. MacIntyre Living Trust. We are currently located at 3480 N. Courtenay Parkway. We have a contingent contract on purchasing the property for the zoning change. We've been in Brevard County for more than 15 years. We've outgrown our current location and we were looking for a location co-located to where we are now, so as to not disrupt our customers, and allow us to grow the way we need to. We are aware there are wetlands and a floodplain on the back one-third of the property, and we do not plan to do anything with that; our intention is to fence in the area to protect our assets and conduct business as we have for many years.

John Speck – You said it's a lumber company?

Mr. Schulte – Yes.

Gina Lindhorst – Where are you located now?

Mr. Schulte – On N. Courtenay Parkway, about three miles south of the proposed location.

Jack Ratterman – Is that the marina wood?

Mr. Schulte – Yes, we carry marine-grade lumber.

Mr. Ratterman – You're looking for outdoor storage of the lumber?

Mr. Schulte – Correct.

Mr. Ratterman – No RV's?

Mr. Schulte – No.

Mr. Ratterman – No cruise parking or boats?

Mr. Schulte – No, sir.

Mary Hillberg – You are aware that we have a corridor study that states there is supposed to be a buffer.

Mr. Schulte – No, I was not aware.

Ms. Hillberg – Can you explain that, please? A vegetation buffer.

Jeffrey Ball – All of the design parameters will be worked out during site plan review.

Chris Cook – For what you want to do, you can't do it in a BU-1 zoning?

Mr. Schulte – We can't have the outdoor storage in BU-1.

Mr. Cook – There is another property just to the north that has BU-2. Have you looked into purchasing that one and using that zoning?

Mr. Schulte – No. Part of the allure to the property we are looking at is the existing building to act as a showroom. Currently, we don't have a showroom for our customers to come into and see what we have to offer.

Mr. Ratterman – I'm assuming most of your storage would be on the west side of the property?

Mr. Schulte – East and west, likely.

Ms. Lindhorst – Are you planning to close the other business and sell that property?

Mr. Schulte – I can't speak on that right now, it would be for the owner to decide. We may end up keeping it as additional storage, but I'm not sure at this point.

Ms. Hillberg – The change from BU-1 to BU-2 is substantial. The list of items for BU-2 is pretty dramatic, and you have a floodplain, you have hydric soils, it's in the septic overlay, and has aquifer recharge soils. Are you going to have some type of water retention there?

Mr. Schulte – At this point, I don't know that it's necessary, we'd have to work with the site plan. As I understand it with the Type 3 recharge soils that are there, we have to maintain a certain percentage of pervious ground, and at this time we don't have plans for anything impervious. If we do in the future, it will have to go through site planning and permitting.

Mr. Ratterman – Have you planned out where you're going to come in and out of the property? How about W. Crisafulli Road?

Mr. Schulte – There is a current drive just off of W. Crisafulli Road and we would either come in or exit there, and exit on the other side of the property in between the building and the parking lot area.

Ms. Hillberg – You wouldn't be coming out of N. Courtenay Parkway?

Mr. Schulte – Yes, we will, just north of W. Crisafulli Road. Our current location does not allow the safety that we would prefer, but the proposed location would be safer for our employees, our customers, and commuters traveling up and down N. Courtenay Parkway.

Mr. Ratterman – With the deliveries, I've seen them come in with the big trucks and no one gives you a break.

Ms. Hillberg – Again, the back one-third of the property is all floodplain.

Mr. Schulte – We have plenty of space toward the front of the property to work around the wetlands.

Public Comment.

Kim Smith, North Merritt Island Homeowners Association, PO Box 542372, Merritt Island. The staff comments note that BU-1 already allows outdoor storage, and it says retail items of substantial size or of which necessity must remain outside of a building may be permitted to be displayed outside the building. Such retail items include but are not limited to, motor vehicles, utility sheds, nursery items, and boats. Under Permitted Uses with Conditions, one of them is storage. So, would this request be allowed in BU-1, to use the outdoor storage as noted in BU-1, maybe with a CUP?

Jeffrey Ball – BU-1 does allow for outdoor storage as far as sheds, automobiles, boats; however, lumber yards would require BU-2 zoning.

Ms. Hillberg – Does it say lumber yards in BU-2?

Mr. Ball – I don't know if it specifically calls that out, but it's a storage yard use.

Darlene Hunt, 125 W. Crisafulli Road, Merritt Island – My husband and I received notification from the County that we are within 500 feet from the subject property. We feel like the current zoning is more than adequate for commercial use at this intersection, and I would like to refer to Administrative Policy 6, which addresses the surface water and drainage problems on surrounding properties. The W. Crisafulli Road basin experiences extensive flooding during high rainfall events. The water actually flows to the north, across W. Crisafulli Road. We live on 5 acres, and we've had our whole property under water except the house and barn. A culvert is located under W. Crisafulli Road, which extends onto the subject property. That culvert was filled in and blocked and it's currently not being maintained by the County. The County has been studying the W. Crisafulli flooding issues for more than 20 years, and the County currently has a contract with an engineering firm to try to solve the problem, but so far residents have not been presented with any solution. Administrative Policy 7 specifies the proposed use cannot cause or substantially aggravate drainage problems on surrounding properties. Any kind of build up across the road will exacerbate our flooding issues. Also, Administrative Policy 8 talks about the character of surrounding property. The lot next to it on the north side of W. Crisafulli is owned by a landscaping company and we were told the eventual use will be a nursery, which is more compatible to our agricultural classification. I respectfully request that you not recommend an increase in zoning from BU-1 to BU-2 for that property.

Joe Martin, Broad Acres Street – I understand the gentleman's business where his product comes in and does stop all of Courtenay Parkway on the northbound side and there's been a lot of instances where I've seen trucks slow down to give them time, and they are quick to get in and out, but it does stop traffic. Where he's planning it is at an access to other property that's being built with 108 houses,

so we are going to see a high volume of traffic at that intersection. The speed of that traffic is pretty fast, and I think some kind of directional control should be there for the traffic. I like to see growth, but I'd like to see it done in a safe manner.

Rusty Melle, 1455 S. Wickham Road, Melbourne – I'm here representing the sellers. From the seller's point of view, they did look at other offers on the property and everything has been related to automotive, but when they saw the lumber company's business down the road, it looked nice and environmentally friendly, so that is why they pursued it. The sellers want to be good neighbors.

Mr. Schulte – As far as the flooding on W. Crisafulli Road, there isn't any necessary build-up planned for the property; we plan on re-grading it and adding some rock for our vehicles to be able to maneuver, and it would be pervious, so I don't see it causing any additional flooding issues. As far as the traffic, the area of the subject property is not as busy as our current location, and I think it's a safer option for the general public and our employees.

Mr. Speck – What type of traffic responsibility does the new owner have?

Mr. Ball – If a site plan is required the traffic engineers will look at the trips generated and look at any roadway improvements that are necessary to support the use. Regardless, staff will look at concurrency and that will determine if there is enough capacity on the roads to support the use.

Mr. Speck – What about the other person that addressed the culvert for water drainage?

Mr. Ball – That's not a zoning issue. If there is an issue with drainage, it will be addressed at the site plan stage.

Jim Carbonneau – This does not address the N. Courtenay Parkway drainage plan that's underway. I've got a copy of that, it was originally done back in 2020, and it has not been performed, and the results have not been brought to the homeowners. In the current design plan, the culvert goes into a large swale they are proposing that will be 100 feet wide and 10 feet deep, and whether you are aware of that or not, it could considerably impact the placement of the drainage on the west side of the property. I currently live two parcels over and we do have a lot of drainage and water issues. During Hurricane Irma we had 30 inches of water on the back of my property, so you need to be aware of that.

Mr. Cook – Currently, there is a lien on the property, what happens to that?

Mr. Ball – They will have work that out with the Magistrate.

Mr. Cook – Also, does the current CUP for alcohol go away?

Mr. Ball – Unless they specifically ask to remove it, then no, it runs with the land.

Mr. Cook – Somewhere in the agenda package the corridor study was referenced, but now I can't find it. What the study recommended was not BU-2 along the S.R. 3 corridor.

Mr. Ball – I don't recall specifically what that study did, but I remember there is landscaping required.

Mr. Cook – I know it hasn't been codified, but it is close to being codified.

Mr. Ball – If it's not codified, it is just a recommendation from the Board, and without having the Board ratify those changes, it's just a suggestion.

Mr. Cook – The way I look at these things, I always look at the worst-case scenario because I'm an optimist, and the BU-2 in that corridor, there's some BU-2 that is zoned, but hasn't been used for many years, so it's not a BU-2 corridor. It is supposed to be a residential-commercial corridor. They have a nice business on Merritt Island and they are good neighbors, but he could turn around and sell it tomorrow. Someone could come in and put in a dry-cleaning factory or huge warehouses, and it wouldn't have to come before this board at all.

Mary Hillberg – I agree that BU-2 is heavy there, but it is commercial. Again, if you haven't lived here and seen the volume of water, particularly on Crisafulli Road, you can put down rocks, but the water moves it north, so it's difficult to contain heavy material there with the heavy trucks, and it would be hard to manage that, I think. How much heavy material are you planning? Is it two stories of wood?

Mr. Schulte – No, generally the highest wood stacked would be about 10 feet at the maximum.

Ms. Lindhorst – Are those logs?

Mr. Schulte – Yes, decking material. The decking material would be the highest stacked, but the pilings for docks have to be kept lower because they roll around and can be dangerous.

Ms. Hillberg – Where do you keep them now?

Mr. Schulte – Along the south side of the current property.

Ms. Hillberg – And you don't have enough room?

Mr. Schulte – No, we don't have enough room.

Ms. Lindhorst – It's narrow there.

Ms. Hillberg – It's very narrow, it's a nice piece of property, but it is narrow. It's a frightening thing for some of the people in the area when they see. Have you lived here a long time?

Mr. Schulte – I don't live here.

Ms. Hillberg – You don't live here?

Mr. Schulte – I'm the regional manager, so I cover this store as well as the rest of the east coast of Florida.

Ms. Hillberg – It's back to the board. What do you think?

Ms. Lindhorst – I'd rather not see more intense industrial zoning than necessary. It seems like there is a lot there already. There are BU-2 properties a little farther north.

Ms. Hillberg – Is there a motion?

Mr. Cook – I see trouble with the traffic as well, I've seen the guy with the flag bringing in the big log trucks and people are flying around the curve coming from KSC, and I just think there will be incidents that will not end well. The guys with the flags are safe, I don't have a problem with this applicant, per se, but I'm afraid of what else can go there in BU-2 and I think we would set a precedent with BU-2 zoning when that's not the direction we want the area to go.

Ms. Lindhorst – Farther north is BU-2 and industrial, so maybe there is plenty of room there.

Mr. Cook – I make a motion to deny the zoning.

Mr. Carbonneau – I second.

Mr. Ball – If your recommendation is for denial, I would list the reasons why as part of the motion.

Ms. Hillberg – Yes, I was just going to ask for that. What are your reasons? You mentioned the traffic.

Mr. Ball – What I hear is traffic, drainage, and incompatibility with the BU-2 uses.

Ms. Lindhorst – Administrative Policies 3.A. and C.1.; and Administrative Policy 7, drainage issues.

Mr. Carbonneau – Compatibility.

Mr. Cook – And character.

Ms. Lindhorst – Character is Administrative Policy 4.

Ms. Hillberg – This is hard to do because it's a nice business, and we like businesses, but it's the land and the congestion of the traffic that makes the location so hard. In addition to the fact that it's wet and will be really wet when the wet time comes.

Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.