



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.7.

11/7/2019

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### Subject:

Corey Nail requests a change of zoning classification from PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU. (19PZ00106) (Tax Account 2605311) (District 4)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) and PUD (Planned Unit Development) to all AU.

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification on property located on the west side of Turtle Mound Road, approximately 0.26 mile north of Post Road, Melbourne, for the purpose of having agriculture farm animals including, but not limited to horses, cows, and a barn for agricultural uses. The subject property was part of the Windover Farms of Melbourne PUD (Planned Unit Development) Phase One, but was not developed as part of that community. The AU portion of the parcel is a 4-foot wide strip lying along the north of the parcel. This 4-foot wide AU strip was combined with the PUD portion so the parcel will meet the 2.5-acre minimum lot size required for AU zoning.

The Windover Farms of Melbourne PUD minimum lot size is 5,000 square feet. These lots were developed at approximately one (1) acre in size, which is substantially greater than code minimum.

The developed character of the area along Turtle Mound Road is AU, RR-1 (Rural Residential) and PUD, all with a Future Land Use of Residential 4.

The Board may wish to consider whether the request is consistent and compatible with the surrounding PUD parcels and the RR-1 parcels along Turtle Mound Road.

On October 7, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

### Clerk to the Board Instructions:

Once resolutions are received, please execute and return to Planning and Development.

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**Resolution 19PZ00106**

On motion by Commissioner Smith, seconded by Commissioner Tobia, the following resolution was adopted by a unanimous vote (Chair Isnardi absent):

**WHEREAS, Corey Nail** has requested a change of zoning classification from PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU, on property described as Tax Parcel 504, as recorded in Official Records Book 8500, Pages 402-404, of the Public Records of Brevard County, Florida. Section 35, Township 26, Range 36. (2.5 acres) Located on the west side of Turtle Mound Road, approximately 0.26 mile north of Post Road. (No assigned address. In the Melbourne area.); 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 Brevard County 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 PUD and AU to all AU be approved as recommended. 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 November 7, 2019.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

*Bryan Andrew Lober*

Bryan Lober, Vice Chair

Brevard County Commission

As approved by the Board on November 7, 2019.

ATTEST:

*Scott Ellis*

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 7, 2019

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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### Administrative Policy 2

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

#### Criteria:

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

### Administrative Policy 3

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

#### Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of: 249

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

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

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

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

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

- (c) General Standards of Review.

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

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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
 Building A, Room 114  
 Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**19PZ00106**

**Corey Nail**

**PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU**

Tax Account Number: 2605311  
 Parcel I.D.: 26-36-35-00-504  
 Location: West side of Turtle Mound Road, approximately 0.26 miles north of Post Road (No assigned address. In the Melbourne area.) (District 4)  
 Acreage: 2.5 acres  
 Planning and Zoning Board: 10/07/19  
 Board of County Commissioners: 11/07/19

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	PUD and AU	AU
<b>Potential*</b>	Two Single-Family Units	One Single-Family Unit
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 4	YES Residential 4

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

**Background and Purpose of Request**

The applicant is seeking a change of zoning classification from PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU for the purpose of having agriculture farm animals including, but not limited to horses, cows, and a barn for agricultural uses.

The PUD portion of the parcel was rezoned from AU to PUD per zoning action Z-7293 on October 21, 1985.

The AU portion of the parcel was rezoned from PUD to AU per zoning action Z-10745 on November 07, 2002.

The PUD portion of the parcel was combined with the AU portion on July 30, 2019, per Official Record Book 8500, Page 402. This said AU portion of the parcel is a four-wide strip lying along the north four feet of the parcel. This four-wide AU strip was combined with the PUD portion so the parcel

will meet the 2.5-acre minimum lot size required for AU (Agricultural Residential) zoning. The subject property was part of the Windover Farms of Melbourne PUD (Planned Unit Development) Phase One, but was not developed as part of that community.

### **Land Use Compatibility**

The subject property retains the RES 4 (Residential 4) FLU (Future Land Use) designation. The existing zoning classifications PUD and AU along with the proposed AU zoning classification are consistent with the Future Land Use designation.

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

### **Environmental Constraints**

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

### **Preliminary Concurrency Analysis**

The closest concurrency management segment to the subject property is Post Road, between Pine Cone Road and North Wickham Road, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 62.40% of capacity daily. The maximum development potential from the proposed rezoning does increase the proposed trip generation by 00.07%. The corridor is anticipated to continue to operate at 62.47% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

This request will not create a deficiency on Brevard County Schools.

The subject parcel does not have access to Brevard County Sewer or The City of Melbourne Sewer. The subject parcel does have access to The City of Melbourne water.

### **Applicable Land Use Policies**

The applicant is seeking a change of zoning classification from PUD and AU to all AU for the purpose of having agriculture farm animals including, but not limited to horses, cows, a barn for agricultural uses.

The current PUD zoning is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses.

The current AU (Agricultural Residential) portion and proposed AU zoning classification permits single-family residences and agricultural pursuits on 2.5-acre lots, with a minimum width and depth of 150 feet, and a 750 square-foot minimum house size. The AU zoning also allows the raising/grazing of animals, fowl, and beekeeping.

The developed character of the parcels along Turtle Mound Road is AU, RR-1 (Rural Residential) and PUD (Planned Unit Development), all with a Future Land Use of Residential 4. The RR-1 classification permits single-family residential land uses on minimum one acre lots, 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.

The abutting parcel to the north is zoned AU and is vacant land.

The parcels along Turtle Mound Road to the east are zoned PUD and are one acre or larger lots and are part of Windover Farms of Melbourne PUD Phase Three, Unit One.

The abutting parcel to the south is a 120 feet wide undeveloped parcel zoned PUD. This parcel is a Drainage Right-of-Way which is part of the Windover Farms of Melbourne PUD Phase One and is owned by Brevard County.

The abutting parcel to the west is zoned AU and is developed with a single-family residence and agricultural amenities.

There have been no zoning actions within a half-mile of the subject property in the last five years.

### **For Board Consideration**

The applicant is seeking a change of zoning classification from PUD and AU to all AU for the purpose of having agriculture farm animals including, but not limited to horses, cows, and a barn for agricultural uses.

The developed character of the parcels along Turtle Mound Road is AU, RR-1 and PUD, all with a Future Land Use of Residential 4.

The Board may wish to consider whether the request is consistent and compatible with the surrounding PUD parcels and the RR-1 parcels along Turtle Mound Road.

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

**Item # 19PZ00106**

**Applicant:** Corey Nail

**Zoning Request:** PUD & AU to AU

**Note:** Applicant wants to have animals and barn for agricultural use

**P&Z Hearing Date:** 10/07/19; **BCC Hearing Date:** 11/07/19

**Tax ID No:** 2605311

- 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
- Aquifer Recharge Soils
- Protected Species
- Heritage 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 subject parcel contains mapped Satellite sand as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that hydric soils and wetlands may be present on the property. Section 62-3694(a)(1) states that agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not adversely affect the functions of wetlands and do not result in permanent degradation or destruction of 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 and should be contacted at 321-264-5393 for requirements regarding this classification.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. Accessory structures, such as a barn, are not permitted in wetlands. Prior to any land clearing activities, plan design or permit submittal, the applicant is encouraged to contact NRM at 321-633-2016.

#### **Aquifer Recharge Soils**

Satellite sand may also function as an aquifer recharge soil. The parcel also has mapped Pomello sand, an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

#### **Protected Species**

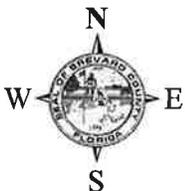
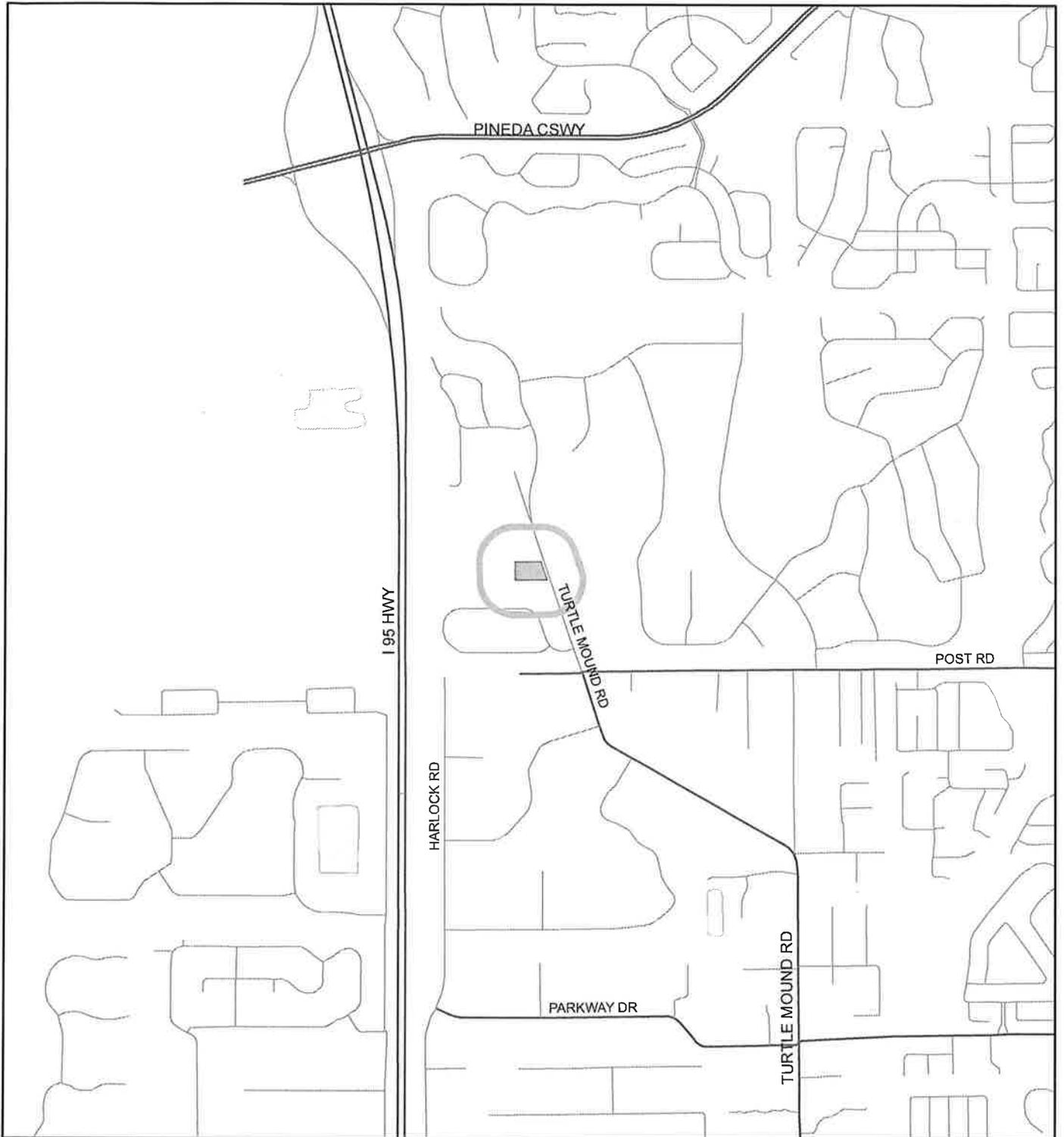
Information available to Natural Resources Management indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

#### **Heritage Specimen Trees**

Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by Natural Resources Management.

# LOCATION MAP

NAIL, COREY  
19PZ00106



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

Buffer Distance: 500 feet

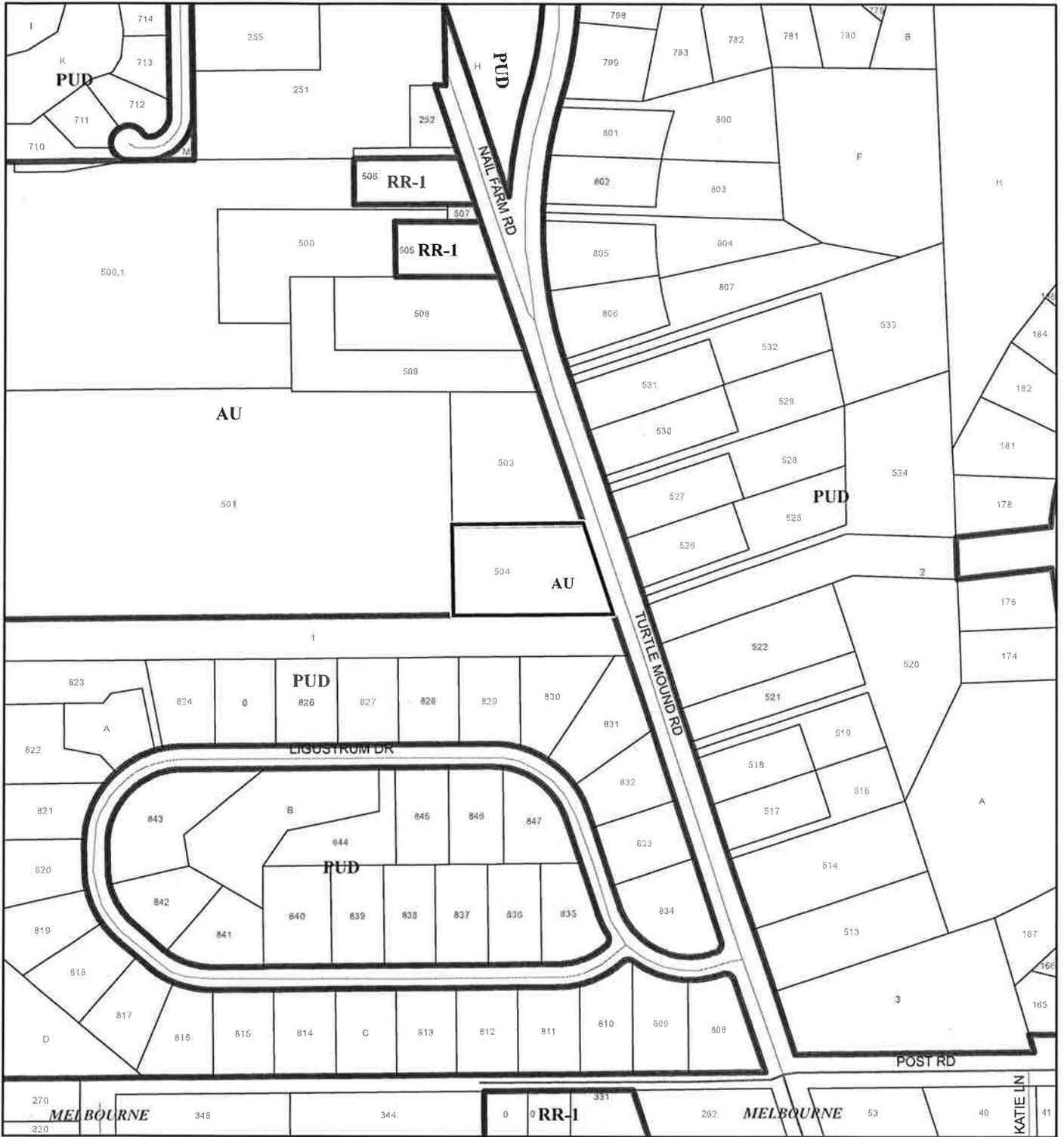
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/14/2019

-  Buffer
-  Subject Property

# ZONING MAP

NAIL, COREY  
19PZ00106



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: 8/14/2019

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

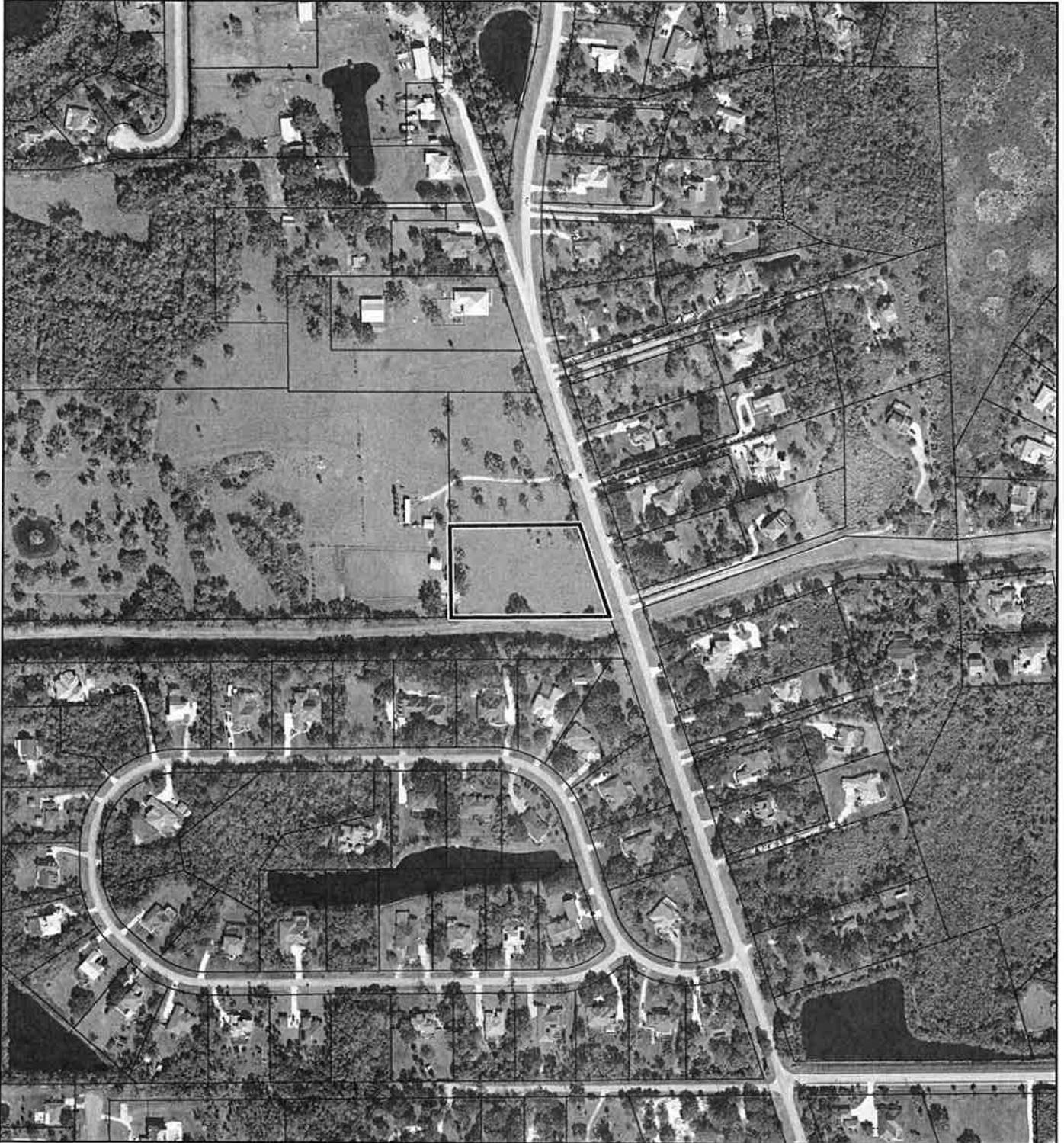
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/13/2019

# AERIAL MAP

NAIL, COREY

19PZ00106



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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: 8/13/2019

-  Subject Property
-  Parcels

# NWI WETLANDS MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

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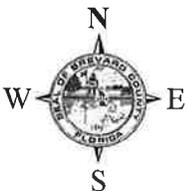
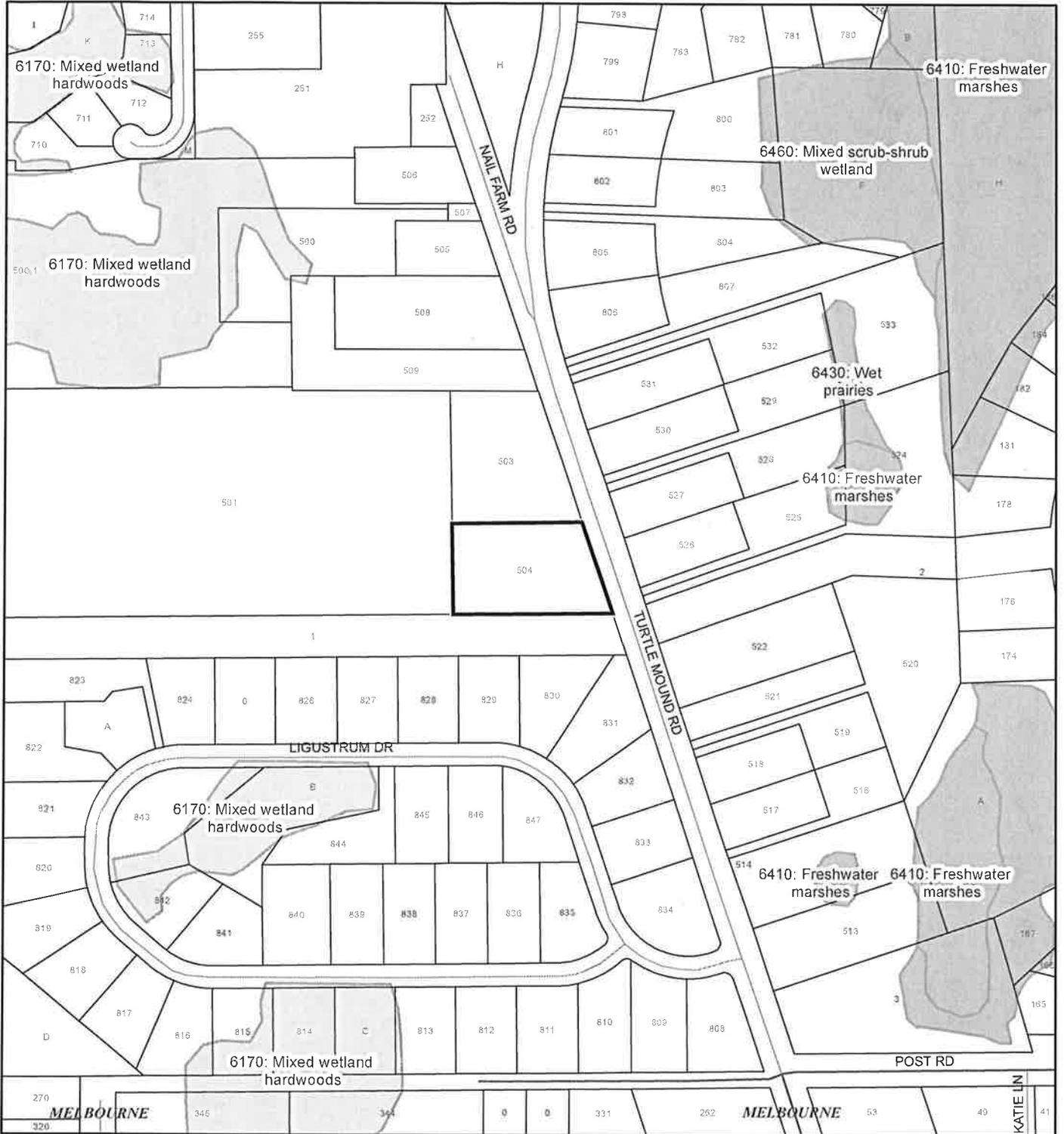
Produced by BoCC - GIS Date: 8/13/2019

### 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

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/13/2019

## 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

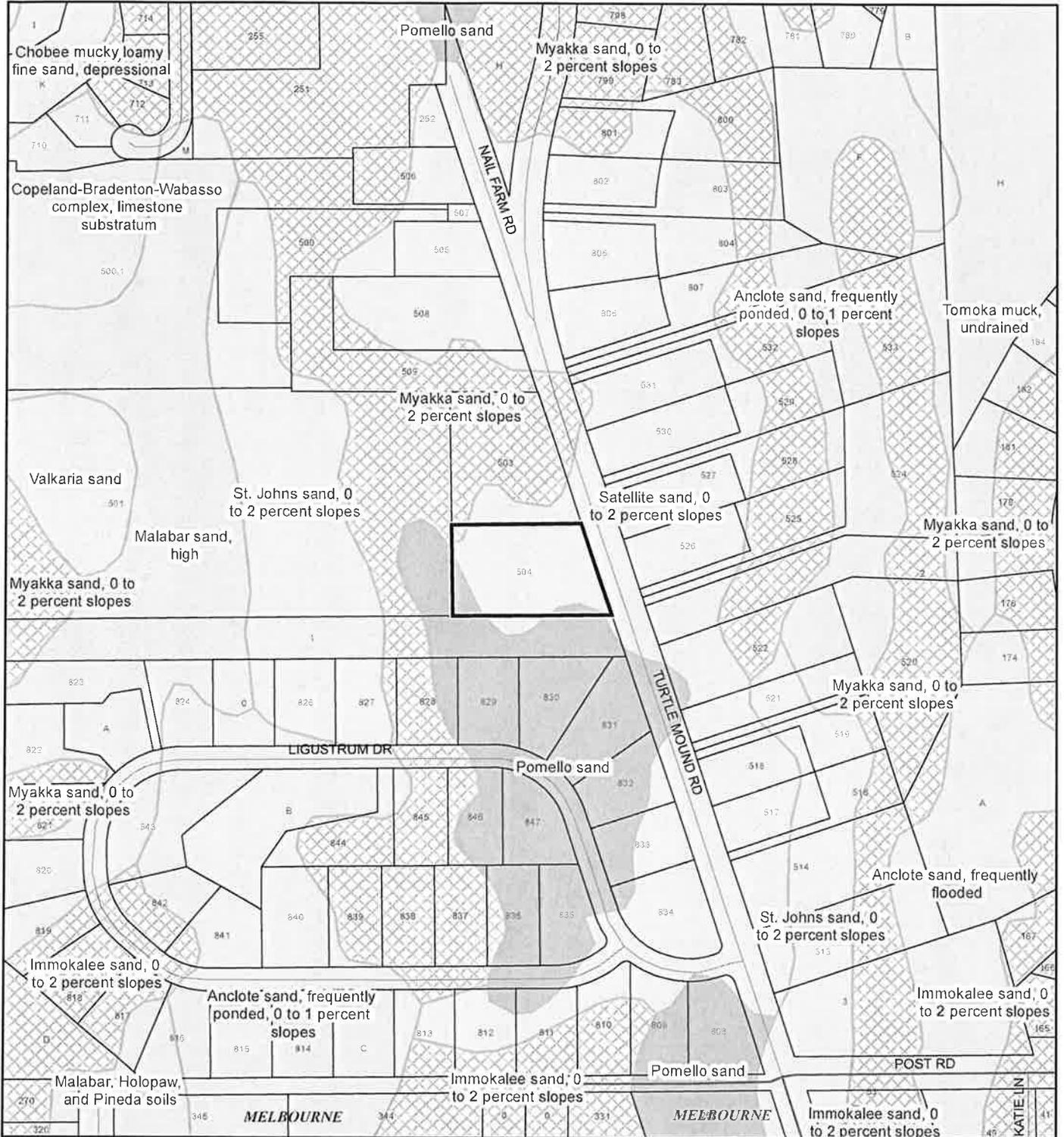
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

NAIL, COREY

19PZ00106



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.

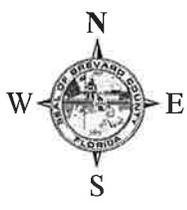
Produced by BoCC - GIS Date: 8/13/2019

## USDA SCSSS Soils

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

# FEMA FLOOD ZONES MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/13/2019

**FEMA Flood Zones**

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/13/2019

 Subject Property

 Parcels

**Septic Overlay**

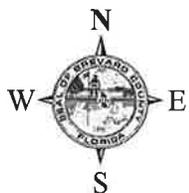
 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

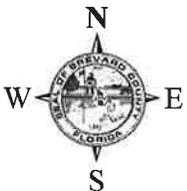
 Eagle Nests  
FWS 2010

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Produced by BoCC - GIS Date: 8/13/2019

# SCRUB JAY OCCUPANCY MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

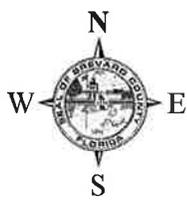
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/13/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

NAIL, COREY  
19PZ00106



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/13/2019

- SJRWMD FLUCCS Upland Forests**
-  Upland Coniferous Forest - 4100 Series
  -  Upland Hardwood Forest - 4200 Series
  -  Upland Mixed Forest - 4300 Series
  -  Tree Plantations - 4400 Series
  -  Subject Property
  -  Parcels

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 7, 2019**, at **3:00 p.m.**, in the Commission 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: Ron Bartcher; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; Peter Filiberto, Vice Chair; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Agenda

#### 7. Corey Nail:

A change of zoning classification from PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU. The property is 2.5 acres, located on the west side of Turtle Mound Road, approximately 0.26 mile north of Post Road. (No assigned address. In the Melbourne area.) (19PZ00106) (District 4)

Corey Nail, 472 Thomas Drive, Melbourne, stated he recently discovered that the corner piece of his property is zoned PUD, and because it was 2.47 acres, he had some additional footage deeded to him to meet the 2.5-acre requirement for the AU zoning classification.

No public comment.

Motion by Bruce Moia, seconded by Rochelle Lawandales, to approve the requested change of zoning classification from PUD to AU. The motion passed unanimously.

Upon consensus of the board, the meeting adjourned at 4:09 p.m.