



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.7.

9/7/2023

Subject:

Thomas P. and Shannon Harmony request a change of zoning classification from GU to AU (23Z00044) (Tax Account 2504668) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners consider change of zoning classification from GU (General Use) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from GU to AU on a 1.36-acre portion of their 5.24-acre parcel for the purpose of having an AU zoning classification on the entire 5.24 acres. The 1.36-acre GU portion of the parcel is currently vacant. The AU portion of the parcel is developed with a single-family residence along with stables and a barn. This request would unify the zoning on the property.

The proposed AU zoning classification permits single-family residences and agricultural uses on a minimum of 2.5 acre, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals, fowl, beekeeping, and the sales of commodities raised on the premises in line with all agricultural pursuits.

The subject property is located along the south side of Pluckebaum Road. The surrounding area is developed with agricultural uses for horse stables and storage yards. The abutting parcel to the east is 13.42 acres, zoned AU, and developed with stables for the boarding of horses. The abutting parcel to the south is 4.03 acres and developed with an office building and being used as a storage yard with AU zoning. The abutting parcel to the west is 7.14 acres, zoned GU, and developed with a radio station and storage yard.

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

On August 14, 2023, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 23Z00050

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

WHEREAS, RNK Viera, Inc. requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a PUD (Planned Unit Development) zoning classification, on property described as Lot 1, Block B, Viera Boulevard Commercial Center, as recorded in ORB 9112, Pages 502 - 509, of the Public Records of Brevard County, Florida. **Section 33, Township 25, Range 36.** (1.32 acres) Located on the southeast corner of Lorkey Lane and Hennessy Place. (5475 Lorkey Ln., Melbourne); and

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a PUD zoning classification, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of September 7, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission
As approved by the Board on September 7, 2023.



ATTEST:

RACHEL SADOFF, CLERK

(SEAL)



P&Z Board Hearing – August 14, 2023

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

**STAFF COMMENTS
 23Z00044**

Thomas P. and Shannon Harmony

GU (General Use) to AU (Agricultural Residential)

Tax Account Number: 2504668
 Parcel I.D.: 25-36-06-00254.1
 Location: South side of Pluckebaum Road, approximately 1,275-feet west of Range Road (District 2)
 Acreage: 1.36 acres portion of a 5.24-acre parcel
 Planning & Zoning Board: 8/14/2023
 Board of County Commissioners: 9/07/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot 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	GU	AU
Potential*	0 units	2 Single-Family units
Can be Considered under the Future Land Use Map	YES RES 1	YES RES 1

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

Background and Purpose of Request

The applicants are seeking a change of zoning classification from GU (General Use) to AU (Agricultural Residential) on 1.36 acre portion of their 5.24 acre parcel for the purpose of having unification of AU zoning classification on the entire 5.24 acres of the parcel to have horses along with stables. The subject 1.36-acre GU portion of the parcel is currently vacant. The AU portion of the parcel is developed with a single-family residence along with stables and barn. The GU zoned portion of the parcel was purchased from the abutting GU zoned parcel to the west and was combined with the applicants AU zoned parcel on March 21, 2023, per Warranty Deed recorded in Official Records Book 9743, page 1463.

AU zoning requires 2.5-acres, the subject property is a total of 5.24-acres. GU zoning requires a minimum of 5 acres. GU zoning requires a Conditional Use Permit (CUP) for any agricultural pursuit including raising farm animals on a parcel that is less than 5 acres in size.

The parcel has access to Pluckebaum Road, a County maintained public road.

The current GU is the original zoning adopted on May 22, 1958.

The AU portion of the parcel was rezoned from TR-3 (Mobile Home Park) and AU (Agricultural Residential) to all AU on February 6, 2020, per zoning action **19PZ00136**.

The current GU classification allows 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.

The proposed AU zoning classification allows for the sales of commodities raised on the premises in line with all agricultural pursuits.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Multi-family residence	RU-2-10	RES 15
South	Storage Yard	AU	RES 4
East	Single-family with Agricultural Uses	GU/RRMH-1	RES 4
West	Radio Station	GU	RES 4

The existing 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.

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

There have been one zoning actions within a half-mile radius of the subject property within the last three years.

- **21Z00032** was approved December 2, 2021, to rezone the parcels located Directly north across Pluckebaum Road from AU (Agricultural Residential) to RU-2-10 (Medium Density Multi-Family Residential).

Land Use

The subject property is currently designated as Residential 4 (RES 4) FLU. Both the current GU zoning and proposed AU zoning classifications can be considered consistent with the RES 4 FLU designation. There are two Future Land Use Designation, RES 4 and RES 15, within 500-feet of the subject property.

Applicable Land Use Policies

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

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 subject GU portion of the parcel is currently vacant. The request would unify the AU zoning classification on the entire 5.24 acres of the parcel. The applicant proposes having grazing farm animals (horses). This would be consistent with the remainder AU portion of the parcel. The general character of the area is agricultural horse boarding. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity.

- 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 general area is agricultural horse boarding uses on large lots with single-family homes on lots ranging in size from approximately 1.35 acre to 13.4 acres.

There is a mixture of GU, AU and RU-2-10 zoning classifications in the general area. There are two (2) FLU designations (RES 4 and RES 15) within 500-feet of this site.

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

Application 21Z00032 was approved December 2, 2021, to rezone the parcel located directly north across Pluckebaum Road from AU (Agricultural

Residential) to RU-2-10 (Medium Density Multi-Family Residential) located Directly north across Pluckebaum Road.

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

Site plan application 22SP00026 for the parcels located directly north across Pluckebaum Road are department review for a multi-family project.

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

None 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 subject property is located along the south side of Pluckebaum Road. The surrounding area is developed agricultural use for horse stables. The abutting parcel to the east is 13.42 acres and developed with stables for the boarding of horses with AU zoning. The abutting parcel to the south is 4.03 acres and developed with office building and being used as a storage yard with AU zoning. The abutting parcel to the west is 7.14 acres and developed with a radio station with GU zoning.

There is an existing pattern of developed properties surrounding the subject parcel on large lots greater than 4 acres. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established 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.

This parcel is not located in Platted Subdivision. The parcel abuts the south side of Pluckebaum Road which has established agricultural use for Boarding of Horses with residential homes.

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.

The request may include the boarding of horses. It is located in an existing residential zoned area with agricultural uses.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The area is primarily developed with single-family residence along with agricultural uses.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Pluckebaum Road, between Clearlake Road to Fiske Blvd, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 41.86% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.13%. The corridor is anticipated to operate at 41.99% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The subject property has access to The City of Cocoa potable water. The applicant will be installing a septic system.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Floodplain Protection
- Wetlands Protection and Hydric soils
- Protected and Specimen Trees
- Protected Species

The property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** 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 applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal or performing any land alteration activities.

Information available to NRM indicates that unpermitted land alteration activities may have occurred at the site. The discovery of unpermitted land activities impacting wetlands or the St. Johns Riverine floodplain may result in code enforcement action.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item # 23Z00044

Applicant: Thomas and Shannon Harmony

Zoning Request: GU to AU

Note: Consistent zoning with the adjoining property.

Zoning Board:8/14/2023; **BCC Hearing Date:** 9/7/2023

Tax ID No: 2504668

- 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:

- Floodplain Protection
- Wetlands Protection and Hydric soils
- Protected and Specimen Trees
- Protected Species

The property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** 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 applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal or performing any land alteration activities.

Information available to NRM indicates that unpermitted land alteration activities may have occurred at the site. The discovery of unpermitted land activities impacting wetlands or the St. Johns Riverine floodplain may result in code enforcement action.

Land Use Comments:

Floodplain Protection

The property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. **The property is subject**

to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions. Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985). 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 applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal or performing any land alteration activities.

Information available to NRM indicates that unpermitted land alteration activities may have occurred in the St. Johns Riverine floodplain. The discovery of unpermitted land activities may result in code enforcement action.

Wetlands and Hydric Soils

The entire parcel contains hydric soils (Holopaw sand, 0 to 2 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Additionally, National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands are mapped the property, specifically on the south and east portions of the parcel.

A wetland delineation will be required prior to any land clearing activities, site plan design or building permit submittal. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). 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 plan or permit submittal.

Any wetland impact, authorized under this Division, for residential use shall be limited to the structural building area requirements for the primary use as defined by the zoning code, on-site disposal system requirements, and the 100-year flood elevation requirement for first floor elevations, and necessary ingress and egress.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.

Information available to NRM indicates that unpermitted land alteration activities may have occurred in wetlands. The discovery of unpermitted land activities may result in code enforcement action.

Protected and Specimen Trees

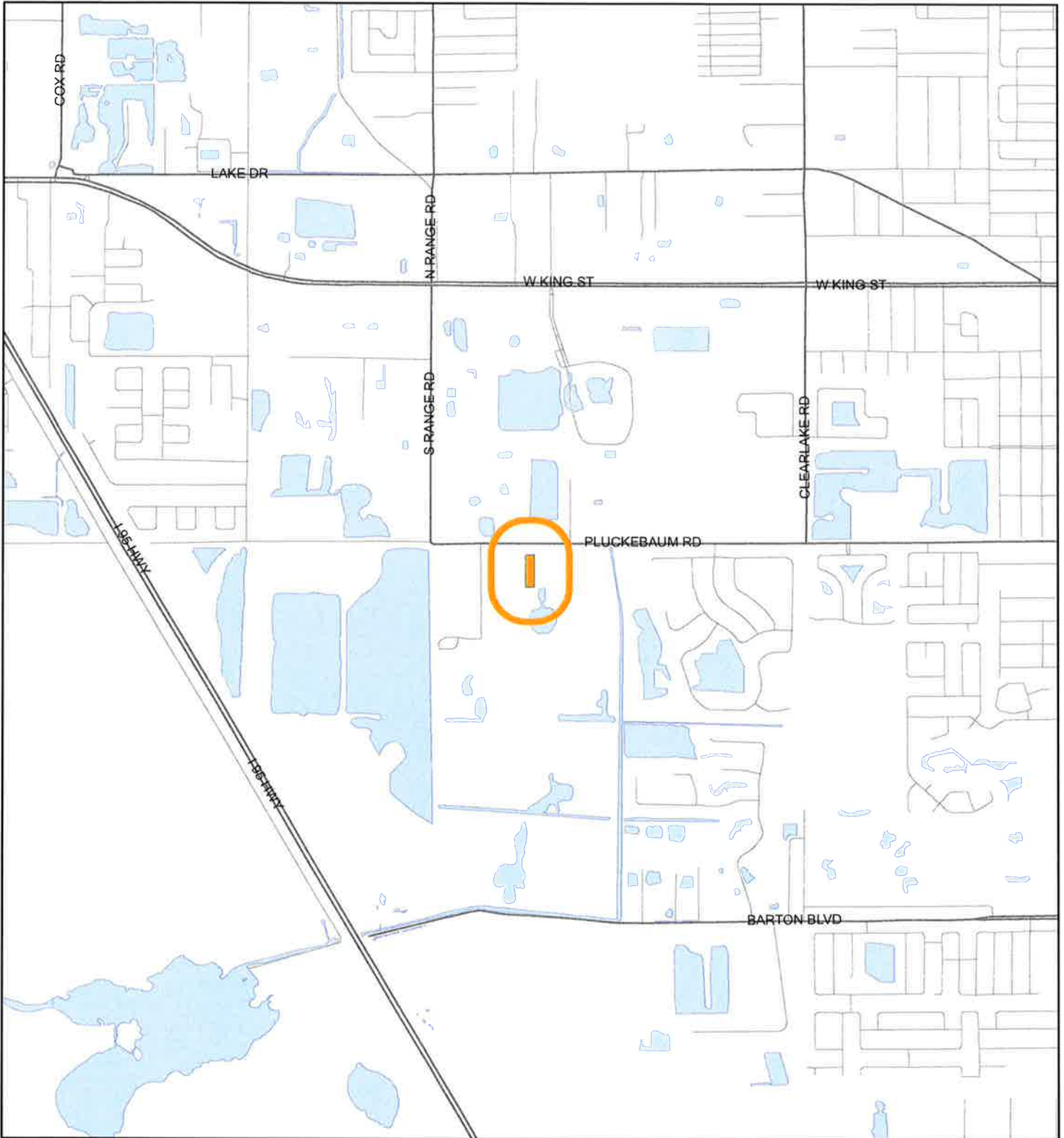
Protected and Specimen Trees may exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements.

Protected Species

Information available to NRM 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.

LOCATION MAP

Harmony, Thomas & Shannon
23Z00044





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

Buffer Distance: 500 feet

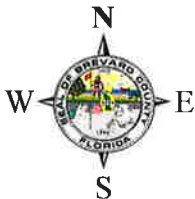
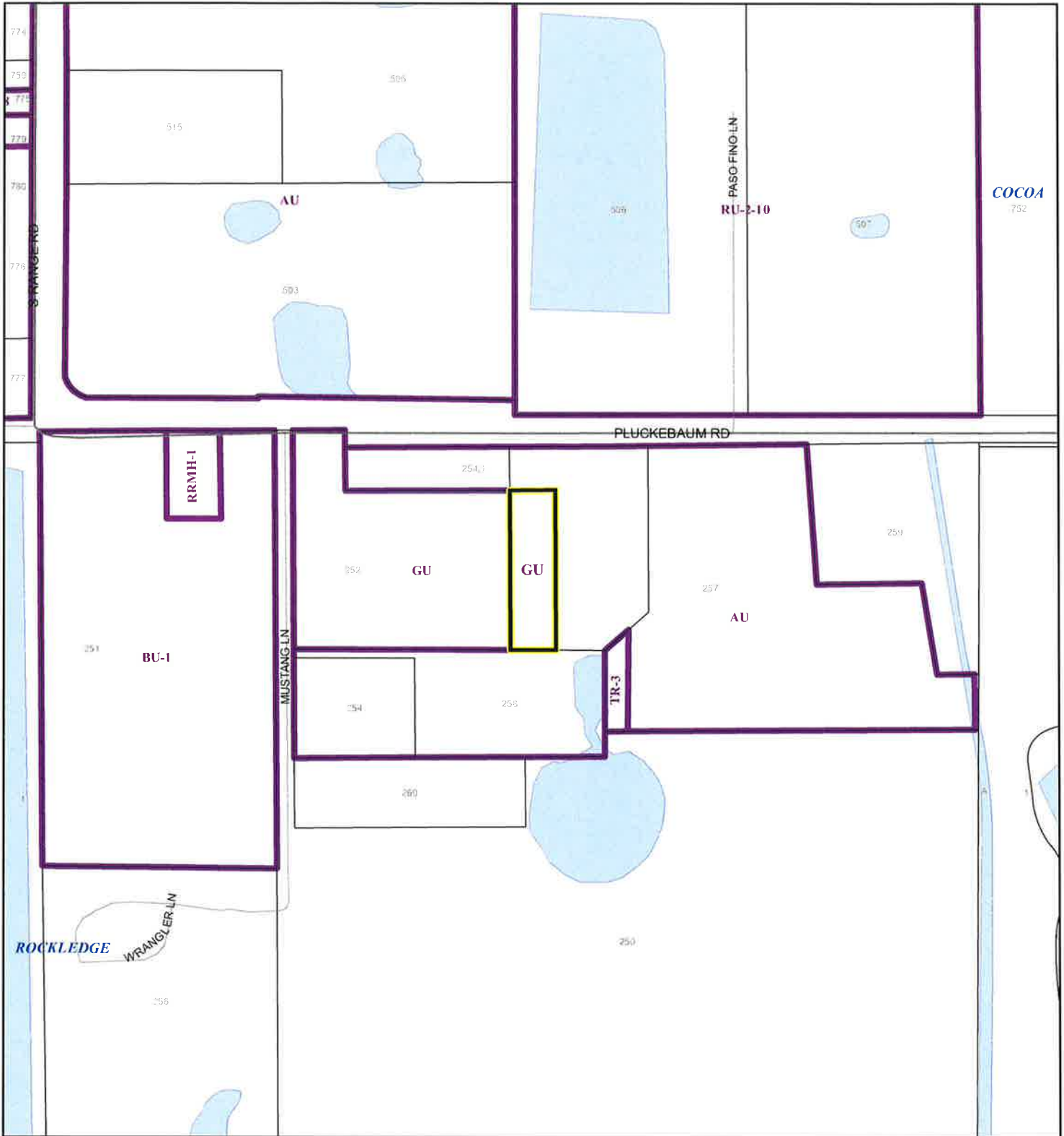
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/21/2023

-  Buffer
-  Subject Property

ZONING MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

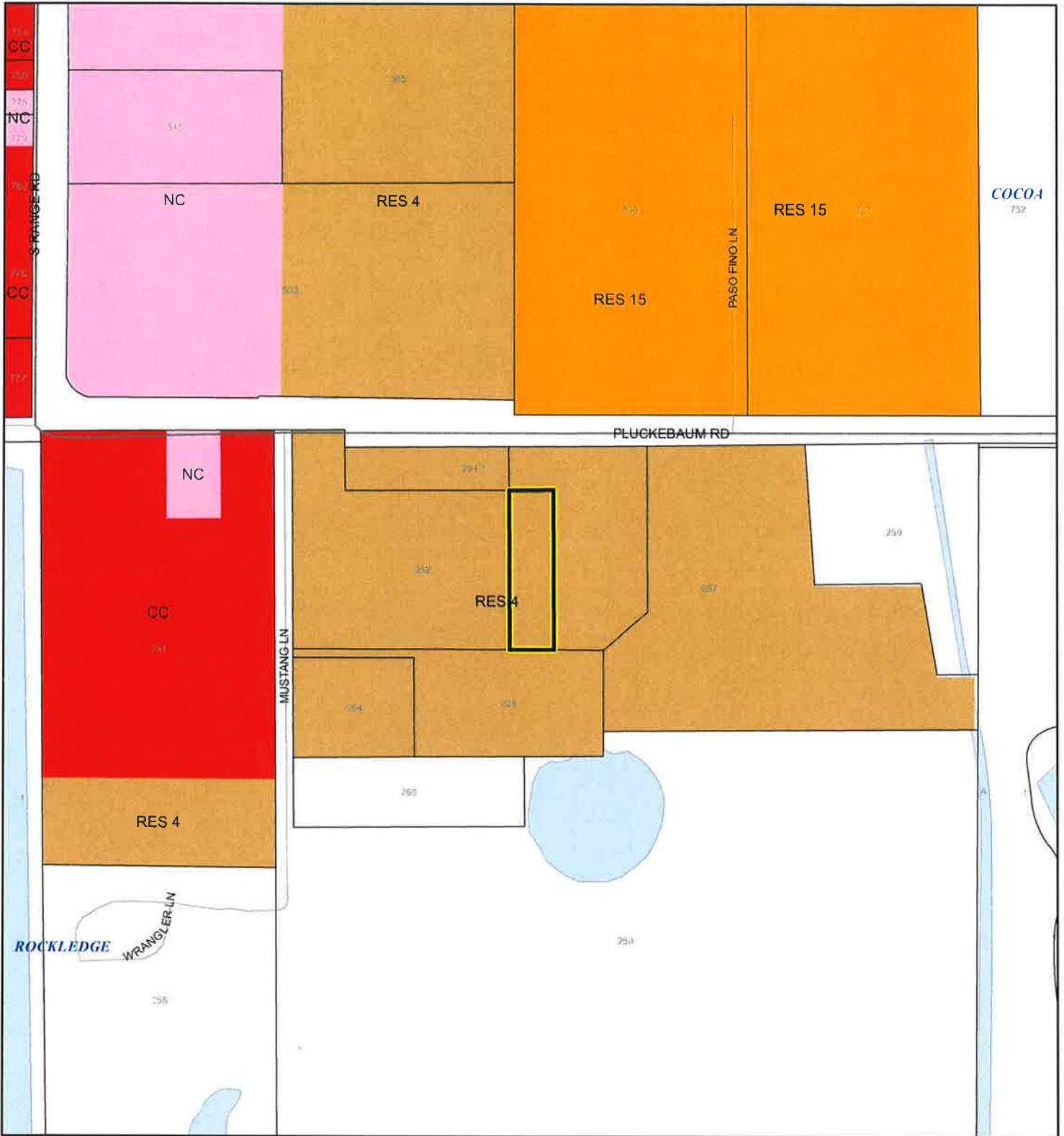
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/21/2023



-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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AERIAL MAP

Harmony, Thomas & Shannon
23Z00044



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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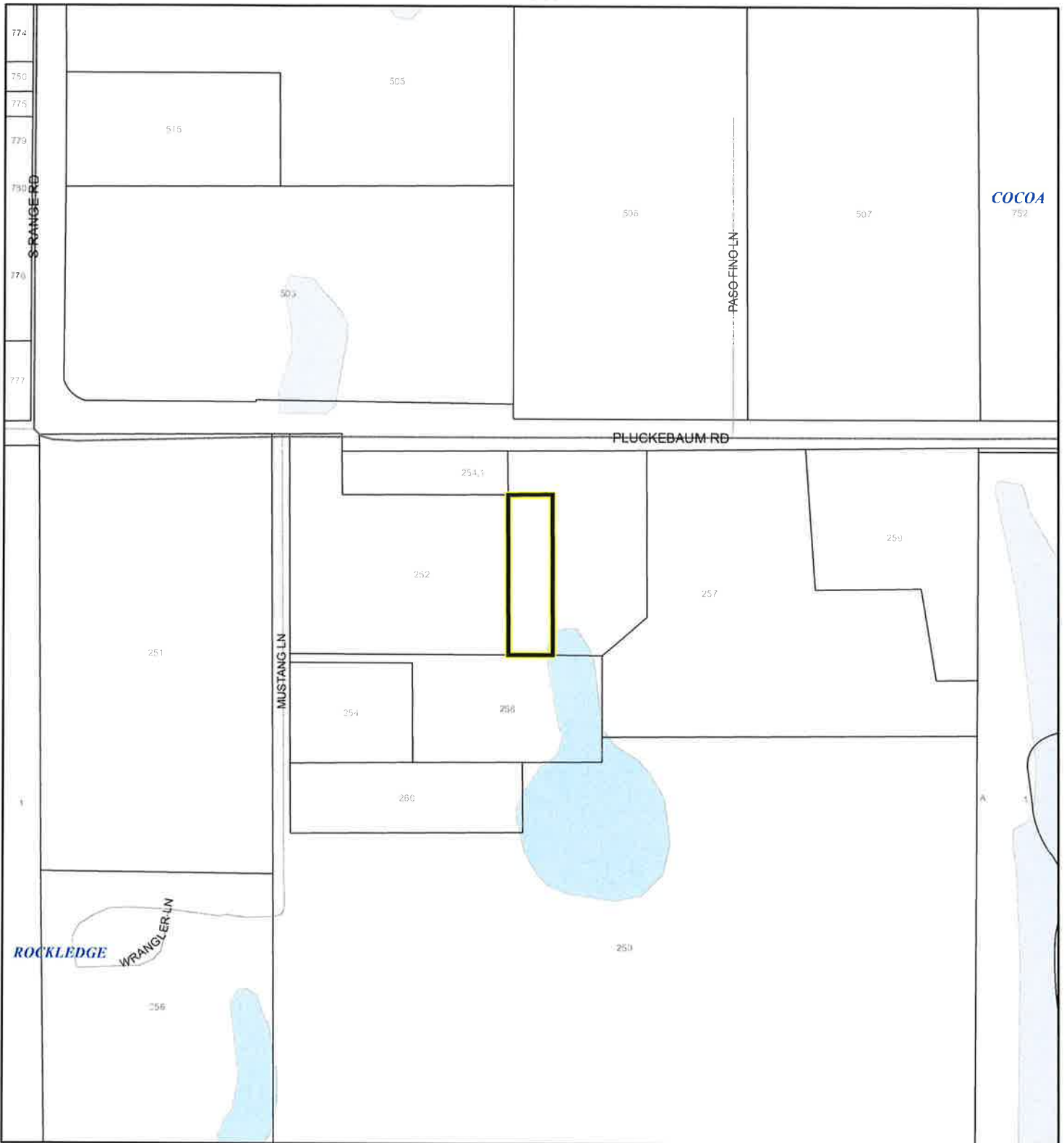
Produced by BoCC - GIS Date: 6/21/2023

 Subject Property

 Parcels

NWI WETLANDS MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

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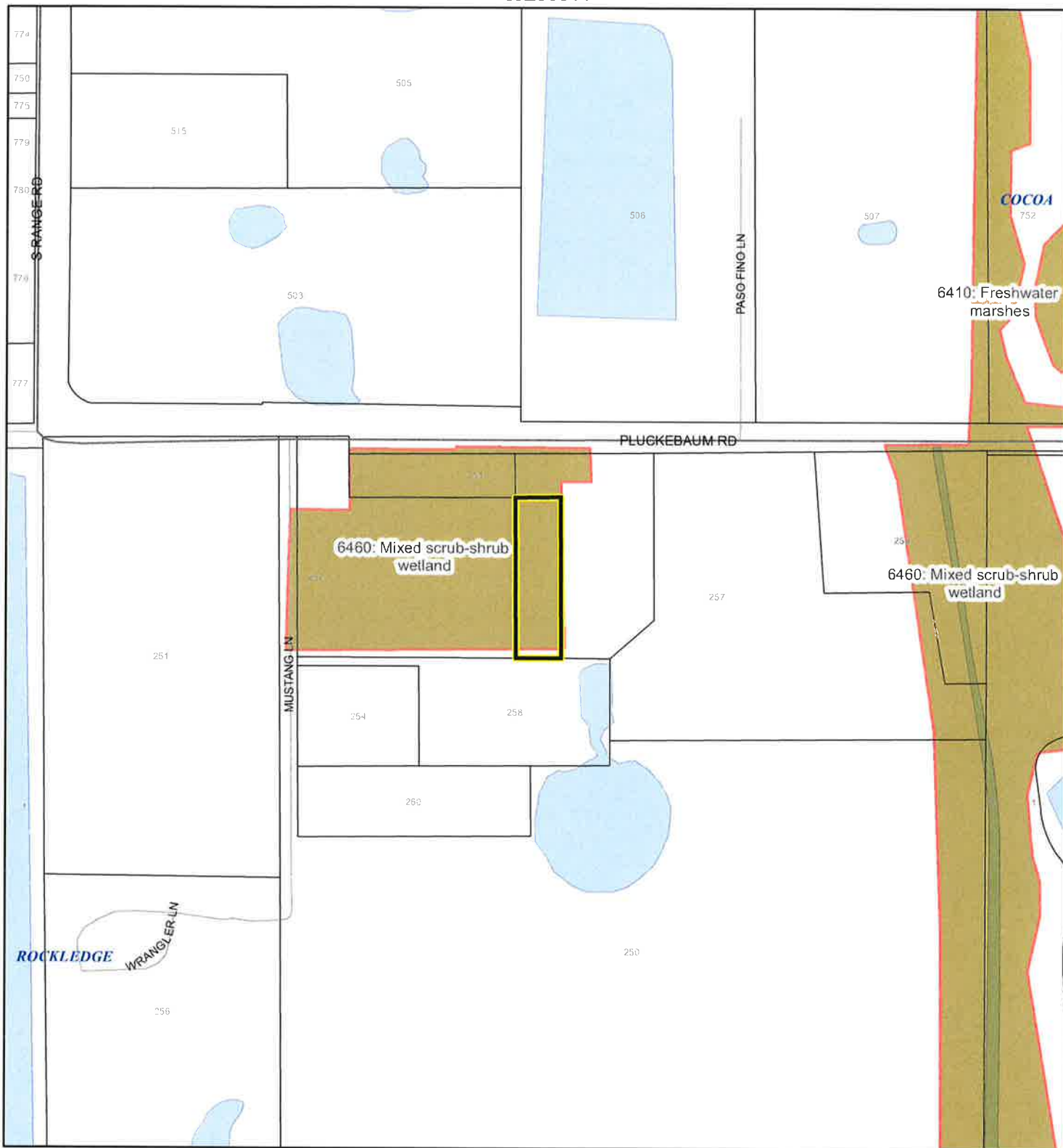
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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

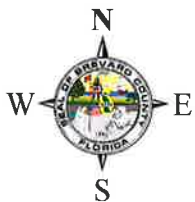
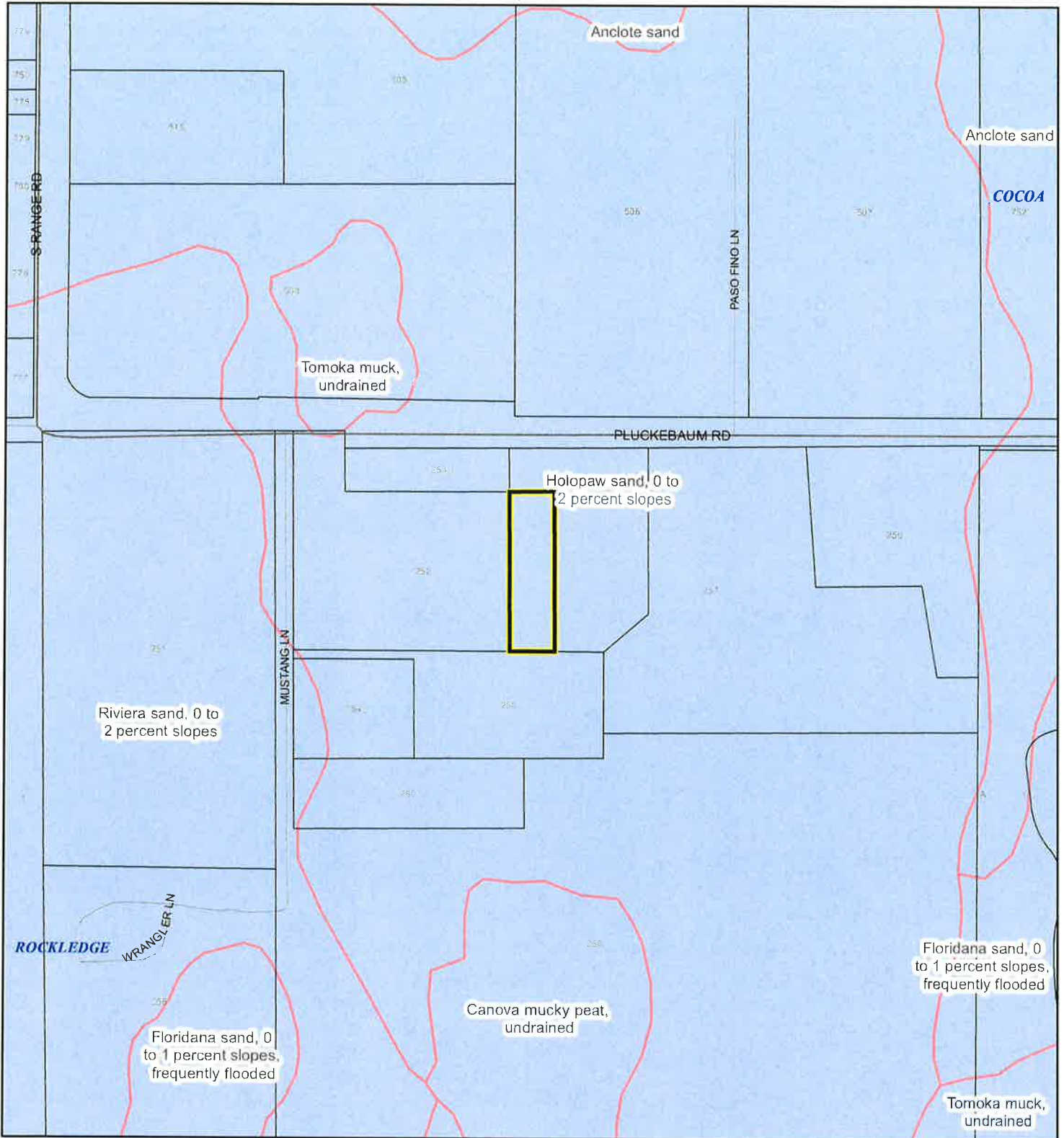
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

Harmony, Thomas & Shannon
23Z00044







1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/21/2023

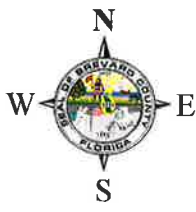
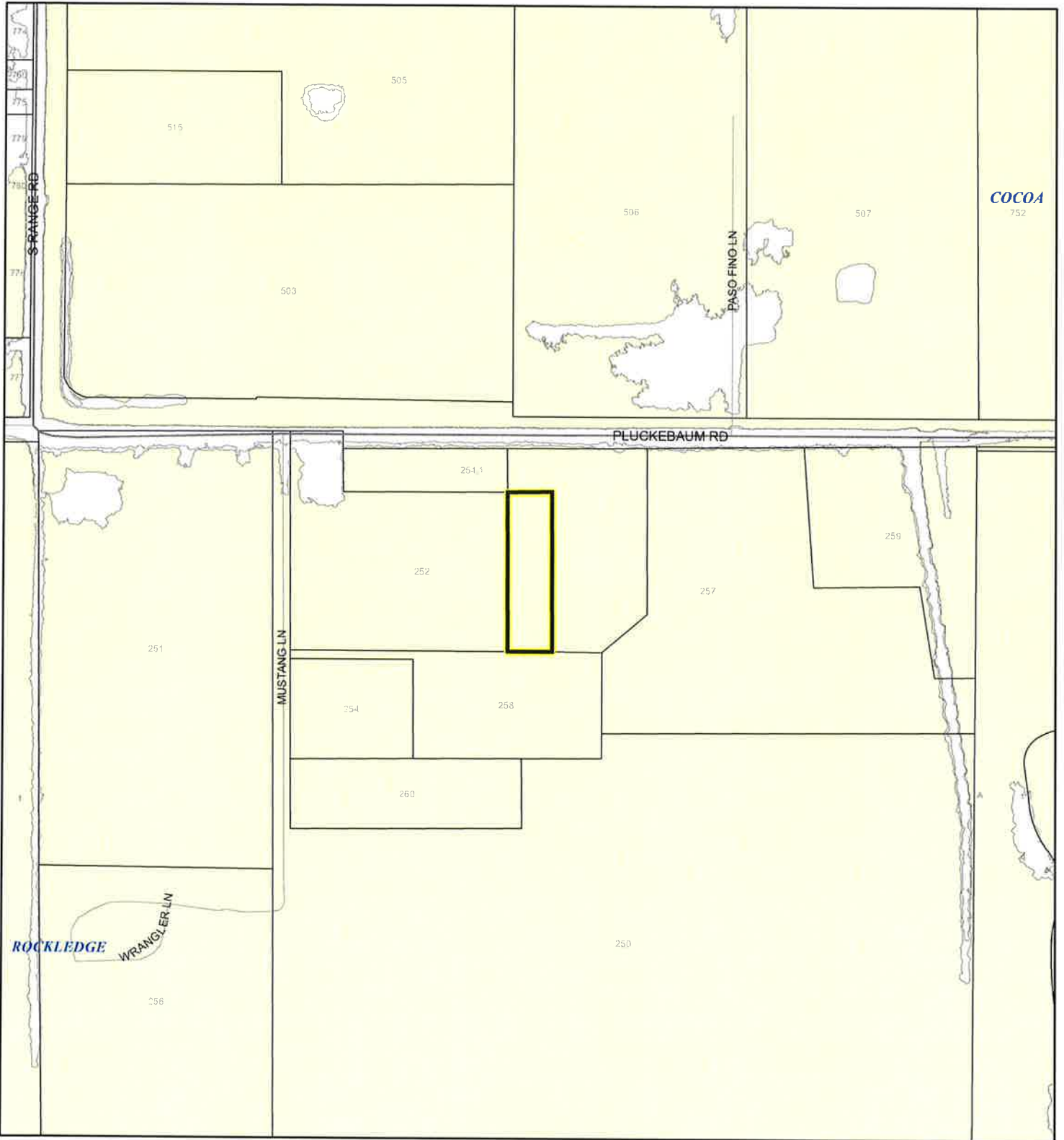
USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None

-  Subject Property
-  Parcels

FEMA FLOOD ZONES MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

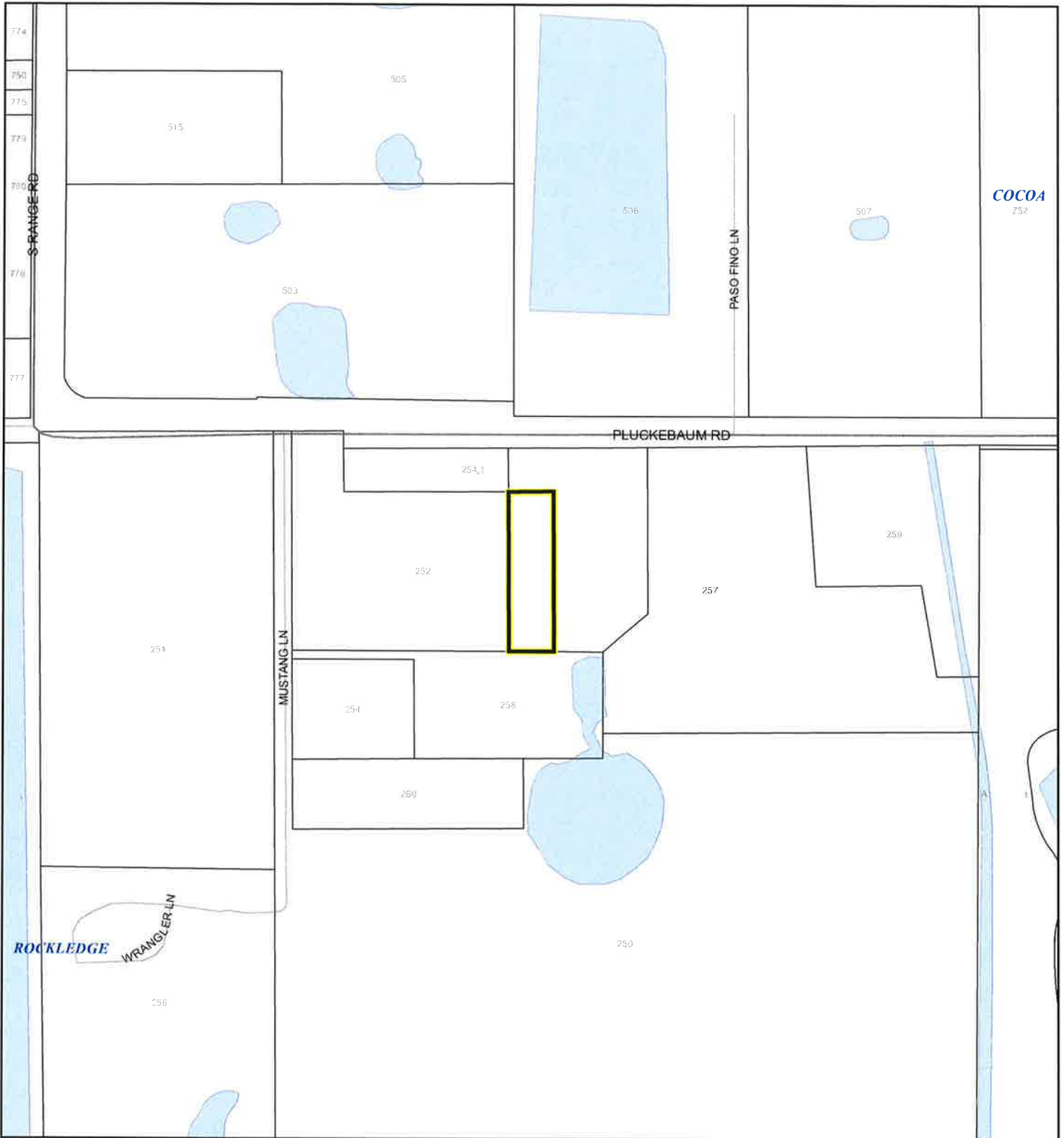
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FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

Produced by BoCC - GIS Date: 6/21/2023

COASTAL HIGH HAZARD AREA MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

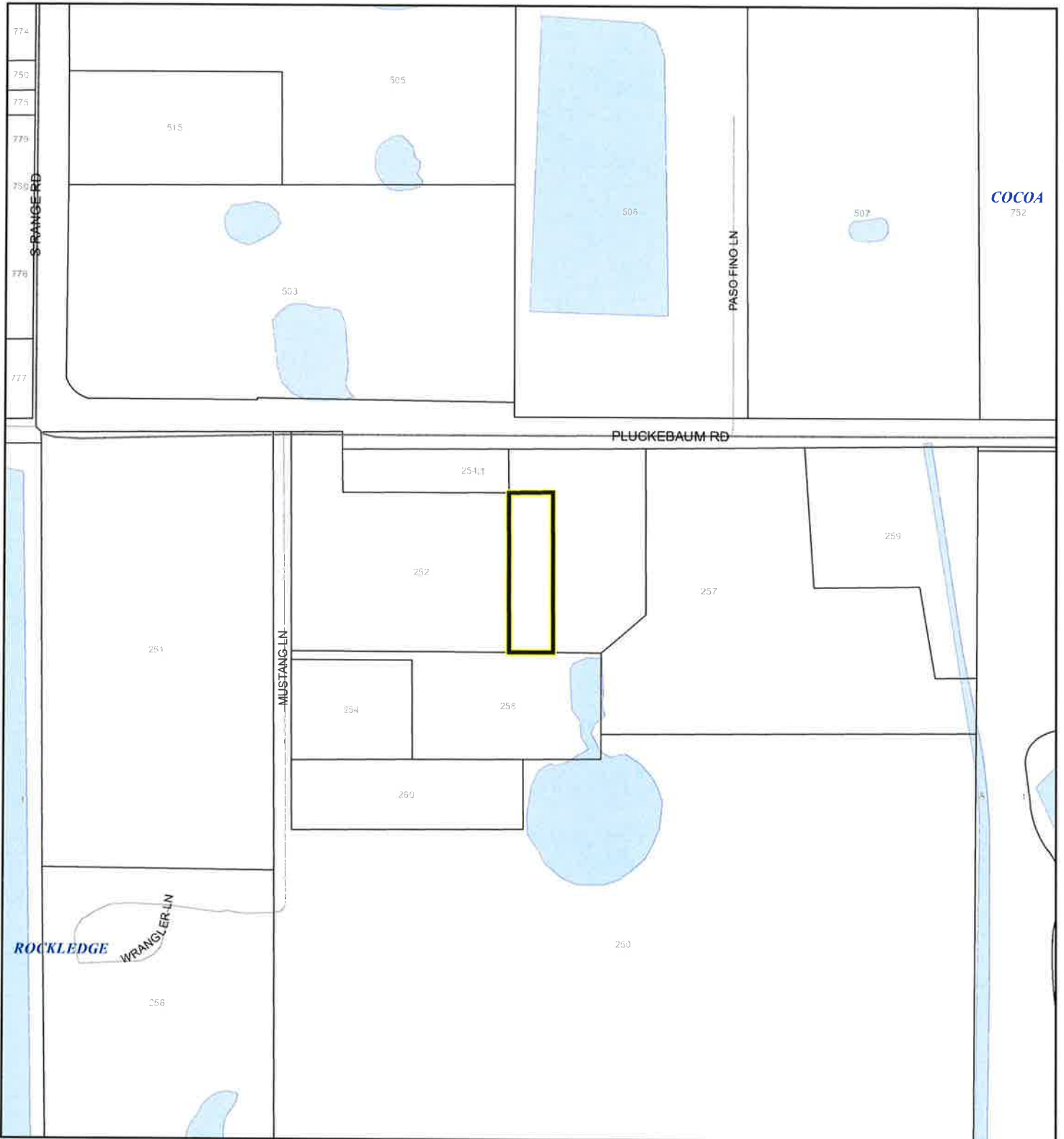
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-  Subject Property
-  Parcels
- Coastal High Hazard Area**
-  SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP






Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

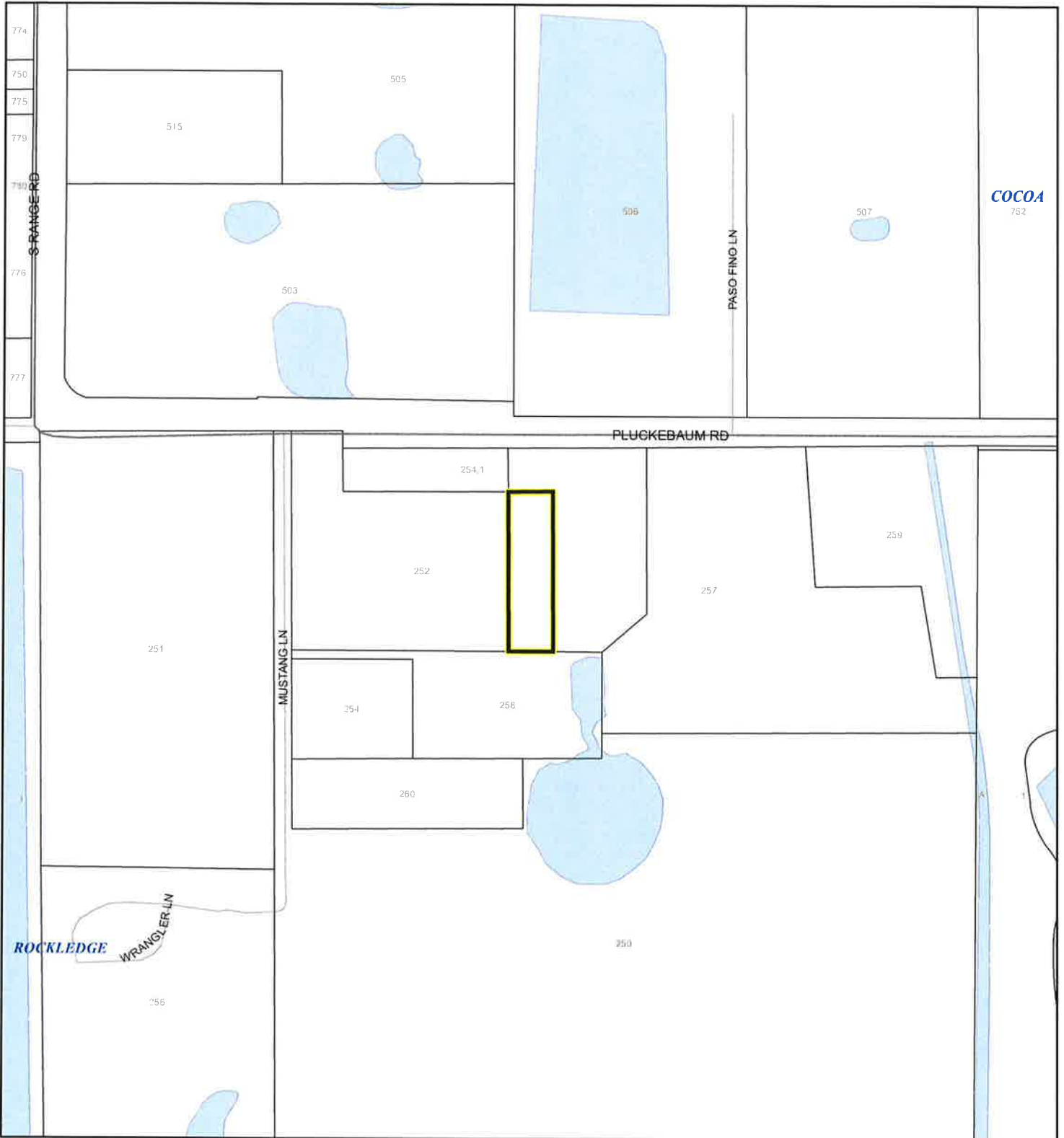
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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-  Subject Property
-  Parcels
- Septic Overlay**
-  40 Meters
-  60 Meters
-  All Distances

EAGLE NESTS MAP

Harmony, Thomas & Shannon
23Z00044



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

 Eagle Nests
FWS

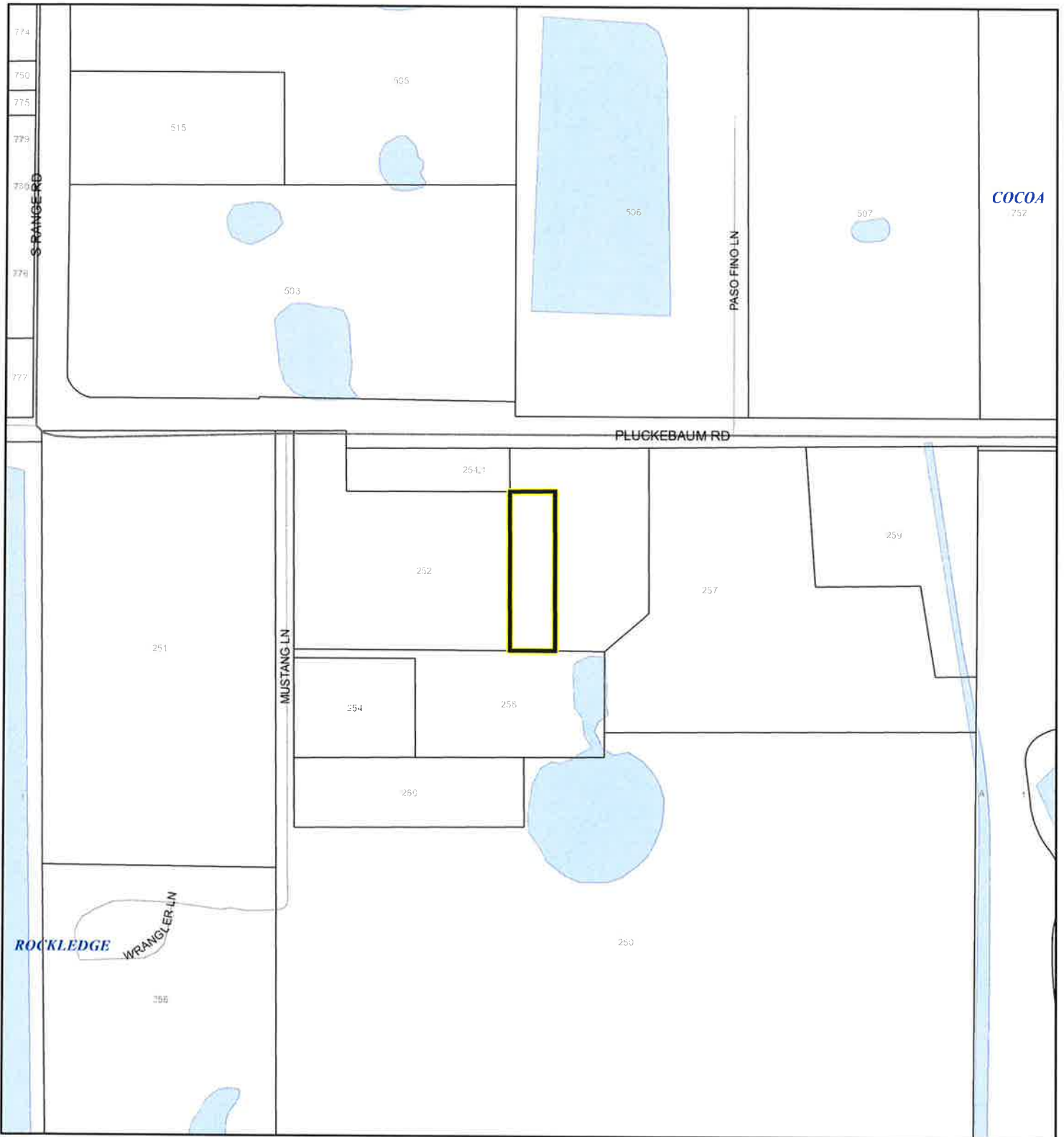
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/21/2023

SCRUB JAY OCCUPANCY MAP

Harmony, Thomas & Shannon




23Z00044



1:4,800 or 1 inch = 400 feet

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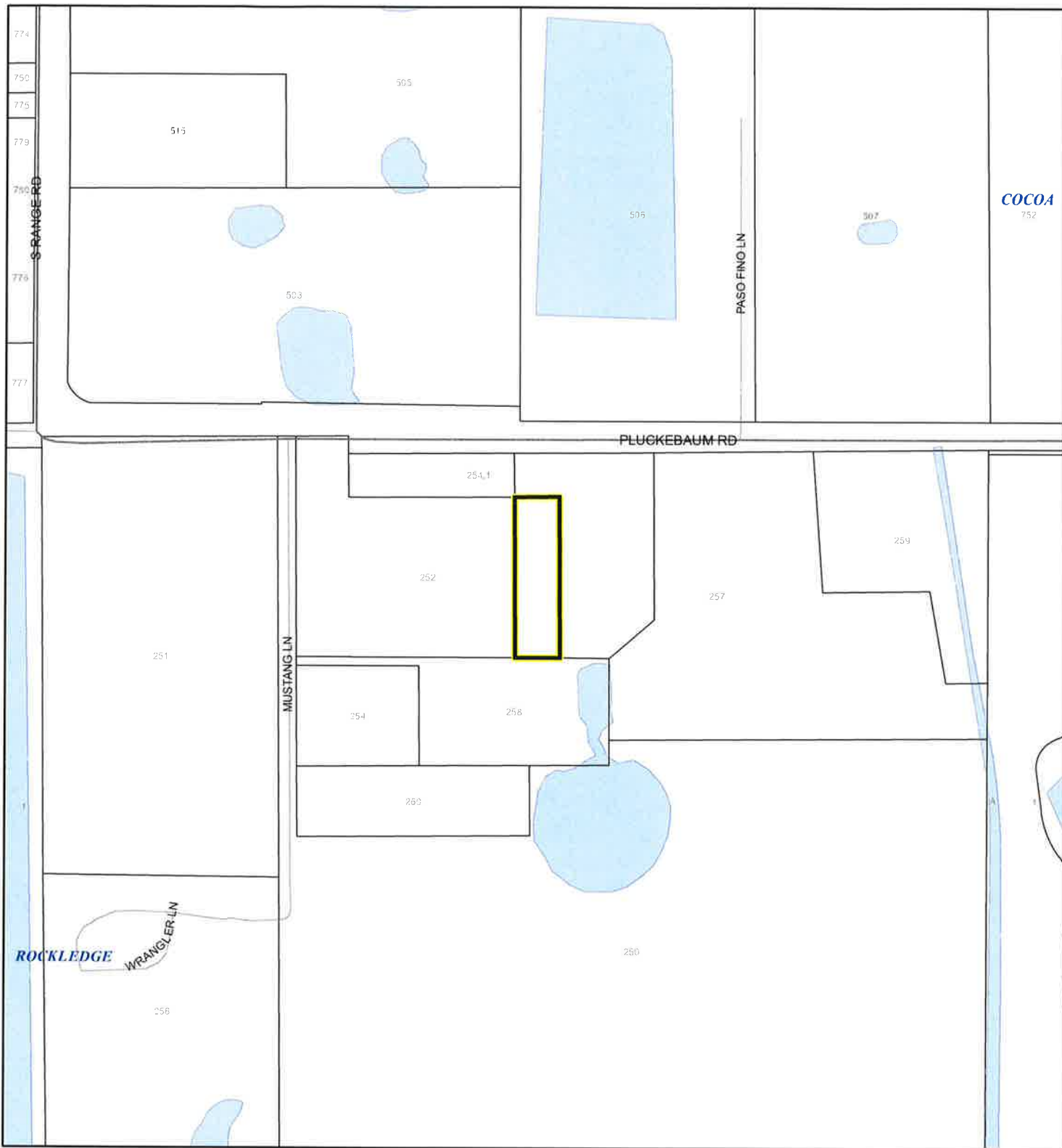
Produced by BoCC - GIS Date: 6/21/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Harmony, Thomas & Shannon

23Z00044



COCOA
752

ROCKLEDGE

WRANGLER LN



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/21/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 14, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Brian Hodgers (D2); Lorriane Koss (D2 Alt); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Morris Richardson, County Attorney; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Thomas P. and Shannon Harmony

A change of zoning classification from GU (General Use) to AU (Agricultural Residential) The property is 1.36 acres, located on the south side of Pluckebaum Rd., approx. 0.25 mile east of S. Range Rd. (2235 Pluckebaum Rd., Cocoa) (23Z00044) (Tax Account 2504668) (District 2)

Thomas Harmony, 2190 Rockledge Drive, Rockledge, stated they exchanged some property with a neighbor on Pluckebaum Road to make both lots easier to access and beneficial to each other. He stated they would like to change the zoning to AU because they board horses.

No public comment.

Ron Bartcher asked if Mr. Harmony would agree to rezone to AU(L), which is lower intensity and does not allow commercial uses. He stated eventually the property will belong to someone else and when that happens the zoning doesn't change, so if the property is zoned agriculture and the next owner wants to have chickens or hogs, the neighbors might object.

Ben Glover stated he does not believe AU(L) is necessary for the property.

Shannon Harmony stated Pluckebaum Road is on one side of the property, a semi-truck repair shop to the south, a heavy equipment parking area to the west, and the rest of their property to the east is a veterinarian clinic and a horse-riding facility.

Paul Body asked if the property is already being used for boarding horses. Mr. Harmony replied yes, it is. Mr. Body noted the boarding of horses would not be allowed in AU(L).

Motion by Brian Hodgers, seconded by Debbie Thomas, to recommend approval of a change of zoning classification from GU to AU. The motion passed unanimously.