



AGENDA REPORT
February 7, 2019

Sylvia Properties, Inc. (Fernando Ortiz) requests a change of zoning classification from TU-2 to BU-2. (18PZ00120) (District 5)

SUBJECT:

Public Hearing, Re: Sylvia Properties, Inc. (Fernando Ortiz) requests a change of zoning classification from TU-2 (Transient Tourist Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 5 acres, located on the northwest corner of U.S. Highway 192 and Columbia Lane. (No assigned address. In the Melbourne area.) (18PZ00120) (District 5)

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 the request for a change of zoning classification from TU-2 to BU-2.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is seeking a change of zoning classification on a 5 acre parcel from Transient Tourist Commercial (TU-2) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of expanding his business which is on the abutting parcel to north on Columbia Lane. The applicant states he owns the abutting parcel to the north, which has an existing warehouse building he uses for his Stone & Surface Designers company which warehouses custom stone for counter tops and tiles. BU-2 permits this use the applicant is seeking, but this use is not permitted in TU-2.

This parcel is located on the northwest corner of US 192 and Columbia Lane and is situated between I-95 and the new St. John's Heritage Parkway. There is not a traffic light at the intersection of Highway 192. The access to Columbia Lane from US 192 is limited to right in /right out.

The BU-2 zoning classification has a minimum lot width of 75' and depth of 75'. The existing TU-2 zoning classification has a minimum lot width of 100' and depth of 150'. The parcel has 700 feet of frontage along Columbia lane and 313.78 feet of frontage along Highway 192. Therefore, if the parcel were to be subdivided in the future, it has the potential to yield significantly more parcels once rezoned to BU-2, than with the current TU-2 zoning. At 75' wide by 75' deep, this 5 acre parcel has the potential for four abutting

parcels along Highway 192 and eight abutting parcels along Columbia Lane and a total potential for an 18 lot subdivision.

The applicant's warranty deed memorializes a prohibition on the use of the property "for a convenience store or for the sale, marketing, storage or advertising of petroleum fuels, motor oils or tobacco products" for 25 years from the date of execution, which would prohibit those uses until September 24, 2043. Please note that this is a private restriction and is not enforced by the County.

The Board may wish to consider whether the potential for other BU-2 uses (i.e., automobile repair, warehousing and wholesale, contractor's offices, etc.) at this location BU-2 zoning classification are compatible with the surrounding area. Should the Board feel that these uses are too intense for US 192 "gateway"; the Board may consider approving the less intense BU-1 zoning classification along the Highway 192 frontage or limit the amount of area for approval for BU-2 zoning to that portion of the property that is abutting the BU-2 parcel to the north.

On January 7, 2019, by an 8:1 vote, the Planning and Zoning Board approved the request with a Binding Development Plan limiting BU-2 to the northern two (2) acres, with TU-2 remaining on the southern three (3) acres; that no additional metal buildings be constructed on the property and that the use be limited to the current business of Stone & Surface Designers, Inc.

ATTACHMENTS:

Description

- ☐ **Administrative Policies**
- ☐ **Staff Comments**
- ☐ **GIS Maps**
- ☐ **West Melbourne FLU Map**
- ☐ **West Melbourne Zoning Map**
- ☐ **P&Z Minutes - January**

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 and 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 zoning, conditional uses, comprehensive plan appeals, 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 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 per cent 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 an 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 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.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

REZONING REVIEW WORKSHEET

18PZ00120

Commission District # 5

Hearing Dates: P&Z 01/07/19

BCC 02/07/19

Owner Name: SYLVIA PROPERTIES, INC.

Request: TU-2 to BU-2

Subject Property:

Parcel ID# 28-36-03-00-10

Tax Acct.# 2801303

Location: Northwest corner of Highway 192 and Columbia Lane.

Address: No assigned address. In the Melbourne area.

Acreage: 5

Consistency with Land Use Regulations

YES

Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Proposal can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	TU-2**	BU-2
Potential*	60,984 sq. ft.	60,984 sq. ft.
Can be Considered under FLU MAP	Yes, Community Commercial	Yes, Community Commercial

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **The parcel is currently undeveloped vacant land.

	ADT	PM PEAK		
Trips from Existing Zoning	9,300*	808*	Segment Number	365A
Trips from Proposed Zoning	9,300	808	Segment Name	Highway 192 Ocala County to I-95
Maximum Acceptable Volume (MAV)	49,600	4,464	Acceptable LOS	E
Current Volume	9,655	869	Directional Split	0.51
Volume With Proposed Development	18,955	1,677	ITE CODE	
Current Volume / MAV	19.47%	19.47%	820	
Volume / MAV with Proposal	38.22%	37.57%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

*The parcel is currently undeveloped vacant land.
Trips are calculated as a proposed Shopping Center.

Background & Purpose of Request

The applicant is seeking a change of Zoning classification on a 5 acre parcel from Transient Tourist Commercial (TU-2) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of expanding his business which is on the abutting parcel to north on Columbia Lane. The applicant states he owns the abutting parcel to the north, which has an existing warehouse building he uses for his Stone & Surface Designers company which warehouses custom stone for counter tops and tiles. BU-2 permits this use the applicant is seeking, but this use is not permitted in TU-2.

This parcel is located on the northwest corner Highway 192 and Columbia Lane and is situated between I-95 and the new St. John's Heritage Parkway. There is not a traffic light at the intersection of Highway 192 and Columbia Lane and there is limited access to Columbia Lane with the easterly bound traffic on Highway 192 not having a left turning lane to exit onto Columbia Lane and southbound traffic on Columbia Lane not having a left turning lane to exit onto US 192.

The applicant's warranty deed memorializes a prohibition on the use of the property "for a convenience store or for the sale, marketing, storage or advertising of petroleum fuels, motor oils or tobacco products" for 25 years from the date of execution, which would prohibit those uses until September 24, 2043.

TU-2

The TU-2 transient tourist commercial zoning classification encompasses land devoted to tourist facilities located within one-half mile from interstate or expressway interchange rights-of-way where traffic facilities are capable of accommodating higher-density uses and resulting traffic volumes. The minimum lot size requires an area of not less than 15,000 square foot.

BU-2

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

July 7, 1966: the subject parcel was rezoned under action # (Z-1942) from Agriculture Use, currently Agricultural Residential (AU) to General Retail Commercial (BU-1).

July 3, 1975: the subject parcel was administrative rezoned under action # (AZ-66) from BU-1 to TU-2.

Land Use Compatibility

This site retains the Community Commercial (CC) Future Land Use designation. The BU-2 zoning is consistent with Community Commercial Future Land Use designation.

FLUE 2.1 outlines the role of the Comprehensive Plan in the designation of commercial land.

The request for BU-2 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;
Transient commercial uses;
Tourist commercial uses;
Professional offices;
Personal service establishments;
Retail establishments;

Non-retail commercial uses;
Residential uses;
Institutional uses;
Recreational uses;
Public facilities;
Transitional uses pursuant to Policy 2.14; and
Planned Industrial Park development (as permitted by PIP zoning).

This request should be evaluated within the context of **Policy 2.14A** of the Future Land Use Element, which establishes locational criteria for non-retail commercial uses, as follows:

A. Non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristics are established or planned so as to protect residential areas from their influence. Non-retail uses, including wholesaling, contracting, heavy repair services, paint and body shops, storage and warehousing uses, may serve as a transitional use between the following higher intensity and lower intensity uses, in the following listed Future Land Use designations:

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

Lower Intensity Uses: Community Commercial, Planned Industrial Park or Planned Business Park uses.

Future Land Use Designations: Community Commercial, Heavy/Light Industrial or Planned Industrial (Planned Industrial permits PIP zone uses only).

Roadway Access Requirements: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors.

Policy 2.14 of the Future Land Use Element discusses locational criteria for non-retail commercial uses. It provides for the introduction of non-retail uses in areas in which non-retail uses/zoning or industrial uses/zoning have been established. BU-2 Zoning is on the abutting parcel to the north of the subject parcel.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department. Development footprint may be limited but wetland impacts are permissible within 1/2 mile of I-95 interchange.

Applicable Land Use Policies

This request, the applicant is seeking a change of zoning classification from TU-2 on a 5 acre parcel to BU-2 for the purpose of expanding his business which is on the abutting parcel to north.

The surrounding parcels to the east directly across Columbia Lane are zoned BU-1 and TU-2 and remain undeveloped. The abutting parcel to the west is zoned AU and remains undeveloped. The abutting parcel to the north is zoned BU-2 which is own by the applicant and is developed with a commercial warehouse.

BU-1

The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots, with a minimum lot width and depth of 75 feet. The BU-1 classification does not permit warehousing or wholesaling. The BU-1 portion of the parcel does not meet the minimum lot size requirements.

AU

The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet of living area. The AU Zoning classification allows for all agricultural pursuits, including the packing, processing and sales of commodities raised on the premises.

The half-mile radius around this site has seen only one zoning change within the last 3 years.

December 01, 2016: **16PZ00089** a CUP for On-premise consumption of alcoholic beverages from 2COP to 4COP (full liquor) for an existing restaurant. This CUP is on an 8.53 acre parcel located east of I-95 on the South side of W. New Haven approximately 2,330 feet east of the subject parcel.

For Board Consideration

The applicant is seeking a change of Zoning classification on a 5 acre parcel from Transient Tourist Commercial (TU-2) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of expanding his business which is on the abutting parcel to north on Columbia Lane. The applicant states he owns the abutting parcel to the north, which has an existing warehouse building he uses for his Stone & Surface Designers company which warehouses custom stone for counter tops and tiles. BU-2 permits this use the applicant is seeking, but this use is not permitted in TU-2.

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The Board may wish to consider whether the BU-2 Zoning classification is consistent and compatible with the surrounding area and as a gateway along US 192 into the area. The only developed parcel abutting the site is the BU-2 zoned parcel to the north which has an existing warehouse building owned by the applicant for his Stone & Surface Designers company.

The Board should be aware of the potential for other proposed BU-2 uses at this location. The Board may wish to consider the less intense BU-1 zoning classification along the Highway 192 frontage or limit the amount of area for approval for BU-2 zoning to that portion of the property that is abutting the BU-2 parcel to the north.

The applicant's warranty deed memorializes a prohibition on the use of the property "for a convenience store or for the sale, marketing, storage or advertising of petroleum fuels, motor oils or tobacco products" for 25 years from the date of execution, which would prohibit those uses until September 24, 2043.

The BU-2 Zoning classification has a minimum lot width of 75' and depth of 75'. The existing TU-2 Zoning classification has a minimum lot width of 100' and depth of 150'. The parcel has 700 feet of frontage along Columbia lane and 313.78 feet of frontage along Highway 192. Therefore, if the parcel were to be subdivided in the future, it has the potential to yield significantly more parcels once rezoned to BU-2, than with the current TU-2 Zoning. At 75' wide by 75' deep, this 5 acre parcel has the potential for four abutting parcels along Highway 192 and eight abutting parcels along Columbia Lane and a total potential for an 18 lot subdivision.

Although not required by the Comprehensive Plan, the Board may wish to consider the current lack of water and sewer infrastructure to the area. If connected to sewer, the service would be provided by the City of West Melbourne and once contiguous, the parcel would be required to annex into the city.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review
SUMMARY

Item #: 18PZ00120	Applicant: Fernando Ortiz, Sylvia Properties, Inc.
Zoning Request: TU-2 to BU-2	
P&Z/LPA Hearing Date: 1/07/19;	BCC Hearing Date: 2/07/19

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 28, Rng. 36, Sec. 03;
Tax ID No. 2801303**

The subject parcel contains mapped hydric soils (Pineda sand 0 to 2% slopes) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(3)a, Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and the proposed wetland impacts are entirely located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall be measured from the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696.

A large portion of the property is mapped as being within the riverine floodplain as identified by the Federal Emergency Management Agency as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(1), there shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain. Development shall not adversely impact the drainage of adjoining properties and compensatory storage may apply. Depending on riverine floodplain, commercial land uses may have a limited fill footprint up to prohibited land uses unless determined by the Board of County Commissioners to be in the public interest. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Staff Comments: Page 6
(18PZ00120)
01/07/19 PZ // 02/07/19 BCC

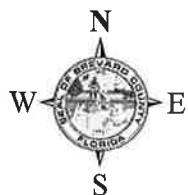
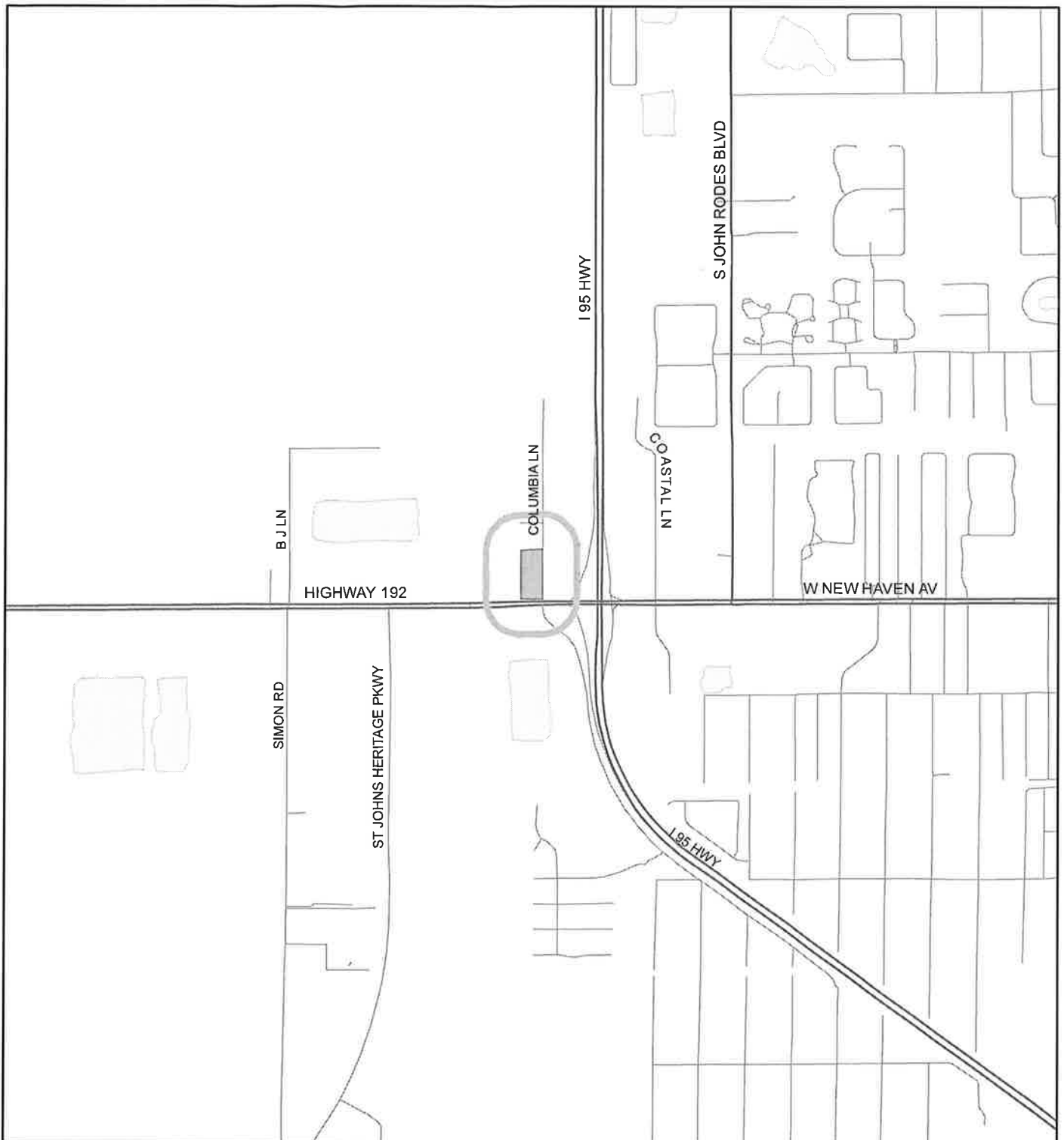
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

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. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM prior to performing any land clearing activities.

LOCATION MAP

SYLVIA PROPERTIES, INC.

18PZ00120



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

Buffer Distance: 500 feet

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

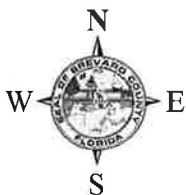
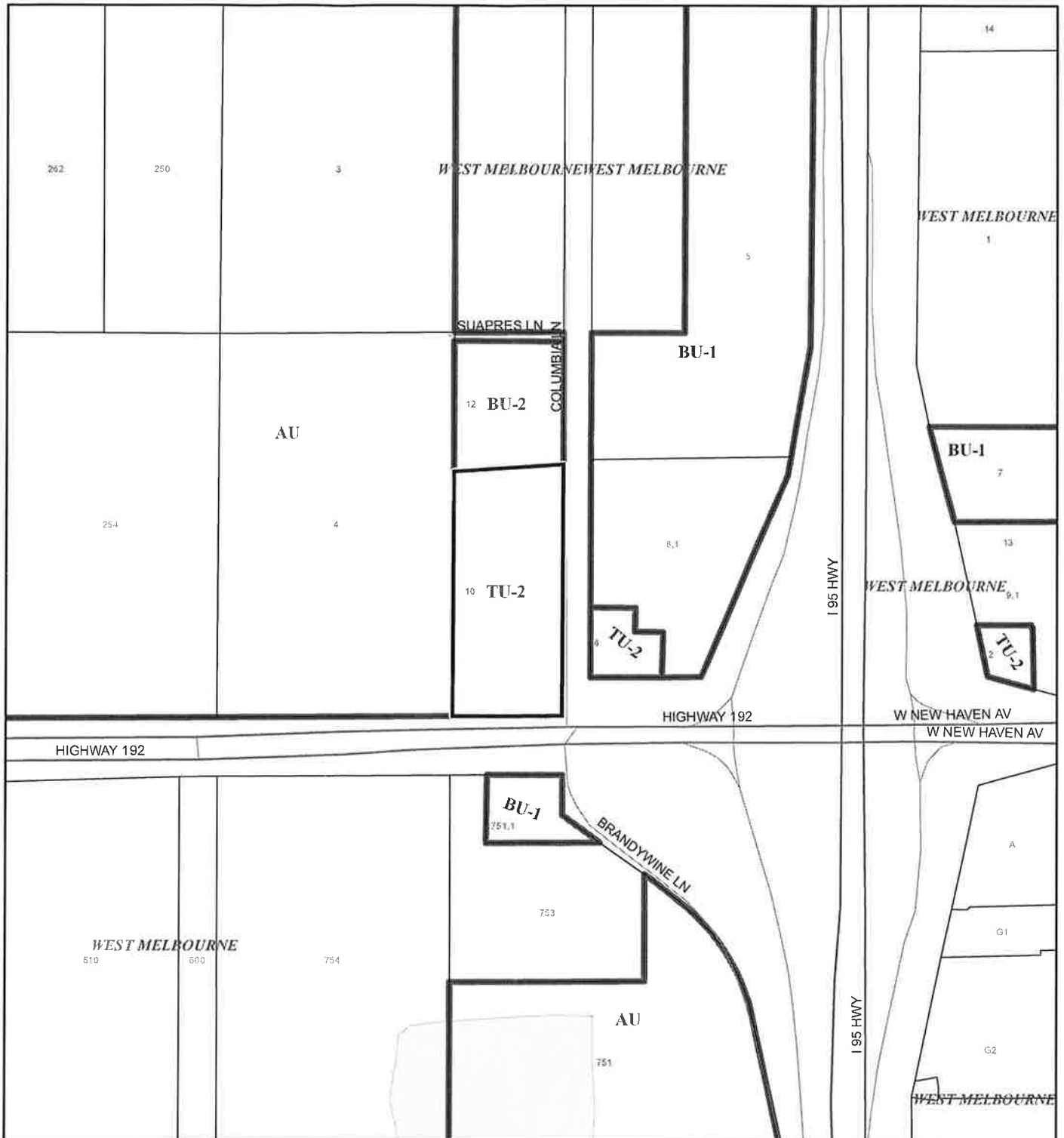
Produced by BoCC - GIS Date: 10/22/2018

— Buffer
■ Subject Property

ZONING MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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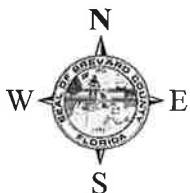
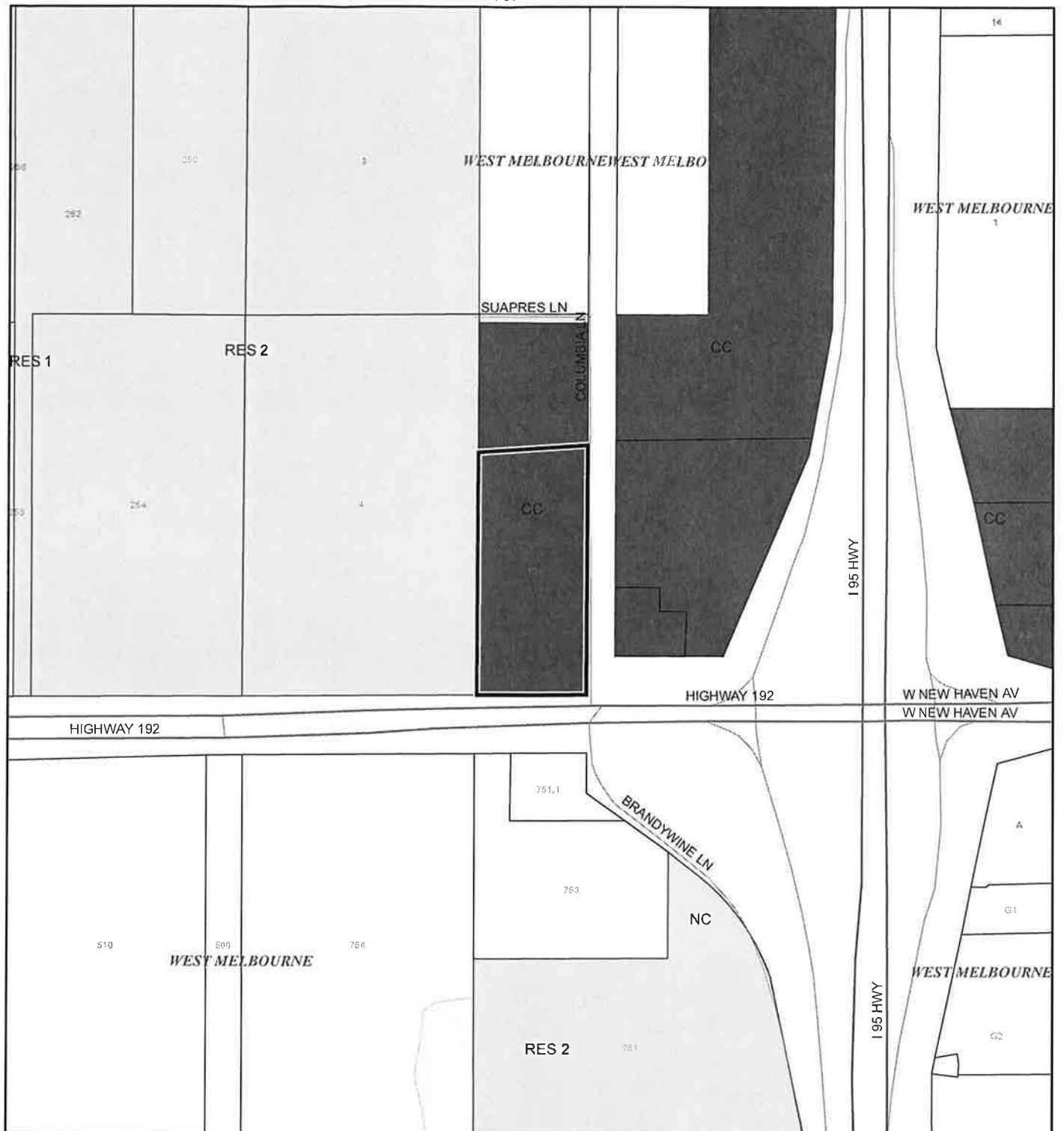
Produced by BoCC - GIS Date: 10/22/2018

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

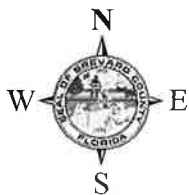
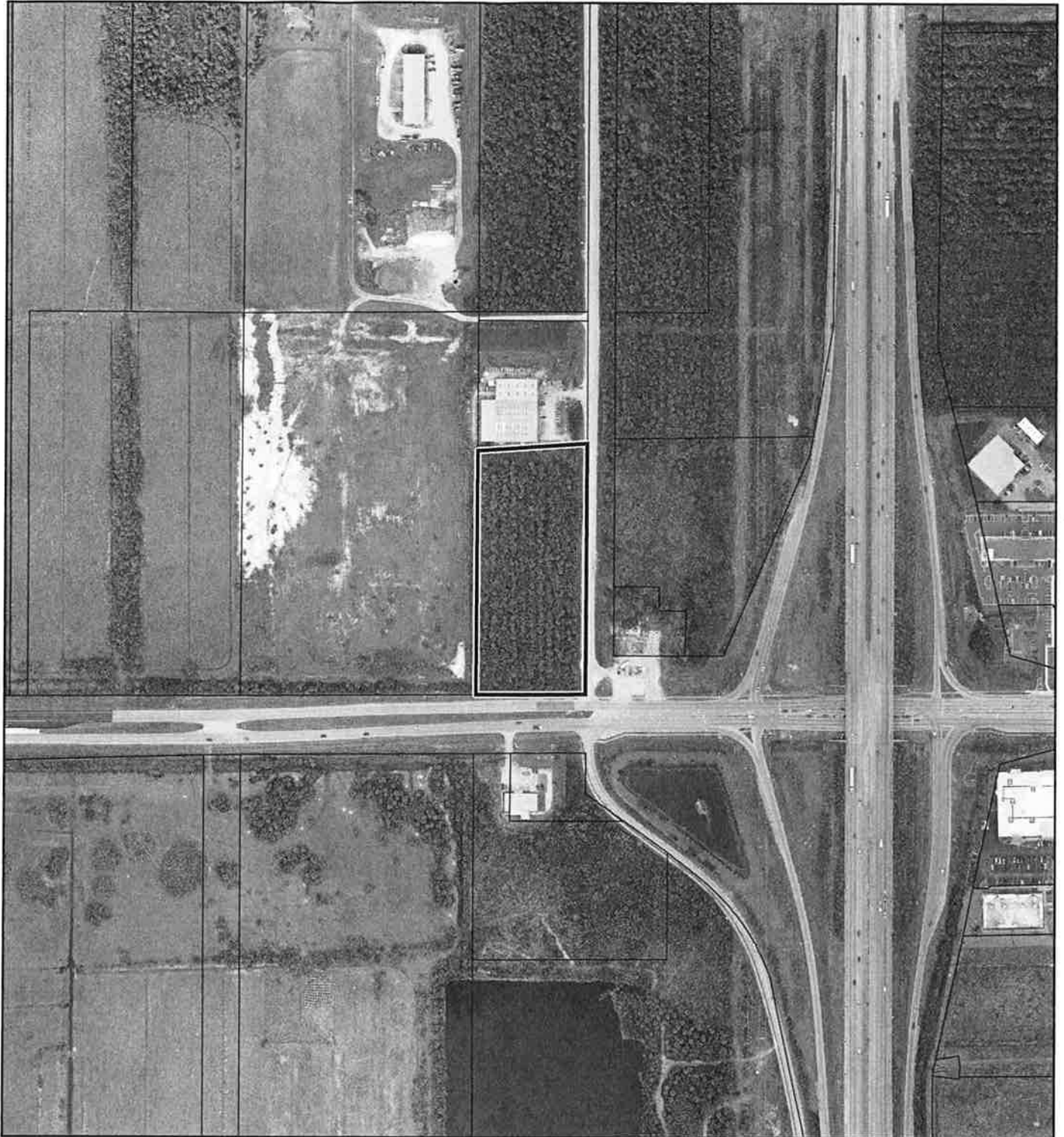
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/18/2018

AERIAL MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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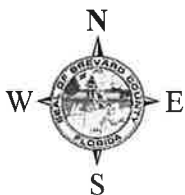
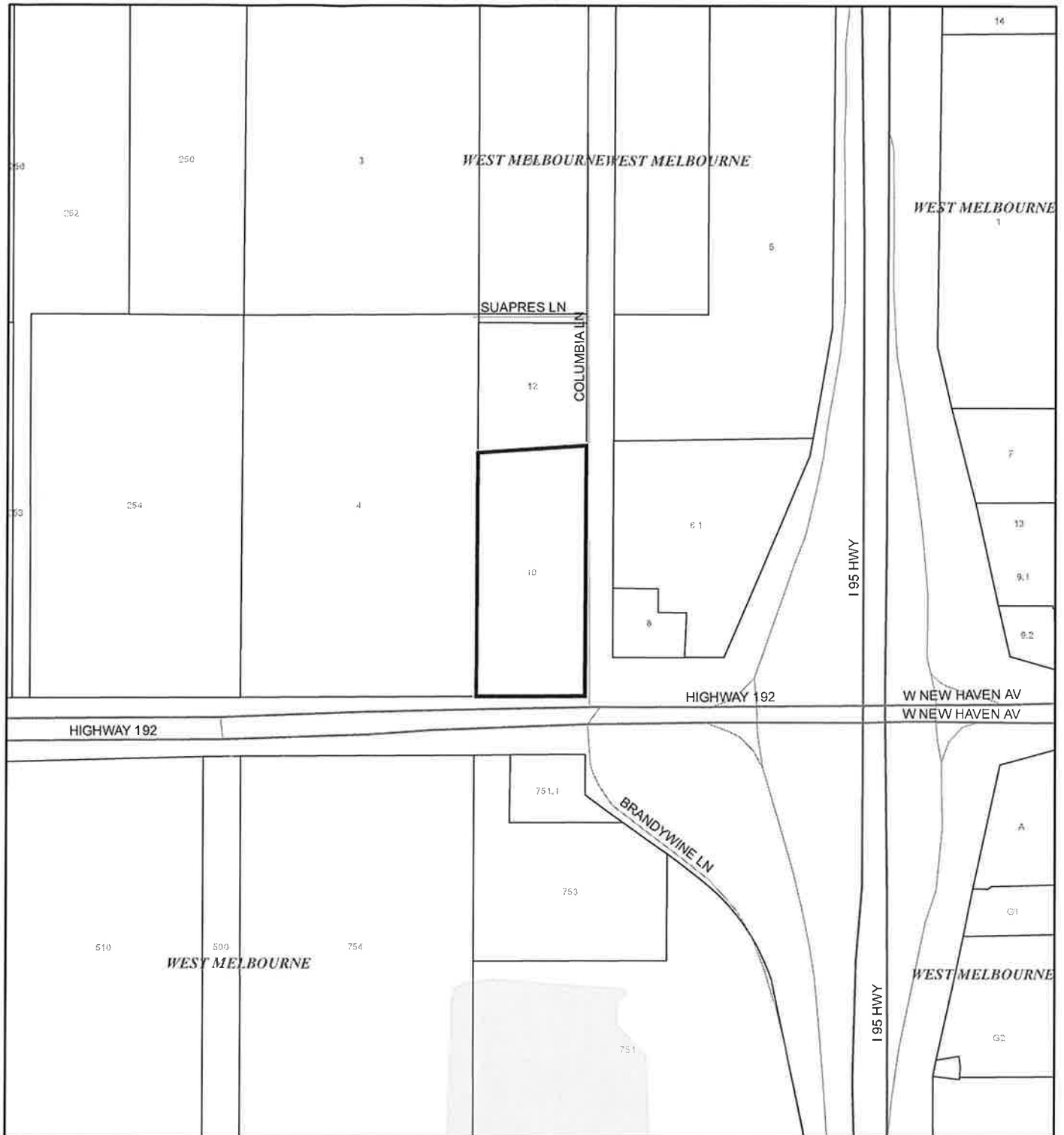
Produced by BoCC - GIS Date: 10/18/2018

— Subject Property
□ Parcels

NWI WETLANDS MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

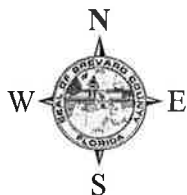
National Wetlands Inventory (NWI)

	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

SYLVIA PROPERTIES, INC.

18PZ00120




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

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

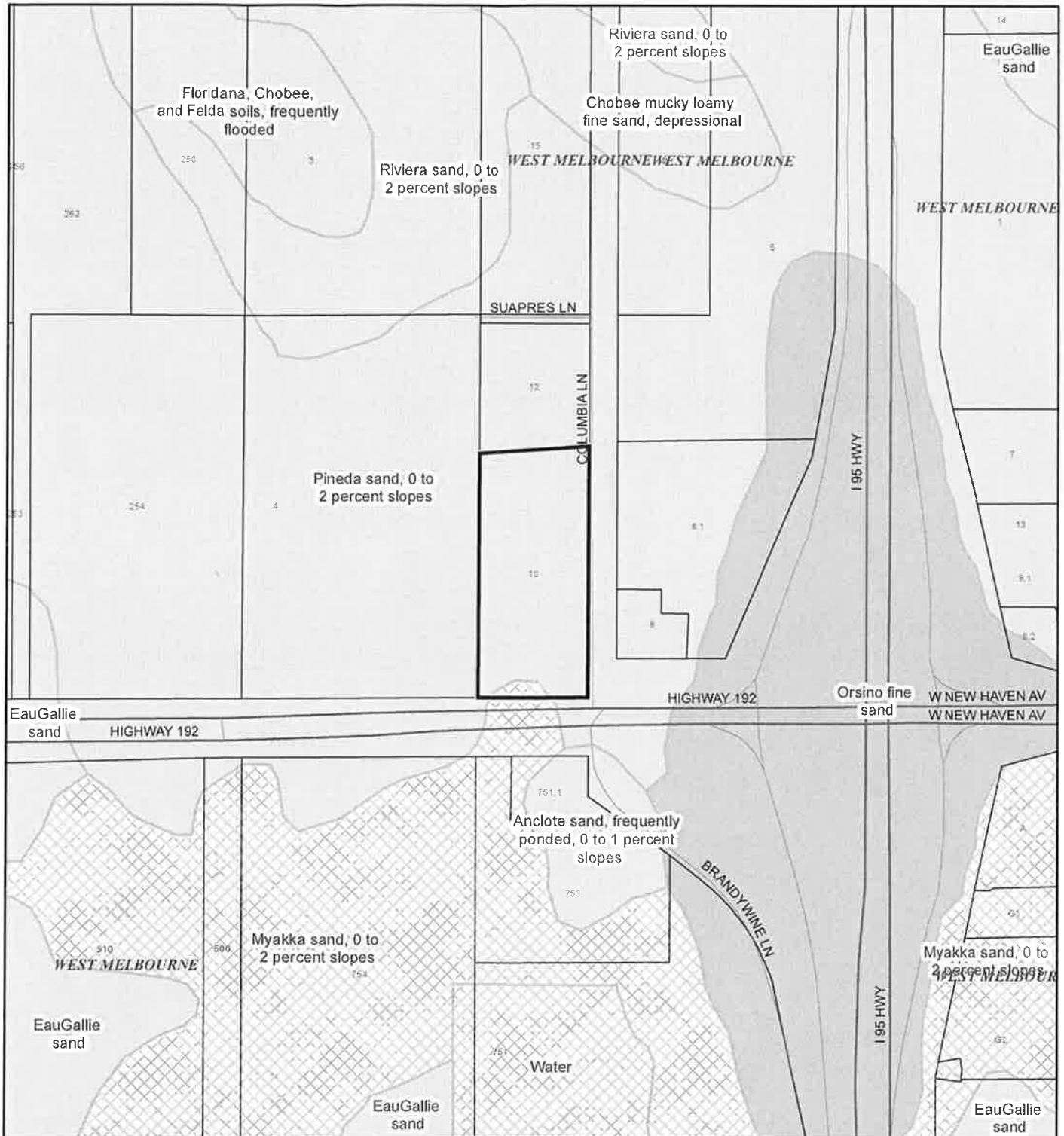
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

USDA SCSSS Soils

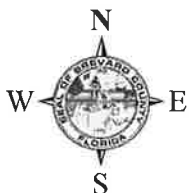
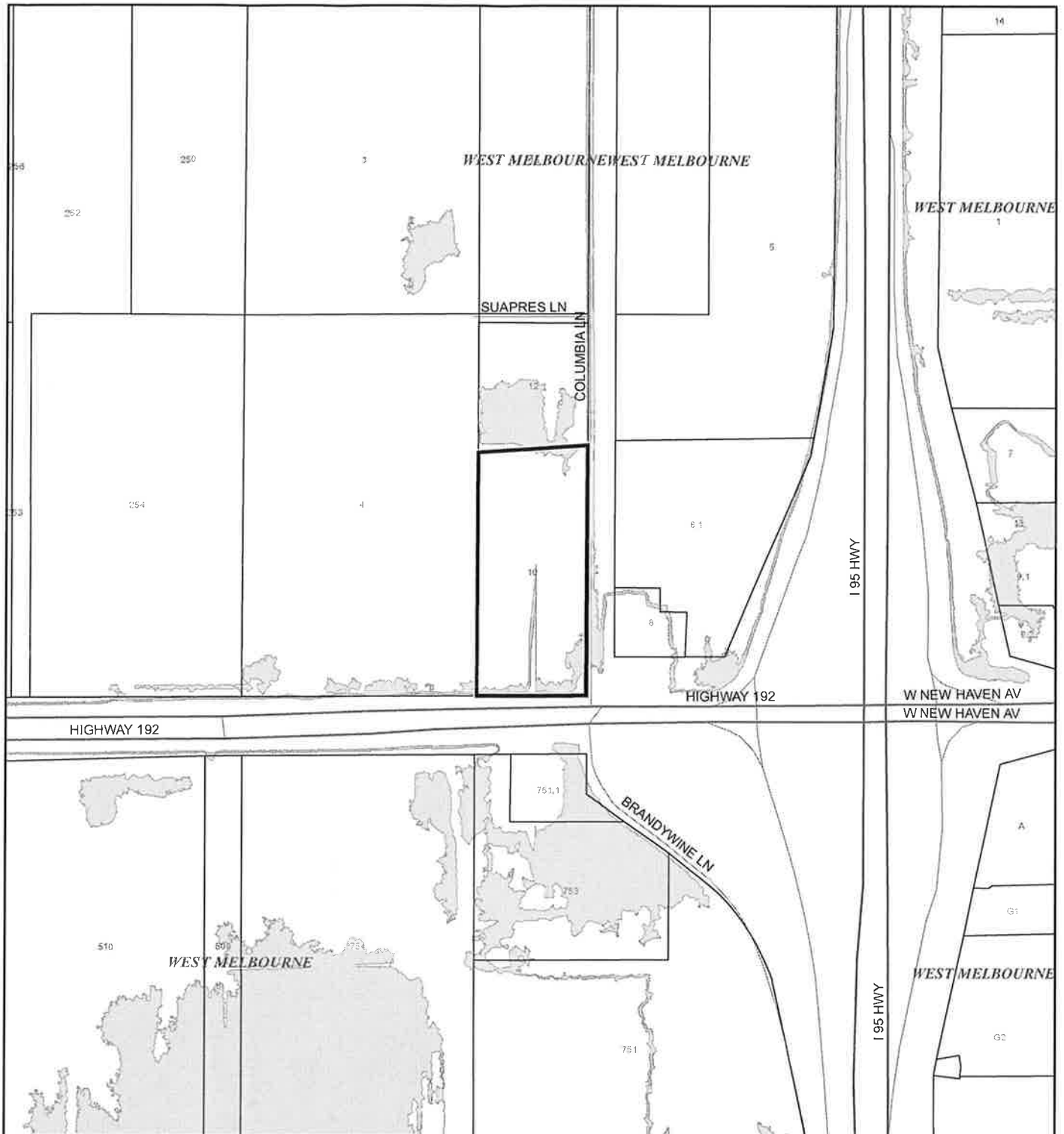
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

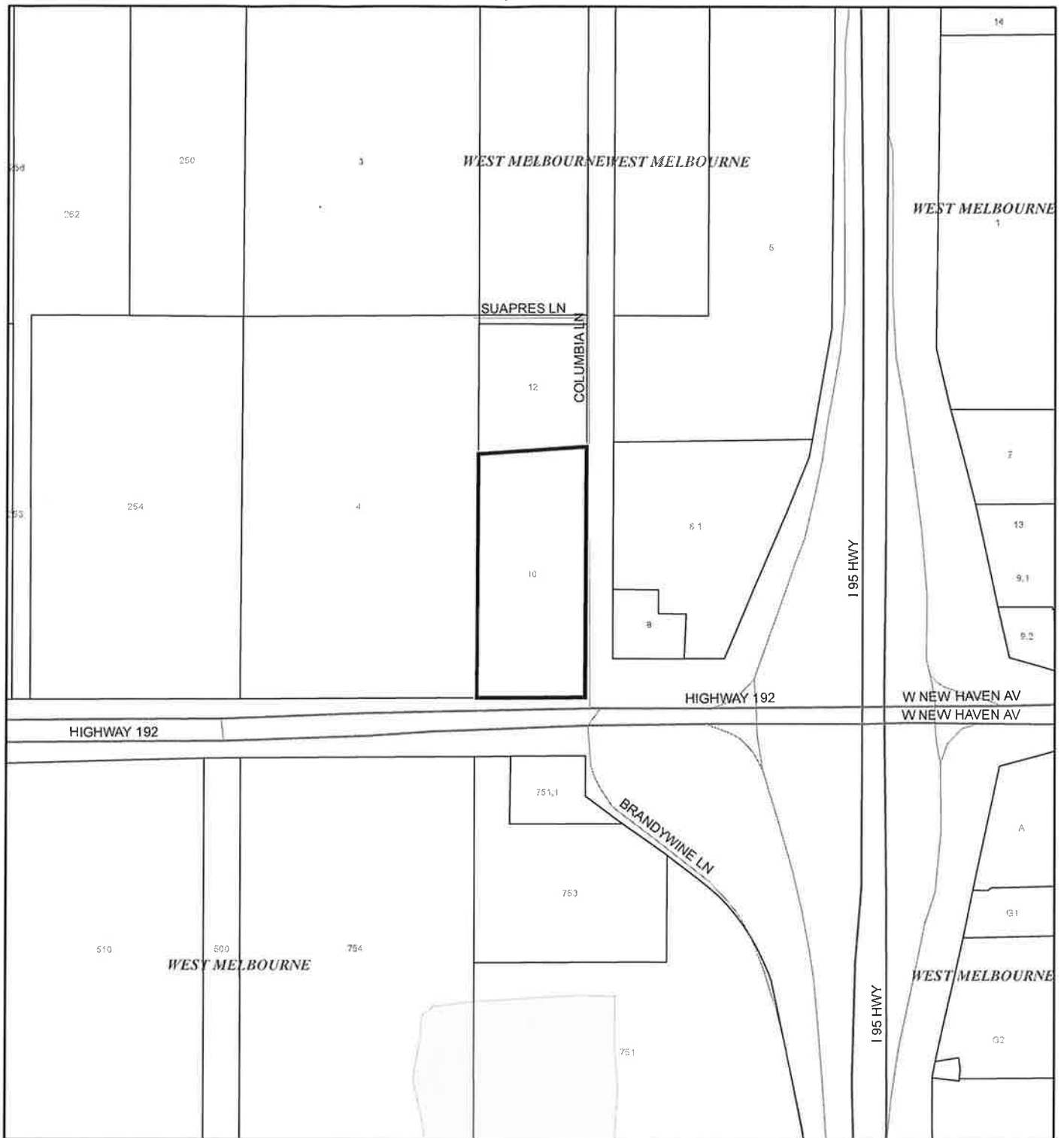
FEMA Flood Zones

A	AO	X
AE	Open Water	X Protected By Levee
AH	VE	
0.2 Percent Annual Chance Flood Hazard		
0.2 Percent Annual Chance Flood Hazard Contained in Channel		
Subject Property		
	Parcels	

EAGLE NESTS MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

 Subject Property

 Parcels

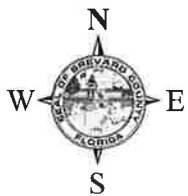
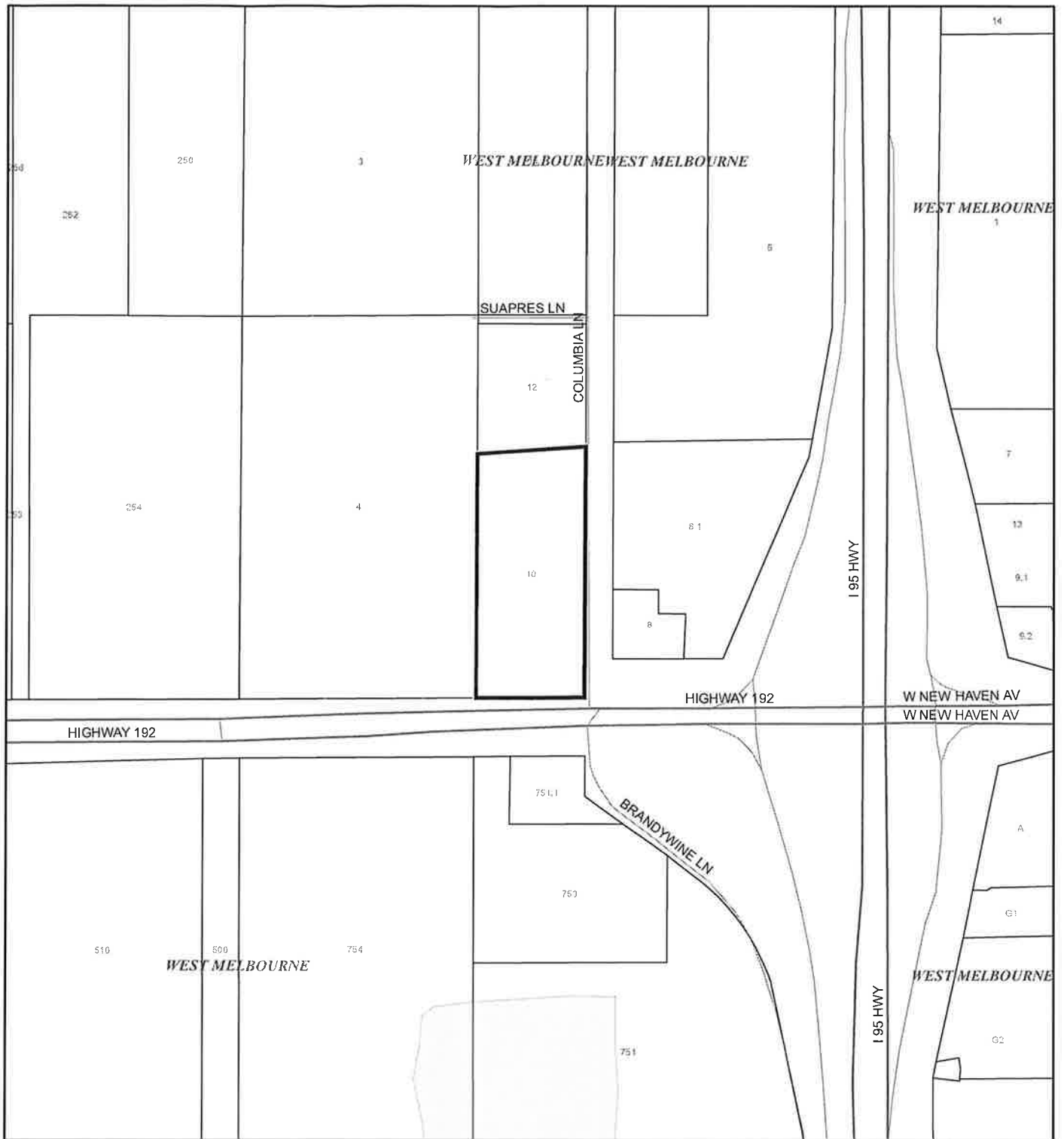


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

SYLVIA PROPERTIES, INC.




18PZ00120



1:4,800 or 1 inch = 400 feet

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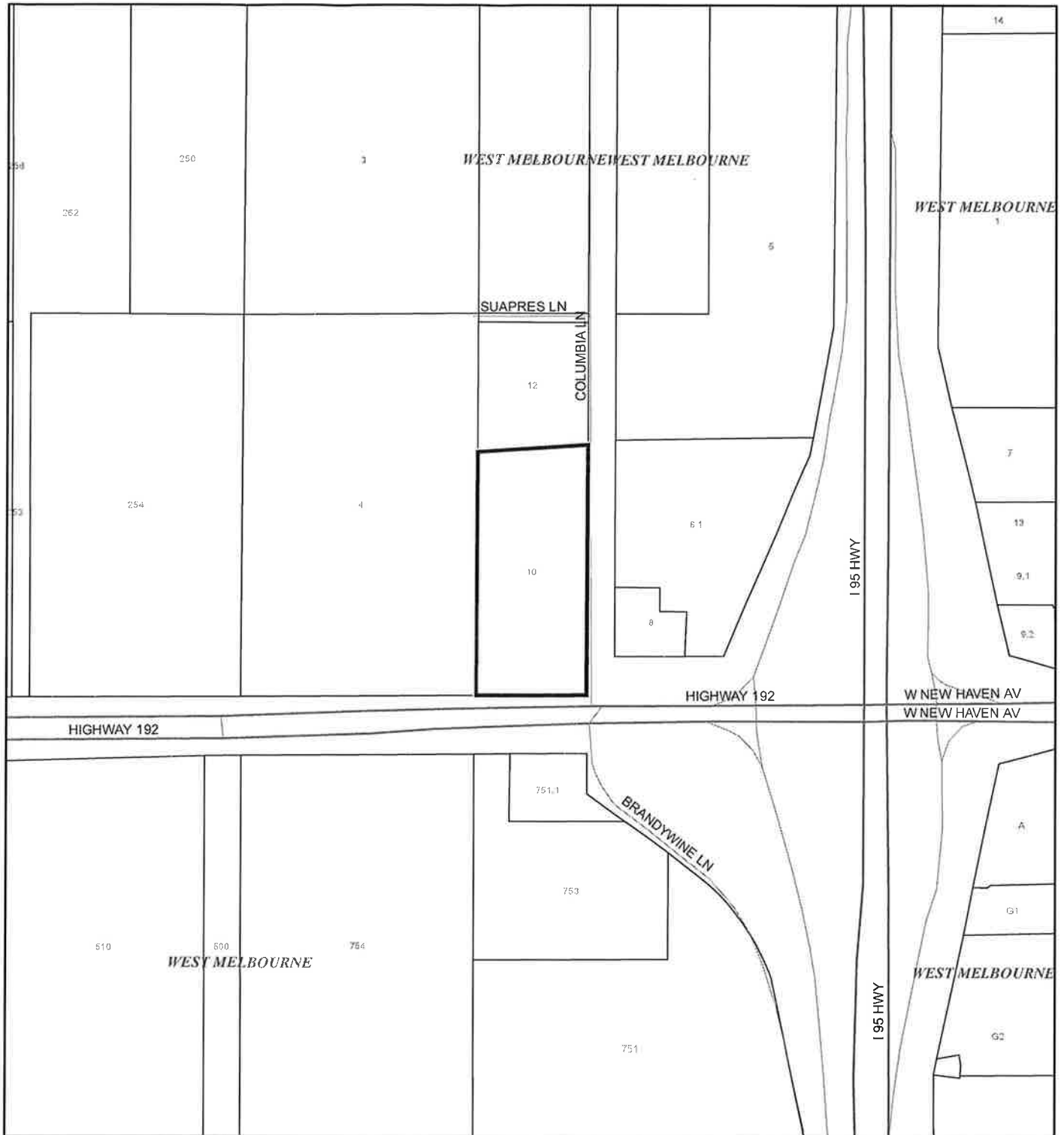
Produced by BoCC - GIS Date: 10/18/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SYLVIA PROPERTIES, INC.

18PZ00120



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/18/2018

SJRWMD FLUCCS Upland Forests

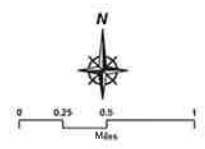
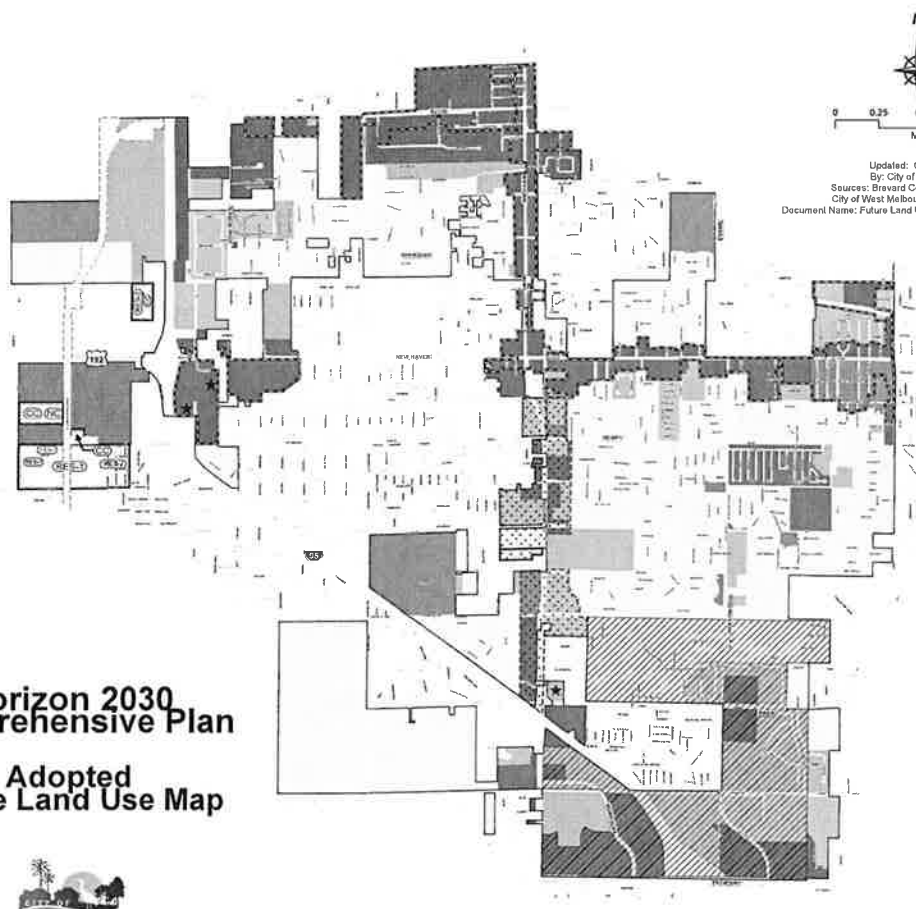
-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels

Horizon 2030 Comprehensive Plan Adopted Future Land Use Map



DISCLAIMER:
This map is not a survey and should not be used
as a survey. Road right-of-ways are approximate.



Updated: October 18, 2018
By: City of West Melbourne
Source: Brevard County Property Appraiser,
City of West Melbourne Planning Department
Document Name: Future Land Use_Adopted_with Amendments.mxd

Legend

- City Limits
- CRA Overlay
- Palm Bay Road Overlay
- Town Center Overlay
- Commercial
- Conservation-Recreation
- Integrated Business
- Industrial
- Institutional
- Low-Density Residential
- Medium-Density Residential
- Urban-Density Residential
- Manufactured Home Residential
- Parkway Interchange
- County FLU Designations Still Apply As Noted

West Melbourne
Future Land Use Map
18P200120
Sylvia Properties

- Brevard County Future Land Uses**
- Community Commercial
 - Neighborhood Commercial
 - Residential 1 (1 DUPA)
 - Residential 2 (2 DUPA)
 - Residential 4 (4 DUPA)

- Designations not shown on map**
- GU General Use
 - NAC Neighborhood Activity Center
 - UMU Urban Mixed Use




★ These properties have additional density and intensity restrictions.
Please refer to the Future Land Use Element of the Comprehensive Plan.

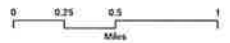
**Horizon 2030
Comprehensive Plan Amendments**

Amendment No.	Ordinance No.	Amendment No.	Ordinance No.
LSA 2012-01	2012-27	LSA 2016-01	2016-01
SSA 2012-01	2012-09	LSA 2016-02	2016-09
LSA 2012-02	2013-05	LSA 2016-04	2016-24
SSA 2012-02	2012-09	SSA 2016-04	2016-09
SSA 2012-03	2012-09	LSA 2017-03	2017-03
SSA 2012-04	2012-09	SSA 2018-01	2018-05
SSA 2012-05	2012-10	LSA 2018-01	2018-10
SSA 2013-01	2013-03		
SSA 2013-02	2013-17		
SSA 2013-03	2013-18		
SSA 2013-04	2015-18		
SSA 2013-05	2015-25		
SSA 2014-01	2014-02		
SSA 2014-02	2014-04		
SSA 2014-03	2014-25		
SSA 2014-04	2014-29		
SSA 2014-05	2014-27		
SSA 2014-07	2015-03		
LSA 2015-01	2015-09		
SSA 2015-01	2015-07		
SSA 2015-02	2015-19		

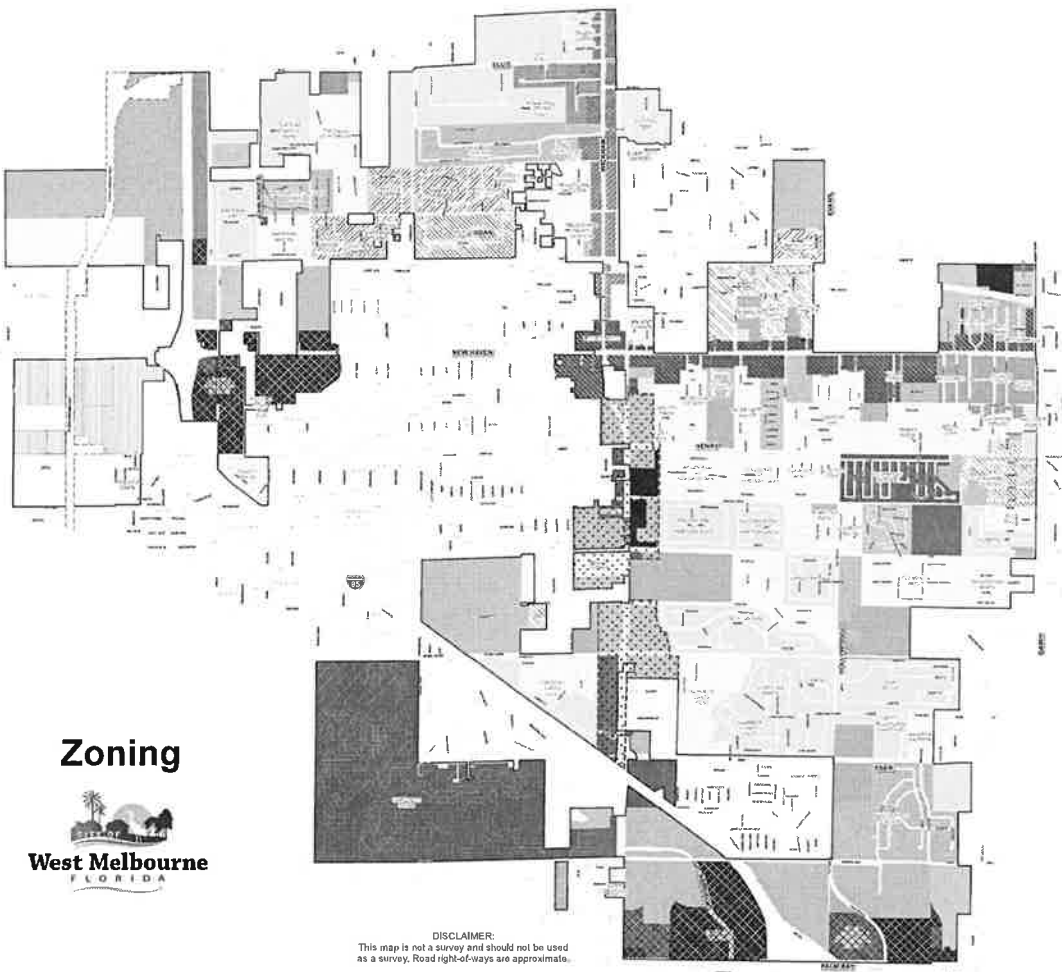
West Melbourne
Zoning Map
18PZ00120
Sylvia Properties

Legend

-  West Melbourne City Limits
-  Interchange Commercial Overlay
-  Town Center Overlay
- Zoning Districts**
-  R-A Residential Agricultural
-  R-1AAA Single-Family Residential
-  R-1AA Single-Family Residential
-  R-1A Single-Family Residential
-  R-1B Single-Family Residential
-  R-2 One-, Two- and Multi-Family Dwelling
-  RLS Residential Large Scale
-  R-3 Multiple-Family Dwelling
-  TR-1 Planned Development for Mobile Home Parks
-  TRC-1 Single-Family Mobile Home Cooperative
-  C-P Commercial Parkway
-  C-1A Professional Offices and Services
-  C-1 Low Density Commercial
-  C-2 General Commercial
-  C-W Commercial Wickham
-  C-NH Commercial New Haven
-  M-1 Light Industrial and Warehousing
-  M-2 General Industrial
-  P-1 Institutional
-  IB Integrated Business
-  GTWY-1 Gateway Interchange District



Updated: 11/09/2018
By: City of West Melbourne
Document Name: Zoning.mxd
Sources:
Brevard County Property Appraiser,
City of West Melbourne Planning Department



Zoning



DISCLAIMER:
This map is not a survey and should not be used
as a survey. Road right-of-ways are approximate.

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 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 by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete agenda.

6. Sylvia Properties, Inc.:

(Fernando Ortiz) requests a change of zoning classification from TU-2 (Transient Tourist Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 5 acres, located on the northwest corner of U.S. Highway 192 and Columbia Lane. (No assigned address. In the Melbourne area.) (18PZ00120) (District 5)

Fernando Ortiz – I own the property just north of the subject property, and I've been there for 15 years. My business has grown, so I purchased the property to the south so I can extend my warehouse by building a canopy.

Henry Minneboo – You have a total of 5 acres and you want to utilize the whole five acres?

Fernando Ortiz – No, just two-and a half acres.

Henry Minneboo – You don't have a preliminary site plan or anything?

Fernando Ortiz – No, nothing at all.

Ron McLellan – Explain to me again what you want to do.

Fernando Ortiz – Just north of the property is where my business is located, it is called Stone and Surface Designers, and we are a wholesale distributor of granite. We have been at that location for 17 to 18 years, and I have material everywhere now, and it shouldn't be like that, I bought the property south of me, and what I need to do is extend the canopy from my building so I can sort everything inside. I need to attach a canopy to my existing warehouse, but to do so I need to make both properties one single property.

Ron McLellan – So, you want to make more warehousing?

Fernando Ortiz – Yes, exactly.

Darcie McGee, Natural Resources Management – I just want the board and the applicant to be aware of that our Floodplain Protection Ordinance contains criteria within it that addresses fill footprint and allowable land uses in the riverine floodplain, which is what this is. We determine the floodplains based on existing elevations, and we don't have any topographical survey to know, so we just want to make you aware that we'll need to assess that. We can set up a meeting with you after this meeting to help you with that to see if it potentially could affect your development there.

Henry Minneboo – I'm not overlywhelmed about putting all that kind of zoning for five acres.

Ron McLellan – No, I'm not either.

Scott Langston – No, not without a plan or anything.

Henry Minneboo – Historically, we don't just give a guy zoning and see what fits.

Ron McLellan – Every time we do that we get ourselves in a box.

Rochelle Lawandales – Erin, there are two properties, parcels 10 & 12, and is that what totals the five acres? Or is it just parcel 10 that is five acres?

Erin Sterk – His property is parcel 12, where his existing business is located, and parcel 10 is the parcel he acquired. He wants to expand to the south, but he's requesting the rezoning on the whole piece.

Rochelle Lawandales – I know in the past, along Highway 192, we have allowed for there to be BU-1 on the front and BU-2 on the back. I think that might be very appropriate here. That way, he could have some BU-2 to combine with parcel 12, but keep the frontage in the BU-1, which is very consistent with everything along Highway 192. Do you know how much room you actually need for the expansion?

Fernando Ortiz – It won't be a very large warehouse, it will be 13,000 to 14,000 square feet.

Rochelle Lawandales – Two and a half acres?

Fernando Ortiz – Two and a half acres would be more than enough.

Rochelle Lawandales – We can always lower the request, so we could stipulate, if it pleases the board, that the front two and a half acres be restricted to BU-1, and the back half be allowed to go to BU-2.

Fernando Ortiz – Is it possible just to keep the TU-2 in the front as it is today and just change the back two and a half acres?

Rochelle Lawandales – Yes, if that's your preference. That is certainly consistent with the area as well, and then we can help support his business. In the interest of disclosure, I bought my granite from you 13 years ago, but I don't think I get any gain from this. It's a great operation and a great business, so I really hope we can find a way to allow him to expand.

Dane Theodore – What is the least intensive zoning classification that could get this gentleman what he wants?

Erin Sterk – It's BU-2. Limitations on the BU-2 could be provided that would limit him to his existing use rather than allowing him to go in and put in self-storage mini-warehouses in addition. Those are tools at your disposal with his agreement, but I don't know if you see that is necessary. There are rights within the BU-2 zoning that would be more intense than his current business.

Tuck Ferrell – Tuck Ferrell, 1300 Pine Tree Drive, Indian Harbor Beach. I have mixed emotions because my wife is a sculptor and I've bought stone from this gentleman, but I own the land across the street and we've got four properties, and we're trying to do a \$300 million development there, and this is not a particularly compatible use. If you can put warehouses, and under BU-2 then you can have metal buildings, that would be a horrible thing for us if this was allowed to be BU-2 and big metal warehouses went up on this property, it would really hurt us. I've talked to some of the other property owners, including Mike Renfro, who has 271 acres. I have 160 acres. I'm not much in favor of this; I think the diminution of property value might blow up the whole deal. We're trying to do an upscale development and it's just not compatible to put commercial warehouses along Highway 192; it's a creep of commercial coming down to Highway 192, it's a bubble of really nice development that is planned. TU-2 is compatible with us, and that's what I had before I went into West Melbourne, and it allows hotels and retail, but this is a different animal. What scares us is if this whole thing goes warehousing and we have warehousing across the street, that's just going to mess up the window of what we're trying to do, and what other people are trying to do there. From the back we're getting a different use, we're getting a quasi-industrial use with the BU-2, and we're getting warehouses, and that's a real concern to us and some of the other property owners. The other property owners asked me to come today, and I sent a letter, but we're concerned that it could hurt us, especially the steel building, that's one of our biggest concerns because it's not compatible with the upscale thing we're trying to do, and this is going to be across the street from it, exactly where our driveway is going to be coming out. The stone yard is not pretty right now; I appreciate stone yards, but like somebody else said earlier, you could have a hodge-podge of zoning, and it creates things that are not compatible. This is a window coming into Melbourne and West Melbourne, and it's a shame. I've turned down over 30 truck stops on that property; I've turned down construction yards; I've turned down FP&L when they wanted to put a junky construction yard there; I've turned down so many things because we're trying to keep it clean. I appreciate what this gentleman is trying to do, and I'm not normally against business, but I'm really concerned that it could affect what we're all trying to do to make it pretty there. I don't know what he's going to do and what it's going to look like. There should be a site plan or something. I don't know what the bottom line is for us. There should be some buffer there of a different zoning because it's just not compatible, industrial is not what we have there, and that concerns us with what we're trying to do. I've talked to some of the other property owners, including Mr. Renfro, who asked me to speak for them.

Rochelle Lawandales – Would your objection go away if the front two and a half acres is left as TU-2?

Tuck Ferrell – That would be a lot better. I'd still hate to see metal buildings. I still don't know what they're doing. They are selling stuff out there and it would be good to get it inside, I guess, but I don't know the size of this, and I still don't know what's happening and that's a little bit of a risk. I like your idea of trying to buffer Highway 192 because it really needs it, because I don't think we need warehousing in the front with hotels and the things that are going to happen there. We have a lot of people signed up; we've got anchors, and I might lose the whole thing over something that's unsightly. I don't know what they're planning, it could be very unsightly and it could blow everything up. There are a lot of plans, with the new parkway there and all the other things that are happening with the new interchange. If we get too much industrial it's not going to mix with the multi-family, the

residential, the hotels, and the retail. Apparently, this is not a showroom, it's warehousing for his stone; if it was showroom it might be a little different. I don't know, but your idea is better than nothing. Thank you.

William Turnbaugh – William Turnbaugh, 4910 Suapres Lane, off of Columbia Lane. I've known this gentleman for 17 or 18 years and the entire street, as you know, is compatible with BU-2, BU-1, and TU-2. The front piece that you suggested as TU-2 for a certain distance south, and then the BU-1, whether it's industrial or commercial, I would think that if you worked with the gentleman that can be done. I own the adjacent frontage across from Mr. Ferrell, so we're all going to look for commercial compatibility in there to enhance Mr. Ferrell's property. These are very good business people, so I'm not asking for leniency, I'm asking for knowledge.

Henry Minneboo – There is no site plan, no one has any idea. If it's good, everyone else did it; and if it's bad, then it's this board's fault. In light of what you've heard, do you have any help for us?

Fernando Ortiz – I totally agree with the property as TU-2 in the front, so it is compatible with whatever project he is hoping for. What I'm actually doing is attaching a canopy to my existing building; I have two other canopies attached to my existing building because of growth. The building is just going to have one more canopy attached to it; it's already there and it won't really change anything. It's not a huge canopy, it is 12,000 to 13,000 square feet.

Henry Minneboo – That's what we needed.

Fernando Ortiz – I couldn't start working on anything before knowing I could attach both properties into one property, because I wanted the canopy to be attached.

Henry Minneboo – Theoretically, you're only going to put a canopy on roughly one-third of an acre.

Fernando Ortiz – Yes.

Henry Minneboo – Can we rezone one-third?

Erin Sterk – I think so. I would ask, without some type of survey delineation that we are fairly specific in what portion of the property we're rezoning today. If it's the northern one-third, that's reasonable.

Henry Minneboo – Can you live with the northern one-third?

Fernando Ortiz – I don't think one-third will allow me to do what I want to do.

Scott Langston – My suggestion for you is to go and see exactly what you need and bring it back with a more detailed plan, and I'm sure your neighbors would be less objectionable if they knew your plan, specifically. Then we can make a better suggestion on whether it's a half-acre, we give you a development plan, or whatever. If we approve it, then it's a full BU-2, and he's correct, you can do a lot of different things there. We're trying to make everyone happy, but we do want to help you.

Fernando Ortiz – I'm going to do a site plan as if everything was possible.

Scott Langston – You pay for it and do what you want to do and just get an idea, then we can better help you.

Henry Minneboo – If that's the case and he agrees upon it, then lets table it.

Rochelle Lawandales – I was going to offer another idea, because we're dealing with a small business owner here. I think there's a way to accommodate everybody; I think we can limit the use to his business under a binding development plan; I think we can limit the acreage, but I wouldn't go with one-third of an acre, I would say at least one or two acres so that he can accommodate moving the product in and out; that there be no metal buildings; and that the remaining front property be left as TU-2. I think that solves everybody's issues. He can't do anything without doing a site plan, so we don't need to see the site plan, so I just think we can help everybody and preserve the appearance of the area if we do it in this scenario. I think that gives him room to do retention and movement.

Erin Sterk – Can I ask for clarification? The request for a limitation on uses by the applicant for the expansion of his existing business, is that how you want to word that, or is there a specific use within the Code? We need to be very specific that he knows what he's agreeing to.

Rochelle Lawandales – Expansion of his existing business is what I'm talking about.

Erin Sterk – The parcels are not combined now, so that business is not on this property which would be encumbered by this language, so we would need to refer to that business by Tax Account number, or something in the language of that condition. That would mean you couldn't do any other BU-2 uses in there. Regarding metal buildings, does that mean if he were to want to put in a second metal building later, because I'm under the impression your existing structure is metal, and your intention is to do a metal addition. Are you trying to prohibit the addition of new metal stand-alone buildings, accessory structures, or things like that.

Rochelle Lawandales – Correct.

Erin Sterk – I'm clear with what I think you're looking for, and the northern two acres, is that accurate?

Rochelle Lawandales – That's what I was proposing.

Erin Sterk – Would you mind restating the motion?

Rochelle Lawandales – I'll make a motion and we'll see what happens. I'd like to move approval of this item for Sylvia Properties, 18PZ00120, with the condition that a binding development plan be drafted and approved by the County Commission that would limit the use to Mr. Ortiz's existing business, that it would be limited to the rear two acres of Parcel 10, that the front three acres of Parcel 10 remain TU-2, and that there be no additional metal buildings constructed on the property.

Fernando Ortiz – Will a canopy be allowed?

Rochelle Lawandales – Yes, because that's part of your existing, but no additional buildings, no separate additional buildings.

Fernando Ortiz – That's exactly what I'm here for.

Erin Sterk – The only clarification I would ask for is that in the front and back we be sure that we're rezoning the northern piece.

Rochelle Lawandales – Correct.

Henry Minneboo – And only the northern.

Dane Theodore – Second.

Ron McLellan – I just don't like the idea of starting this, because every time we do something like this we end up coming back in two or three years and adding more and more. I know that area very well, and the more traffic you get in there with trucks and semi's that close to that area, right across from I-95, that's a brand new Hampton Inn there, and that area is for that, and if we let this keep going, I'm afraid we may be shooting ourselves in the foot.

Ben Glover – I fully support Rochelle's motion. As a small business owner, I'm sure this gentleman worked very hard to buy this land to expand his business, and I don't think it would be right for us to deprive him that right, so I fully support this motion.

Henry Minneboo called for a vote on the motion as stated, and it passed 8:1, with Ron McLellan voting nay.