



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.10.

4/6/2023

Subject:

QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15, NC, and CC, to all CC. (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is requesting to change to the Future Land Use designation from RES 15, NC and CC on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of Tax Accounts 2407572 and 2407578. Currently, Tax Account 2407572 (approximately 0.19 acres) is designated as RES 15, and Tax Account 2407578 (approximately 13.17 acres) is designated as RES 15, NC, and CC. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road, which is 50 feet in width. A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) (23Z00003).

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and east. Industrial uses are located along the west side of Cox Road (City of Cocoa). Existing commercial development in the immediate area includes a convenience store with gas pump, warehousing, retail, and office. Additional commercial uses are located along W. King Street (SR 520), which is principal arterial commercial corridor. The proposed commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

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

On March 13, 2023, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once the Ordinance is filed with the State, please return two executed copies to Planning and Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

April 7, 2023

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item H.10., Small Scale Comprehensive Plan Amendment (23S.01)

The Board of County Commissioners, in regular session on April 6, 2023, conducted the public hearing and adopted Ordinance No. 23-06, setting forth the first Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15, NC and CC to all CC (23SS00001). Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 10, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 23-06, which was filed in this office on April 7, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

ORDINANCE NO. 23-06

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIRST SMALL SCALE PLAN AMENDMENT OF 2023, 23S.01, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2023 as Plan Amendment 23S.01; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 23S.01; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON APRIL 7, 2023.

WHEREAS, on March 13, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.01, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on April 4, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 23S.01; and

WHEREAS, Plan Amendment 23S.01 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.01 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 22S.17 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 23S.01, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 6 day of APRIL, 2023.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



By: Rita Pritchett, Chair

As approved by the Board on APRIL 6, 2023.

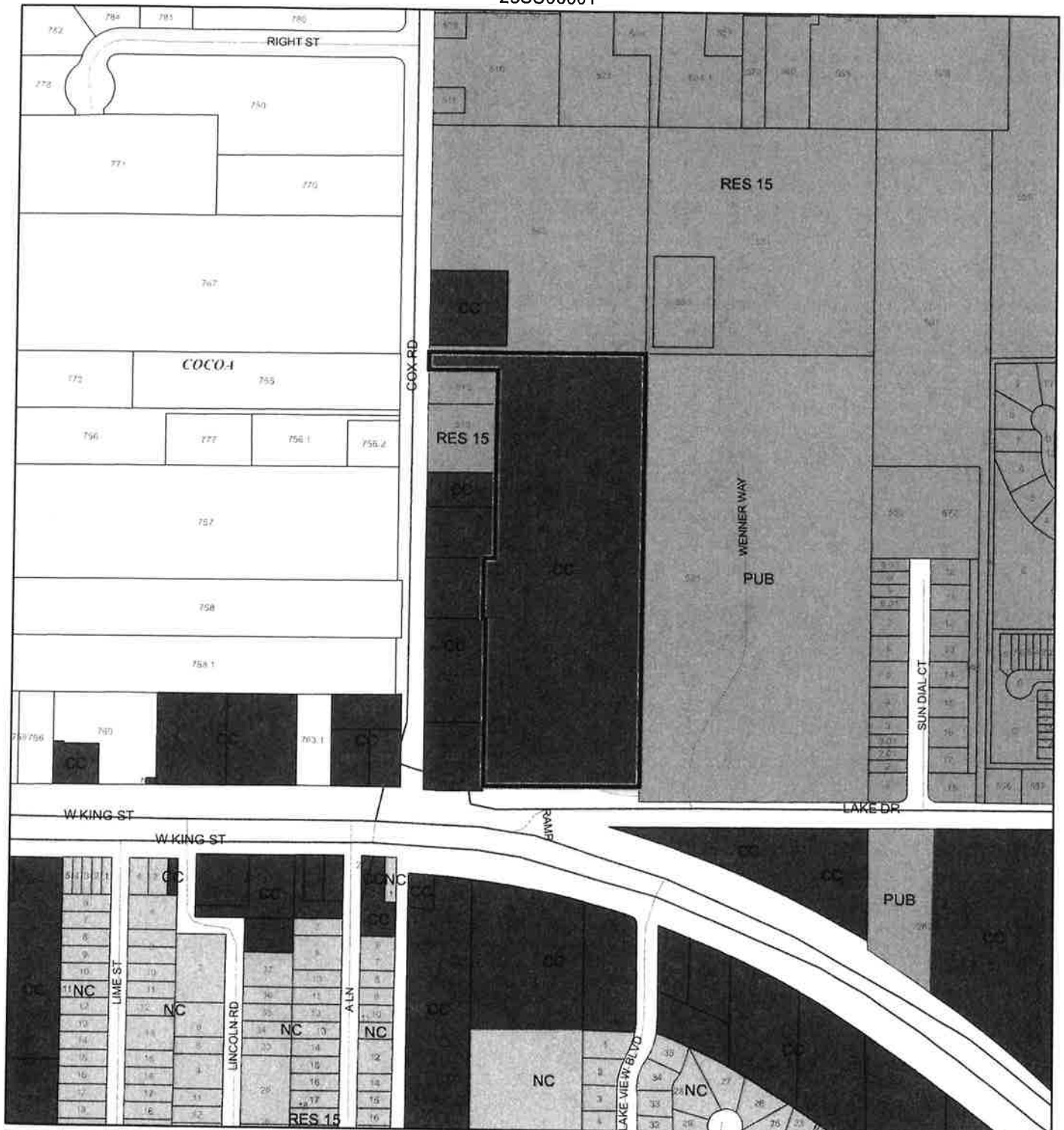
EXHIBIT A
23S.01 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents



- 1. Proposed Future Land Use Map**

PROPOSED FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



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: 1/25/2023

EXHIBIT B

Contents

1. Legal Description

Ad#5629326 2/23/2023
A PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, MARCH 13, 2023, and THURSDAY, APRIL 6, 2023.

DISTRICT 1, (22200002) Bobby J. Thomas requests a change of zoning classification from GU (General Use) to RR-1 (Rural Residential Mobile Home), on property described as Lot 5.01, Block 2, Indian River Park, as recorded in ORB 9565, Pages 1387 - 1388, of the Public Records of Brevard County, Florida. Section 18, Township 20E, Range 34, (2.37 acres) located on the east side of Blounts Ridge Rd., approx. 0.17 mile south of Patty Lane. (No assigned address. In the Mims area.)

DISTRICT 1, (23200005) Louis Julia Golowezki requests a change of zoning classification from GU (General Use) to ARR (Agricultural Residential), on property described as Lot 7.A-2, Canaveral Grove Subdivision, per SB 2, Pg 54, and ORB 9599, Page 466 - 467, of the Public Records of Brevard County, Section 20, Township 24, Range 35, (2.32 acres) located on the north side of Soggy Bottom Ave., approx. 0.34 mile west of Satellite Blvd, (6908 Soggy Bottom Ave., Cocoa)

DISTRICT 4, (225500015) IR TINI 2, LLC (Sandeep Patel) requests a Small Scale Comprehensive Plan Amendment (225.18) to change the Future Land Use Designation from MC (Neighborhood Commercial) to CC (Community Commercial), on property described as Lot 21, Block 52, Indian River Estates Villas, as recorded in ORB 8743, Page 795 - 797, of the Public Records of Brevard County, Florida. Section 32, Township 24, Range 37, (0.39 acres) located on the east side of U.S. Highway 1, approx. 0.16 mile south of Conquina Ridge Dr. (4263 N. U.S. Highway 1, Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing an severability clause; and providing an effective date.

DISTRICT 1, (23200004) Chelsey L. Cobb requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 271, as recorded in ORB 9283, Pages 2274 - 2275, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 35, (3.09 acres) located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa)

DISTRICT 1, (22200074) Timothy Shann and Debra Jane Kelley (Don Harman) request a change of zoning classification from AU (Agricultural Residential) to RU-1 (Single-Family Residential), on property described as Tax Parcel 52, as recorded in ORB 9437, Pages 689 - 690, of the Public Records of Brevard County, Florida. Section 23, Township 21, Range 35, (0.45 acres) located on the west side of Old Dixie Hwy., approx. 165 ft. north of Diamond Rd. (1650 Old Dixie Hwy., Titusville)

DISTRICT 2, (22200068) Half Halt Stables, LLP (Toni Pasternack) requests a change of zoning classification from AU (Agricultural Residential) to RU-1 (Single-Family Residential), on property described as a part of the SW 1/4 of the SE 1/4 of the SE 1/4 of Section 25, Township 24S, Range 35E, Brevard County, Florida, being more particularly described as follows: begin at the SW corner of the NW 1/4 of the SE 1/4 of said Section 25; thence for a first course run north along the west line of the NW 1/4 of the SE 1/4 of said Section 25, a distance of 105 ft.; thence for a second course, run N89deg15'41"E, parallel to the south line of the NW 1/4 of the SE 1/4 of said Section 25, a distance of 105 ft.; thence for a third course, run south a distance of 105 ft.; thence for a fourth and final course, run S89deg15'41"W, a distance of 168 ft. to the point of beginning. Less 33 ft. of road right-of-way for Burnett Rd. (0.33 acres) located on the east side of Burnett Rd., approx. 0.25 mile north of Lake Dr. (525 & 655 N. Burnett Rd., Cocoa)

DISTRICT 5, (22200067) Wendy Klueffsch requests a change of zoning classification from RU-1 (Single-Family Residential) to RU-2 (Medium Density Multi-Family Residential), on property described as the east 103.5 ft. of Lot 4, Block P, of Map of Replat of North Indianlake By-The-Sea, according to the Plat thereof, as recorded in Plat Book 9, Page(s) 70, of the Public Records of Brevard County, Florida. Section 31, Township 27, Range 38, (0.36 acres) located between Franklyn Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A, (107 Franklyn Ave., Indianlake)

DISTRICT 3, (23200001) Morris M. Taylor Revocable Living Trust (Chloise Anderson) requests a change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on property described as follows: Parcel No. 1: The south 273.75 ft. of Government Lot 2, Section 7, Township 30S, Range 39E, Brevard County, Florida, less the south 125 ft. of said Lot 2. Together with the following described parcel: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida; thence run N00deg55'52"E, along the west line of said Government Lot 1, a distance of 273.75 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 188.01 ft.; thence run S00deg10'03"W, a distance of 123.75 ft.; thence run

S89deg49'57"E, a distance of 126.25 ft.; thence run S44deg49'57"E, a distance of 1.77 ft.; thence S89deg49'57"E, a distance of 25 ft.; thence N45deg10'03"E, a distance of 6.89 ft.; thence S89deg49'57"E, a distance of 376.72 ft. to a point on the westerly right-of-way line of S.R. A1A (100-ft. total right-of-way); thence S29deg42'09"E, along said westerly right-of-way line, a distance of 23.28 ft.; thence S45deg10'03"W, a distance of 6.89 ft.; thence N89deg49'57"W, a distance of 25 ft.; thence N44deg49'57"W, a distance of 1.77 ft.; thence N89deg49'57"W, a distance of 521.04 ft. to a point on the west line of said Government Lot 1; thence N00deg55'52"E, a distance of 188.75 ft. to the point of beginning. Together with riparian littoral right thereunto belonging. Said parcel No. 1 containing 1.90 upland acres more or less. Parcel No. 2: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida; thence run N00deg55'52"E, along the west line of said Government Lot 1, a distance of 273.75 ft.; thence run S89deg49'57"E, a distance of 188.01 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 353 ft.; thence run S00deg10'03"W, a distance of 125 ft.; thence run N89deg49'57"W, a distance of 25 ft.; thence run N44deg49'57"W, a distance of 1.77 ft.; thence run N89deg49'57"W, a distance of 326.75 ft.; thence run N00deg10'03"E, a distance of 123.75 ft. to the point of beginning. Containing in all, 3.00 acres more or less. Together with an exclusive and irrevocable easement for ingress and egress over the north 22.30 ft. or the north 273.75 ft. of Government Lot 1. Lying west of the right-of-way for S.R. A1A (100-ft. total right-of-way) less the west 34.01 ft. thereof. (3 acres +/-) Located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (885 Highway A1A, Melbourne Beach)

DISTRICT 2, (22200069) Thomas A. Metzger, Alan and Grace Metzger request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 1, Block KC, as recorded in ORB 9447, Pages 1675 - 1677, of the Public Records of Brevard County, Florida. Section 11, Township 28, Range 36, (5.14 acres) located on the south side of Chicago Ave., approx. 300 ft. east of Canal St. (No assigned address. In the Mims area.)

DISTRICT 2, (23550009) QW Trust Agreement (Carolyn Hastam) requests a Small Scale Comprehensive Plan Amendment (235.01) to change the Future Land Use Designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on property described as Tax Parcels 512 & 519, as recorded in ORB 9483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. Section 25, Township 24, Range 35, (13.36 acres) located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa)

DISTRICT 2

12, (225500016) Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (225.19), to change the Future Land Use Designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on property described as Tax Parcel 389, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.19: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2, (22200071) Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2 (High Density Multi-Family Residential), and an amendment to the existing BDP, on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida, on THURSDAY, APRIL 6, 2023, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 23S.01 (23SS00001)
Township 24, Range 35, Section 25*

Property Information

Owner / Applicant: QW Trust

Adopted Future Land Use Map Designation: Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC)

Requested Future Land Use Map Designation: all Community Commercial (CC)

Acreage: 13.36

Tax Account #s: 2407578 and 2407572

Site Location: North side of Lake Drive, approximately 171 feet east of Cox Road

Commission District: 2

Current Zoning: General Use (GU) and IU-1 (Heavy Industrial)

Requested Zoning: all General Retail Commercial (BU-1) (23Z00003)

Background & Purpose

The applicant is requesting to change the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of two parcels, 24-35-25-00-512 and 24-35-25-00-519. Currently, parcel 24-35-25-00-512 (approximately 0.19 acres) is designated as RES 15 FLU with GU zoning, and parcel 24-35-25-00-519 (approximately 13.17 acres) is designated as RES 15, CC, and NC FLU with IU-1 and GU zoning classifications. The subject property is currently undeveloped with a substantial portion of the property underwater. The site has frontage on Lake Drive as well as Cox Road (50 feet in width).

A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) (**23Z00003**).

The existing GU zoning classification may be considered consistent with the existing RES 15, NC and CC Future Land Use designations; however, the existing IU-1 zoning

classification may not be considered consistent with the existing RES 15, NC and CC Future Land Use designations.

The proposed BU-1 zoning classification can not be considered consistent with the existing RES 15 and NC Future Land Use designations; however, the proposed BU-1 zoning classification may be considered consistent with the requested CC Future Land Use designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

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

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

Criteria:

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

The applicant is proposing the development of a grocery store and retail commercial. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

- 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 use.

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

The surrounding area is commercial in character with government facilities and residential land uses north and east of the subject site. The west side of Cox Road is within the City of Cocoa and is designated as Industrial FLU. There are four (4) FLU designations within 500 feet of the subject site: RES 15, CC, NC, and PUB.

Cox Road and Lake Drive both connect to W. King Street (SR 520) has a historic pattern of strip commercial development.

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

There has not been any new development immediately adjacent to the subject property in the preceding three (3) years.

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

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

21Z00031, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.19-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

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

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets in the vicinity of the Interstate 95 interchange.

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

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject property has frontage on Lake Drive, an urban major collector roadway operating at 18.64% of Maximum Acceptable Volume (MAV), as well as access to Cox Road, an urban major collector roadway operating at 27.01% of MAV. A detailed analysis will be conducted at site plan.

B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

There are CC future land use map designations adjacent to the subject property along Cox Road.

C. Existing commercial development trend in the area;

Existing commercial development in the immediate area includes a convenience store with gas pump, warehousing, and retail to the north. Additional commercial uses are located along W. King Street (SR 520), a commercial corridor.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

E. Availability of required infrastructure at/above adopted levels of service;

A preliminary concurrency analysis did indicate that the maximum development potential from the proposed Future Land Use designation could cause a deficiency in the transportation adopted level of service. A detailed analysis will be conducted when a use is proposed at the time of Site Plan.

The subject site has access to Cocoa City Water Distribution per the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

F. Spacing from other commercial activities;

The closest Community Commercial activities are located immediately to the west of the subject site with frontage on Cox Road and south of the subject site, across W. King Street (SR 520).

G. Size of proposed commercial designation compared with current need for commercial lands;

The 13.36-acre subject property is currently designated RES 15, NC, and CC. The request for CC across the entire parcel represents an increase of approximately ten (10) acres of CC.

H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The provisions of this Criterion will be addressed at the site plan stage.

I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

J. Impacts upon strip commercial development.

The subject property is currently undeveloped and could be considered infill and not an expansion of strip development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations

FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and

- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has proposed to develop the site as a grocery store and retail commercial use.

**Locational and Development Criteria for Community Commercial Uses
FLUE Policy 2.8**

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The subject property is located approximately 165 feet east of the intersection of Cox Road, an urban major collector roadway, and W. King Street (SR 520), an urban principal arterial roadway.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The Community Commercial designated properties immediately adjacent to the subject property at the northeast quadrant of the Cox Road and W. King Street (SR 520) intersection total less than four (4) acres. This request, if approved, would represent an increase of approximately ten (10) acres of CC.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

W. King Street (SR 520), an urban principal arterial roadway, is a commercial corridor serving the community and the surrounding region. As such, this area presents an historical strip development pattern and does not lend itself to cluster commercial analysis.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

This criterion will be addressed at the site plan review stage of development.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The overall subject site has the potential for a 581,962 sq. ft. building. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The requested zoning classification is BU-1 and does not permit recreational vehicle parks.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial mixed use; Single-family	BU-2; AGR	CC; RES 15
South	Commercial undeveloped; Commercial retail	BU-2; BU-1	CC
East	Warehousing	GML	PUB
West	Commercial retail; Commercial warehousing; Commercial undeveloped; Two (2) single-family residences	GU; BU-1-A; BU-1; BU-2	RES 15; CC

To the north is a 1.13-acre parcel designated as CC FLU and developed as a mixed use commercial property with an office building and residence. Also, to the north is an 8.68-acre parcel designated as RES 15 FLU and developed as a single-family residence (built in 1910) with horse stables (built in 2005).

To the south, across Lake Drive, is a 2.42-acre undeveloped parcel designated as CC FLU. Further to the south, across W. King Street (SR 520), are two parcels (8.27-acres and 1.2-acres) both designated as CC FLU and each developed as retail commercial stores.

To the east is 20-acre parcel owned by Brevard County that is designated as PUB and developed as warehousing and storage.

To the west, along Cox Road, are four (4) commercial properties with CC FLU designations, including a 0.8-acre parcel developed as convenience store/gas station; a 1.46-acre parcel developed as warehousing; a 0.67-acre parcel developed as warehousing; and a 0.38-acre undeveloped commercial parcel. There is one commercial parcel (0.77-acres) with RES 15 FLU developed as a retail store.

Also, to the west, along Cox Road, is a 0.69-acre parcel developed as a single-family residence (built in 1959) with CC FLU; and a 0.38-acre parcel developed as a single-family residence (built in 1962) with RES 15 FLU. Further west, across Cox Road, is the City of Cocoa.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Drive, from Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. The maximum development potential from the proposed land use change increases the percentage of MAV utilization by 140.40%. The corridor is anticipated to operate at 159.05% of capacity daily. Specific concurrency issues and operational improvements will be addressed at the time of site plan review when a specific use is identified.

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

The subject site has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

Environmental Constraints

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

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

Historic Resources

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Comprehensive Plan Review & Summary
Item #23SS00001

Applicant: Carolyn Haslam

FLU Request: RES 15, NC, & CC to all CC

Note: Applicant wants to develop a grocery and retail site.

LPA Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID Nos: 2407578 & 2407572

- 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:

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Protected (\geq 10 inches in diameter) and Specimen (\geq 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or

relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Anclote sand, frequently ponded, 0 to 1 percent slopes and Anclote sand), and NWI and SJRWMD wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

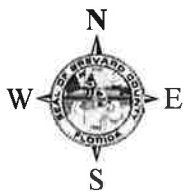
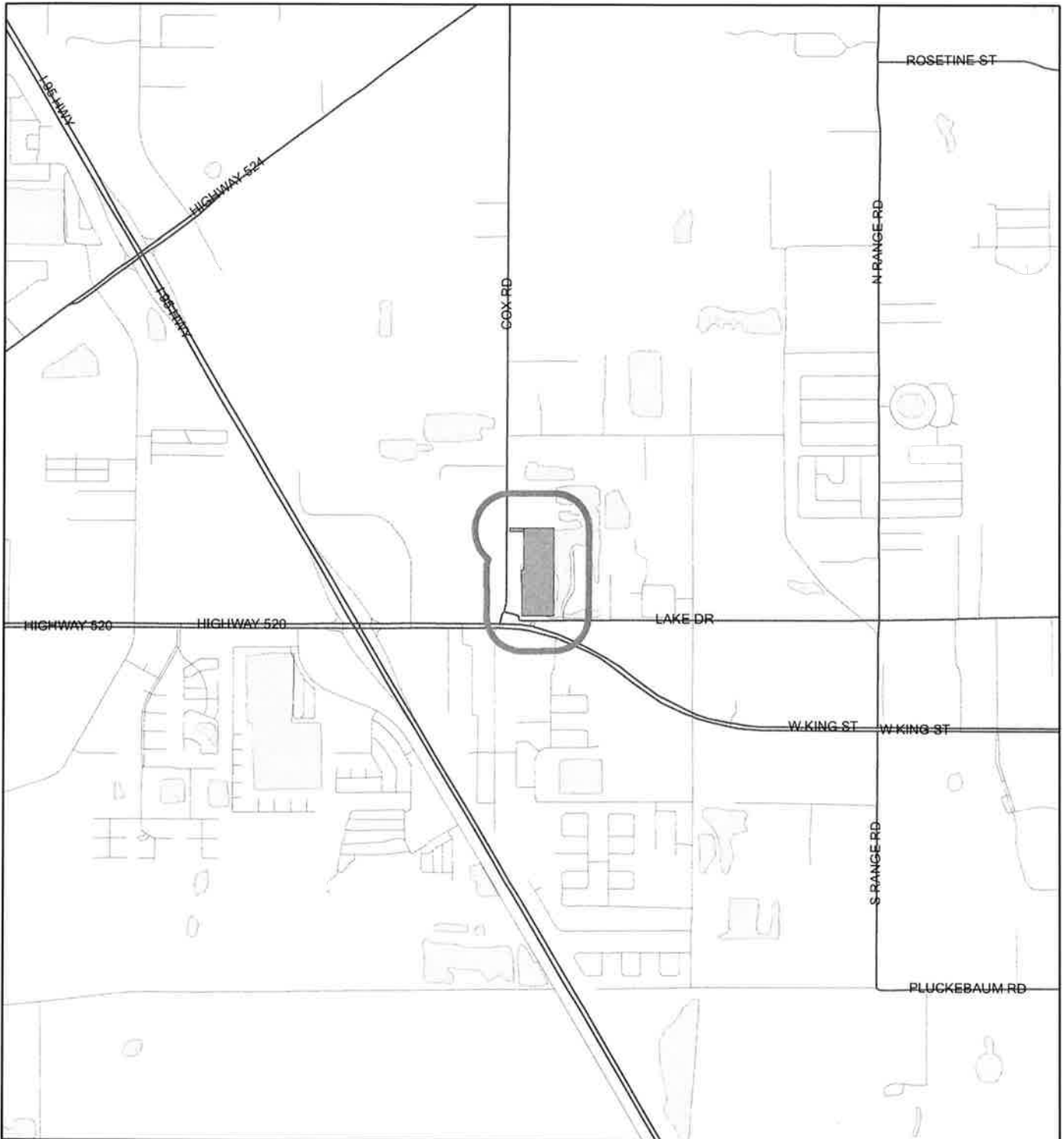
Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001





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

Buffer Distance: 500 feet

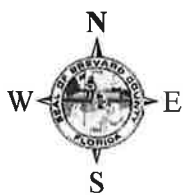
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/25/2023

-  Buffer
-  Subject Property

ZONING MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

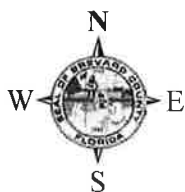
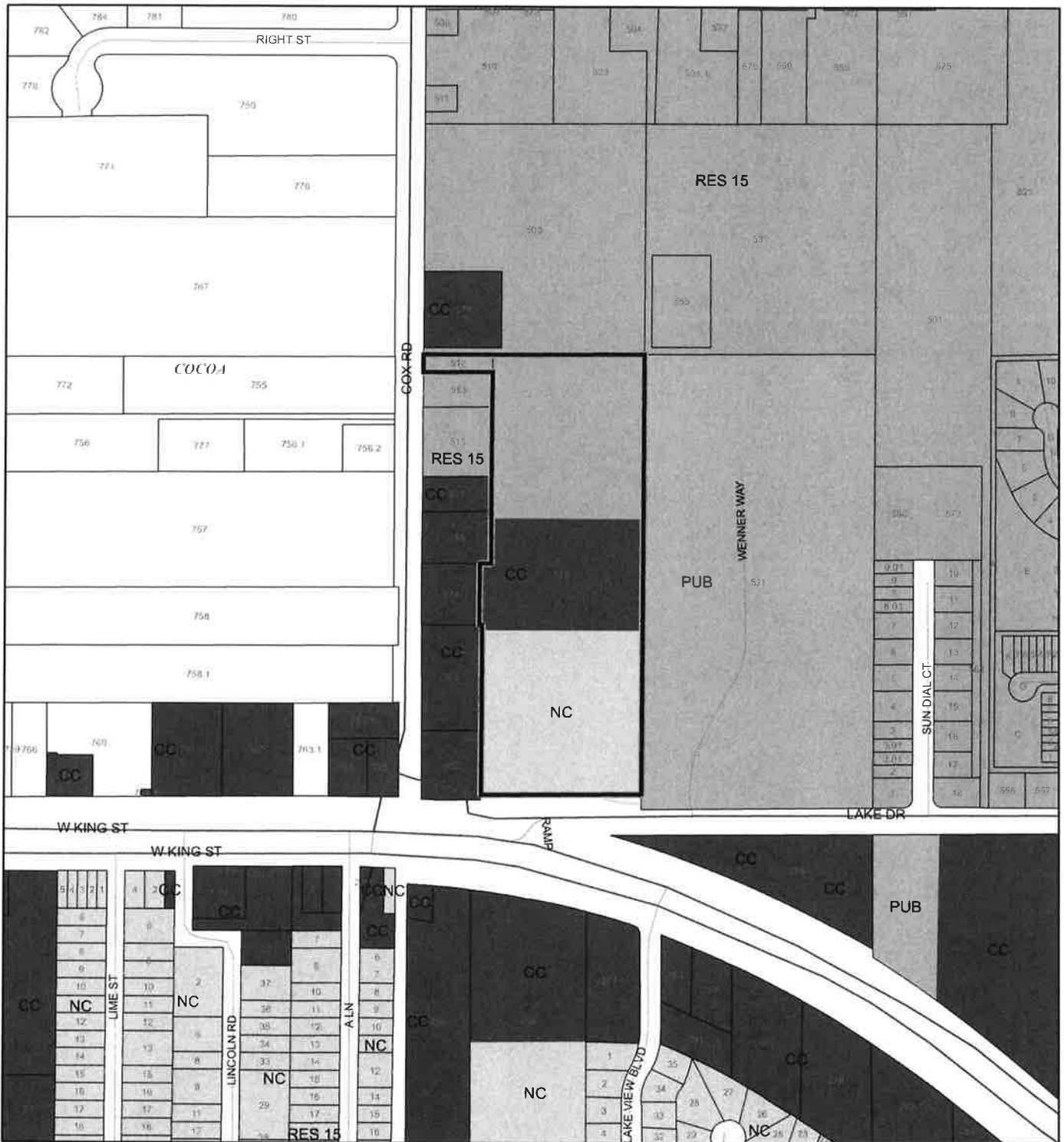
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Produced by BoCC - GIS Date: 1/25/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

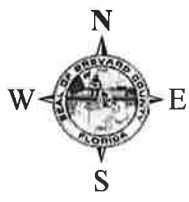
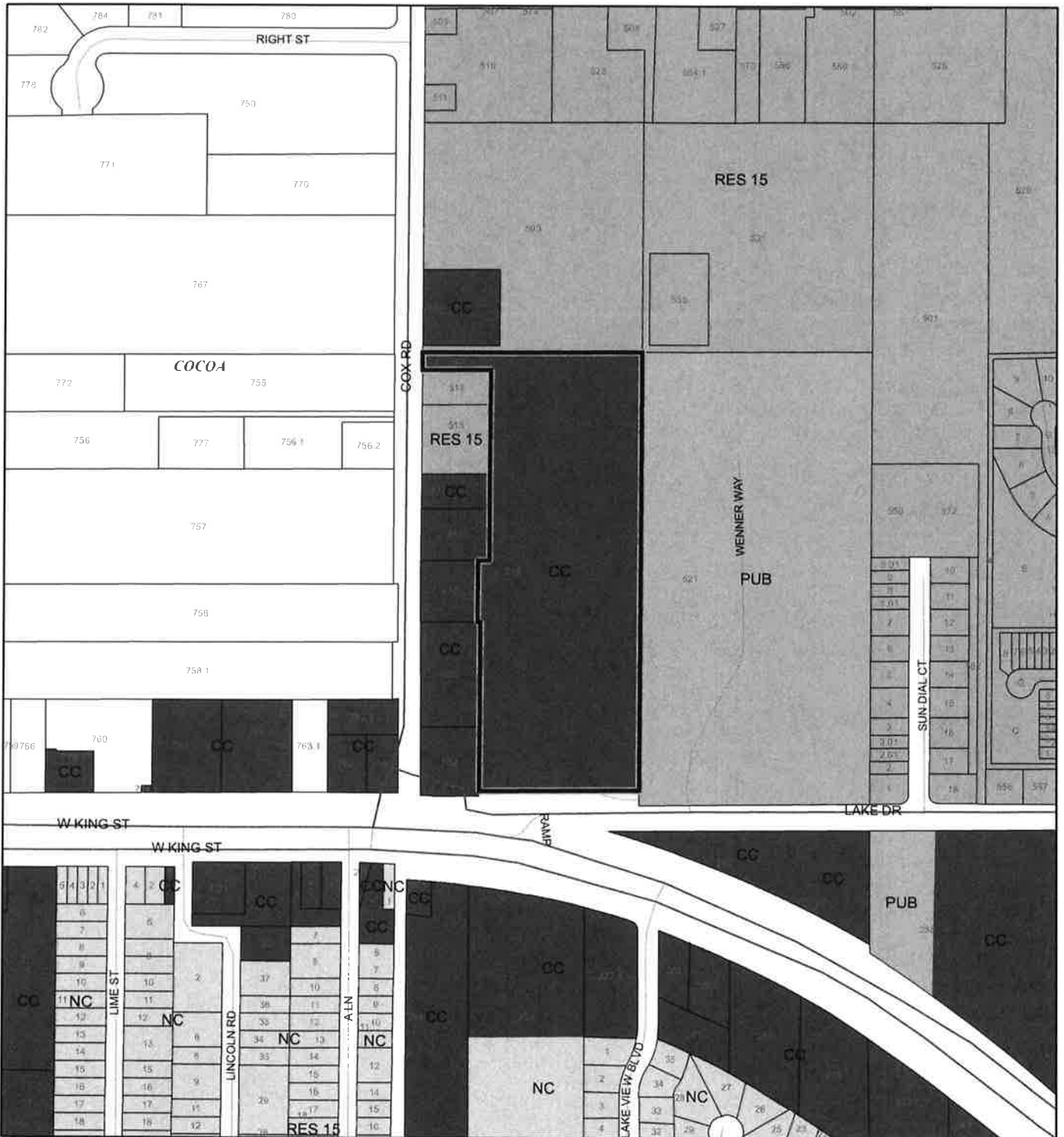
Subject Property
 Parcels

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: 1/25/2023

PROPOSED FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

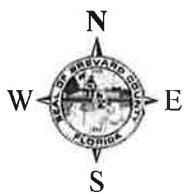
— Subject Property
□ Parcels

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Produced by BoCC - GIS Date: 1/25/2023

AERIAL MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

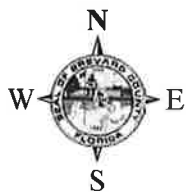
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Produced by BoCC - GIS Date: 1/25/2023

-  Subject Property
-  Parcels

NWI WETLANDS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

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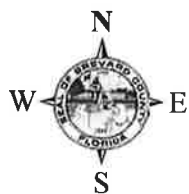
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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

SJRWMD FLUCCS WETLANDS

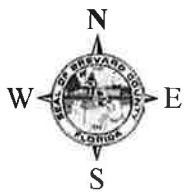
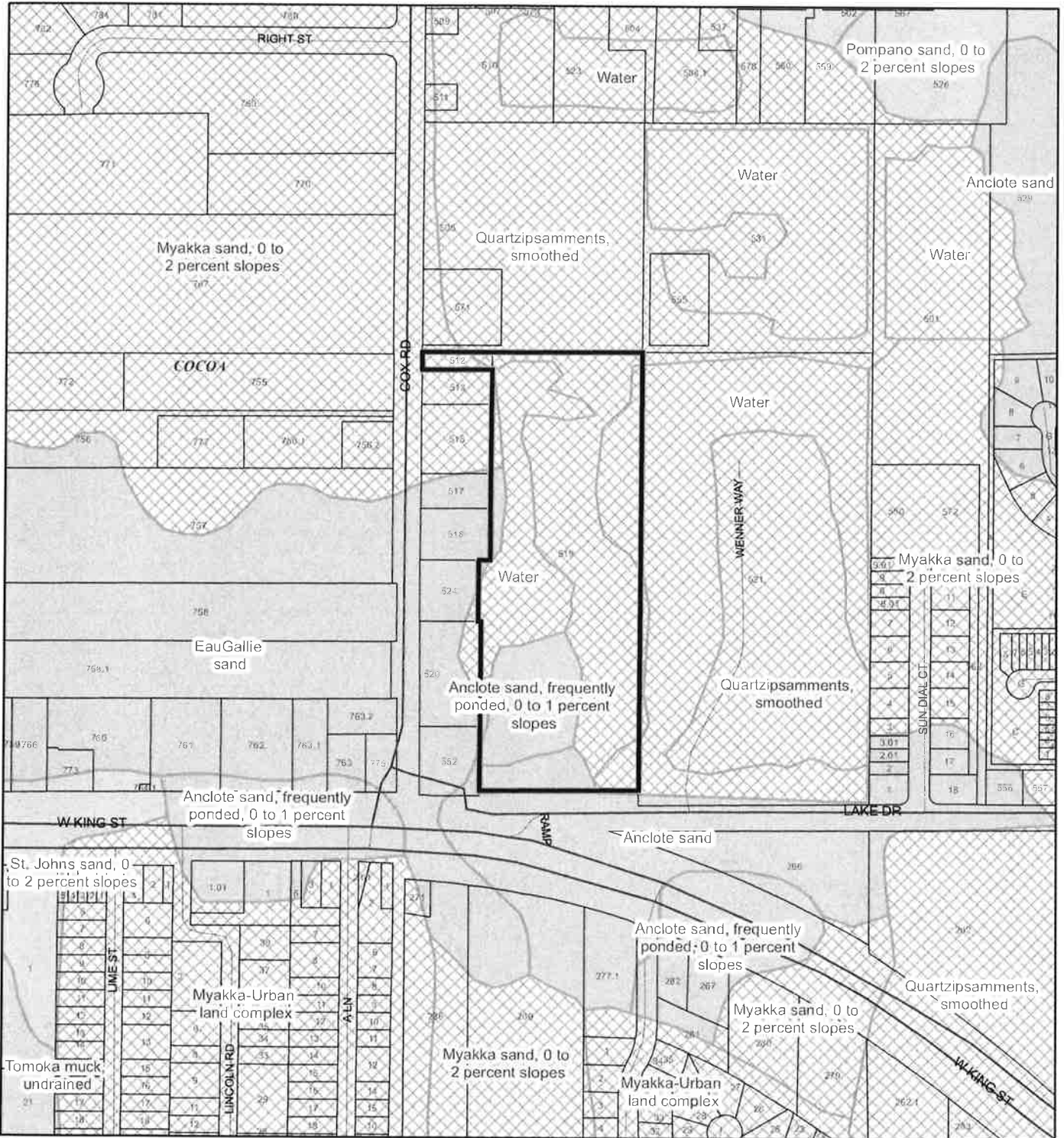
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

 Parcels

USDA SCSSS SOILS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

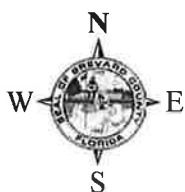
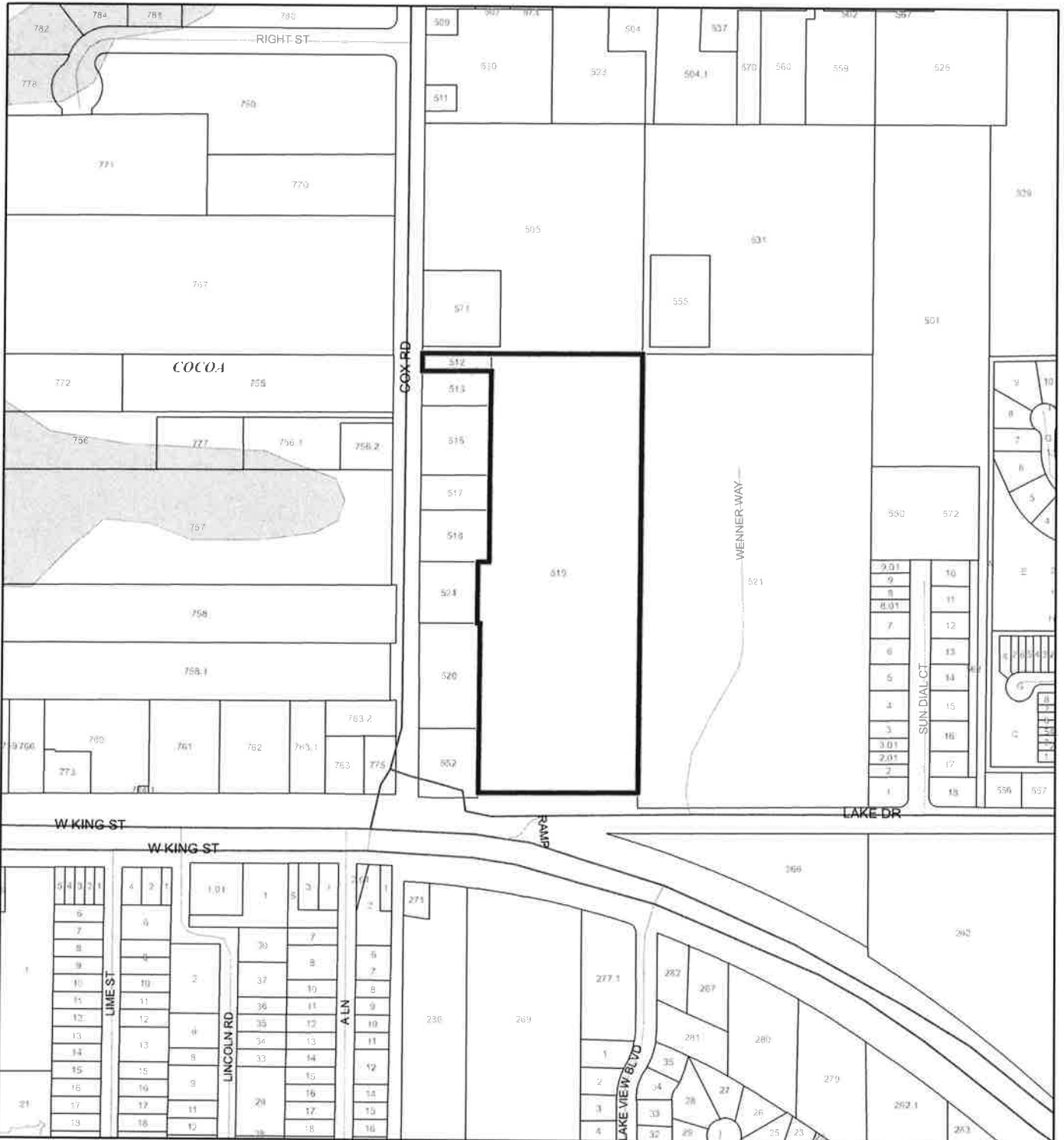
- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

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FEMA FLOOD ZONES MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

FEMA Flood Zones

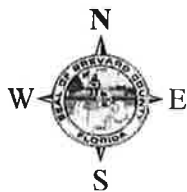
- A
- AE
- AH
- AO
- Open Water
- VE
- X
- Subject Property
- Parcels

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COASTAL HIGH HAZARD AREA MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

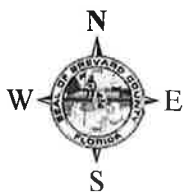
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-  Subject Property
-  Parcels
- Coastal High Hazard Area**
-  SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

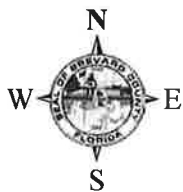
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/25/2023

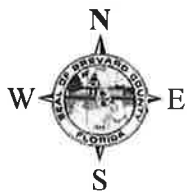
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001



1:4,800 or 1 inch = 400 feet

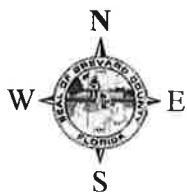
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Produced by BoCC - GIS Date: 1/25/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/25/2023

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, March 13, 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); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

QW Trust Agreement (Carolyn Haslam)

A Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

QW Trust Agreement (Carolyn Haslam)

A change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Bruce Moia disclosed he had a brief conversation with the applicant about the property.

Carolyn Haslam, 420 S. Orange Avenue, Orlando, stated the reason for the Small Scale Plan Amendment and rezoning is so the property can be unified as Community Commercial and BU-1. She said the proposed use is a high-quality retail development that will include a grocery store. The proposed amendments will allow for the development to be consistent with the comp plan policies, and they are compatible with the area, which is a mix a commercial and industrial. She stated the proposed commercial use will benefit the community, and we ask for your approval of both requests.

No public comment.

Henry Minneboo asked what is the final plan for the property. Ms. Haslam replied the plan is for commercial, including a grocery store, drug store, and retail. Mr. Minneboo asked if the project will have access to Cox Road. Ms. Haslam replied yes, there will be access on Cox Road and Lake Drive.

Ben Glover asked how much of the property can be filled.

Bruce Moia stated if the lake is surface water then it is not an impact as far as the permitting agencies are concerned.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15, NC, and CC, to all CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from GU and IU-1, to BU-1. The motion passed unanimously.