



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.7.

2/1/2024

Subject:

Travis and Rebecca Pless request a Small Scale Comprehensive Plan Amendment (23S.23) to the Future Land Use designation from AGRIC to Res 1. (23SS00023) (Tax Account 2002077) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small-Scale Comprehensive Plan Amendment (23S.23) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use (FLU) designation from Agricultural (AGRIC) to Residential 1 (RES 1) on 1.21 acres. The request would allow a the construction of a single-family residence.

The subject parcel cannot be considered a non-conforming lot of record because it was recorded into the current configuration per Official Records Book 2359, Page 55 on March 19, 1982 after the minimum lot size regulation changed. GU required 1 acre prior to May 20, 1975, afterwards GU required 5 acres. In 1988, the Comprehensive Plan was adopted establishing an Agricultural FLUM designation also requiring a minimum 5 acres.

A companion application, 23Z00080, if approved, would amend the zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home). The requested zoning classification requires minimum one (1) acre lots and can be considered consistent with the requested RES 1 FLU designation.

There has been a pattern of residential development prior to the adoption of the FLUM in 1988. This area was originally platted in 1914 as 10-acre tracts. Many of the parcels have been further divided to mostly 1.25-acre lots prior to the 1988 Comprehensive Plan.

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

On January 8, 2024, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once filed with the State, please return a copy of the Ordinance to Planning and Development.



February 2, 2024

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item G.7., Small Scale Comprehensive Plan Amendment (23S.23)

The Board of County Commissioners, in regular session on February 1, 2024, conducted the public hearing and adopted Ordinance No. 24-03, setting forth the fifteenth Small Scale Comprehensive Plan Amendment (23S.23) to change the Future Land Use designation from AGRIC to RES 1 (23SS00023). Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encl. (1)

ORDINANCE NO. 24-03

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIFTHTEENTH SMALL SCALE PLAN AMENDMENT OF 2023, 23S.23, 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 2024 as Plan Amendment 23S.23; 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.23; 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 the State February 5, 2024.

WHEREAS, on January 08, 2024, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.23, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on February 01, 2024, 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.23; and

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

WHEREAS, Plan Amendment 23S.23 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 23S.23 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.23, 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 1st day of February, 2024.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Jason Steele, Chair

As approved by the Board on February 1, 2024.

EXHIBIT A
23S.23 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

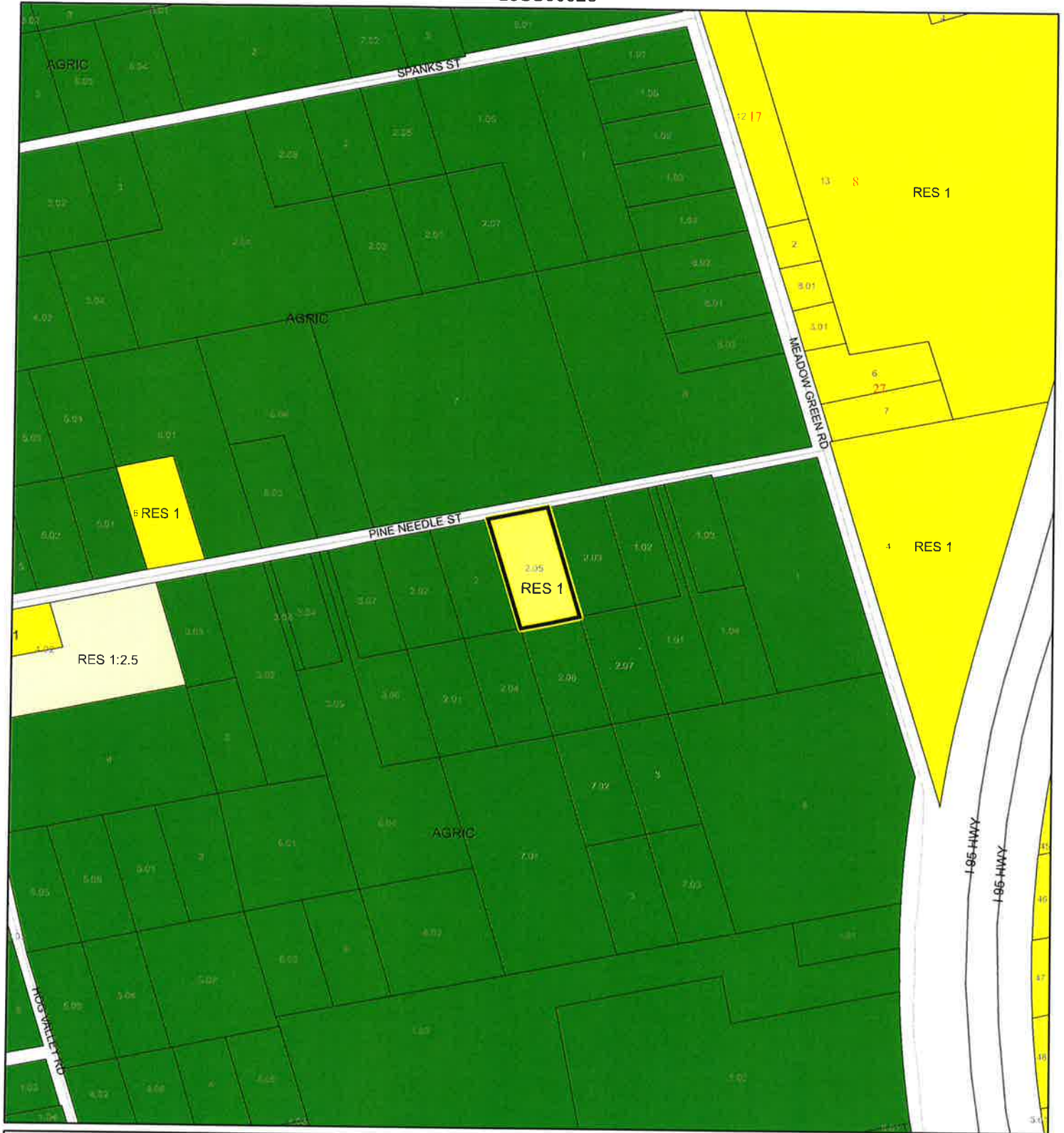
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

Pless, Travis & Rebecca

23SS00023



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: 11/6/2023

EXHIBIT B

Contents

1. Legal Description

DISTRICT 1

(23SS00023) Travis and Rebecca Pless request a Small Scale Comprehensive Plan Amendment (23S.23), to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1), on property described as Lot 2.05, Block 2, Indian River Park Subdivision, as recorded in ORB 9111, Pages 2892 - 2893, of the Public Records of Brevard County, Florida, **Section 22, Township 20G, Range 34**, (1.21 acres) Located on the south side of Pine Needle St., approx. 840 ft. west of Meadow Green Rd. (4753 Pine Needle St., Mims.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 23S.23: 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.



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

February 5, 2024

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

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. 24-03, which was filed in this office on February 5, 2024.

Sincerely,

Matthew Hargreaves
Administrative Code and Register Director

MJH/wlh

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.23 (23SS00023)
Township 20G, Range 34, Section 22*

Property Information

Owner / Applicant: Travis & Rebecca Pless

Adopted Future Land Use Map Designation: Agricultural (AGRIC)

Requested Future Land Use Map Designation: Residential (RES 1)

Acreage: 1.21 acres

Tax Account #: 2002077

Site Location: Frontage on the Southside of Pine Needle Street, approximately 840 ft.
west of Meadow Green Rd.,

Commission District: 1

Current Zoning: General Use (GU)

Requested Zoning: RRMH-1

Background & Purpose

The applicant is requesting to amend the Future Land Use (FLU) designation from Agricultural (AGRIC) to Residential 1 (RES 1) on 1.21 acres. The purpose of the request is for issuance of a building permit to build a single family residence. The subject parcel is currently undeveloped and has frontage on Pine Needle Street, a county-maintained roadway. Records indicate the subject parcel was purchased by the applicant on May 05, 2021. At this time, there are no active code enforcement associated with the subject parcel.

In 1988, Brevard County Comprehensive Plan went into effect applying the AGRIC Future Land Use to the subject property and the surrounding area. Included in the minimum criteria governing activities in this land use designation calling for residential densities not to exceed one dwelling unit per five (5) acres. The subject property has retained the FLU designation of AGRIC since the adoption of the Future Land Use map (FLUM) in 1988.

Underlying this area is a 1914 plat initially recorded 10-acre tract/lot sizes.

The property's current configuration was created as of March 19, 1982, recorded in Official Record Book 2359/ Page 55, as Indian River Park W ½ of NE ¼ of Tract 2 Block 2, approximately 1.21 acres.

The subject parcel can**not** be considered a non-conforming lot of record because it was recorded into the current configuration per Official Records Book 2359, Page 55 on March 19, 1982 after the minimum lot size regulation changed. GU required 1 acre prior to May 20, 1975, afterwards GU required 5 acres. In 1988, the Comprehensive Plan was adopted establishing an Agricultural FLUM designation also requiring a minimum 5 acres. There are no other applicable land use actions on file for the subject parcel.

October 2006, the Board of County Commissioners directed Planning and Zoning staff to prepare a **Small Area Study (SAS) for the Mims community** in northern Brevard County in order to assess the area's growth capabilities and develop tactics for managing growth. The concern was continued growth would likely exceed the County's ability to supply potable water, due to aquifer limitations. The same aquifer supplies water to private well-users in Mims.

Analysis indicated that by reducing FLUM densities in parts of Mims would reduce potential buildout number by 30%. The Mims Small Area Study was approved by the Board on April 10, 2007. As a result of the study, the SAS adopted/retained a Future Land Use of AGRIC (Agricultural Future Land Use designation), which establishes one unit per 5 acres west of Meadow Green Road. Properties with approved RRMH, AU and AGR zoning classifications prior to the study were retained and adopted. The remaining lots adopted/retained the GU zoning classification including the subject property.

The subject parcel's GU zoning classification (requires lot size of 5 acres) is consistent with the AGRIC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan.

The requested RES 1 FLU designation permits low density residential development with a maximum density of up to one (1) unit per 1 acre, except as otherwise may be provided for within the FLU element. The subject parcel's existing GU zoning can**not** be considered consistent with the requested RES 1 FLU designation.

A companion application, **23Z00080**, if approved, would amend the zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home). The requested zoning classification requires minimum one (1) acre lots and can be considered consistent with the requested RES 1 FLU designation.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	GU	AGRIC
South	Vacant	GU	AGRIC
East	Single-family residence	RRMH-1	AGRIC
West	Vacant	GU	AGRIC

Future Land Use (FLU) designations, the county's Comprehensive Plan, indicates the intended use and development density for a particular area, while zoning classification specifically defines allowable uses and contains the design and development guidelines for those intended uses. The county's Comprehensive Plan shall be the guidance for consideration when considering the appropriate zoning district to rezone a property to, moving towards consistency with the FLUM.

The surrounding Land Use in this area is predominately Agricultural (AGRIC). The Agricultural Land Use map designation is intended to protect agricultural lands, and provide for the continuing viability of the agricultural industry in the County's economy. Activities include but are not limited to, row, vegetable and fruit crop production; dairy, poultry and livestock production; aquaculture, silviculture, horticulture, and apiariculture. Large lot residential development which does not impede the use of lands for agricultural purposes shall be permitted in this land use designation. Residential densities shall not exceed one dwelling unit per five (5) acres. The County shall not extend public utilities and services outside of the service areas to Agricultural areas for new development.

The Future Land Use Element allows for various zoning districts within a given Future Land Use designation. General Use (GU) zoning classification, which requires a minimum of 5 acres, is one of the classifications that is consistent with AGRIC land use. However, most of the parcels in the surrounding area have been split into smaller 1+ acre lots creating inconsistent FLU and zoning designations.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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.

Residential 1 (maximum of 1 dwelling unit per acre)

Policy 1.9

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 land use designation; or

The subject property is not located adjacent to an existing RES 1 FLUM designation. AGRI FLUM designation is surrounding the subject property on all sides.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser; or

The subject parcel does not serve as a transition between greater or lesser densities.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

The subject parcel is not adjacent to an incorporated area.

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:

- 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;

There has been a pattern of residential development prior to the adoption of the FLUM in 1988. This area was originally platted in 1914 as 10-acre tracts. Many of the parcels have been further divided to mostly 1.25-acre lots prior to the 1988 Comprehensive Plan.

The subject property has retained the original Future Land Use (FLU) designation of AGRIC. AGRIC is the predominate Future Land Use designation in the area. The closest RES 1 is approximately 833 ft west of the subject site on the northside of Pine Needle Street. The FLUM was amended under action Z11461 from AGRIC to RES 1, approved in February 2009.

There have been three (3) FLUM actions approved within one-half mile (on abutting parcels under same ownership) of the subject site within the past three years:

- **AGRIC to RES1:2.5 under action 22SS00014, approved 05/04/2023 located approximately 970 ft. west on the southside of Pine Needle St.**
- **AGRIC to RES 1 under action 22SS00014, approved 05/04/2023 located approximately 1,290 ft. west on the southside of Pine Needle St**
- **AGRIC to RES 1:2.5 under action 20PZ00080, approved 12/03/2020 located approximately 2,325 miles north of the subject property.**

The Board may wish to consider the Small Area Study (SAS) was to control growth that would likely exceed the County's ability to supply potable water, due to aquifer limitations. The same aquifer supplies water to private well-users in Mims.

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

There has been one (1) single-family residence constructed within this area in the preceding three (3) years.

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

There have not been any development approvals that are pending construction within the past 3 years.

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.

The character of the surrounding area is undeveloped and mixture of developed single-family residential homes on large lots approximately one (1) acre in size or greater.

The proposed use single-family residential use is not anticipated to adversely impact the rural residential character within the surrounding area. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding area.

However, the recent development trends indicate continuous growth beyond one (1) dwelling unit per acre as currently allowed.

- 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.

Staff analysis has determined the subject property is not located within an established residential neighborhood. There are no clear established boundaries, such as open spaces, rivers, lakes, lagoons, or similar features. Lots within the surrounding area are developed as single-family residential homes.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The proposed is not a request for a neighborhood commercial 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.

There have been no commercial, industrial or other non-residential uses applied for and approved during the previous five years.

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.

Based on Natural Resources analysis, the proposed use is not anticipated to 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.

Concurrency

The closest concurrency management segment to the subject property is US Hwy 1, from Burkholm Rd to the Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 11.04% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 11.06% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The closest available Brevard County potable water line or sewer connection to the subject property is approximately two and half (2.5) miles southeast across I-95 HWY at the north end of Sanctuary Drive.

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

Environmental Resources

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Protected and Specimen Trees
- Protected Species

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

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

Historic Resources

There are no recorded historic 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 and compatible with the surrounding area recognizing existing development trends.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 23SS00023

Applicant: Travis & Rebecca Pless (Owners: Travis & Rebecca Pless)

Zoning Request: AGRIC to RES 1

Note: to build SFR

LPA Hearing: 01/08/2024; **BCC Hearing:** 02/01/2024

Tax ID No: 2002077

- 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
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Wetlands

A small portion of the southwest corner of the subject parcel contains mapped National Wetlands Inventory (NWI) wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one dwelling unit per five acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require

mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Protected and Specimen Trees

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

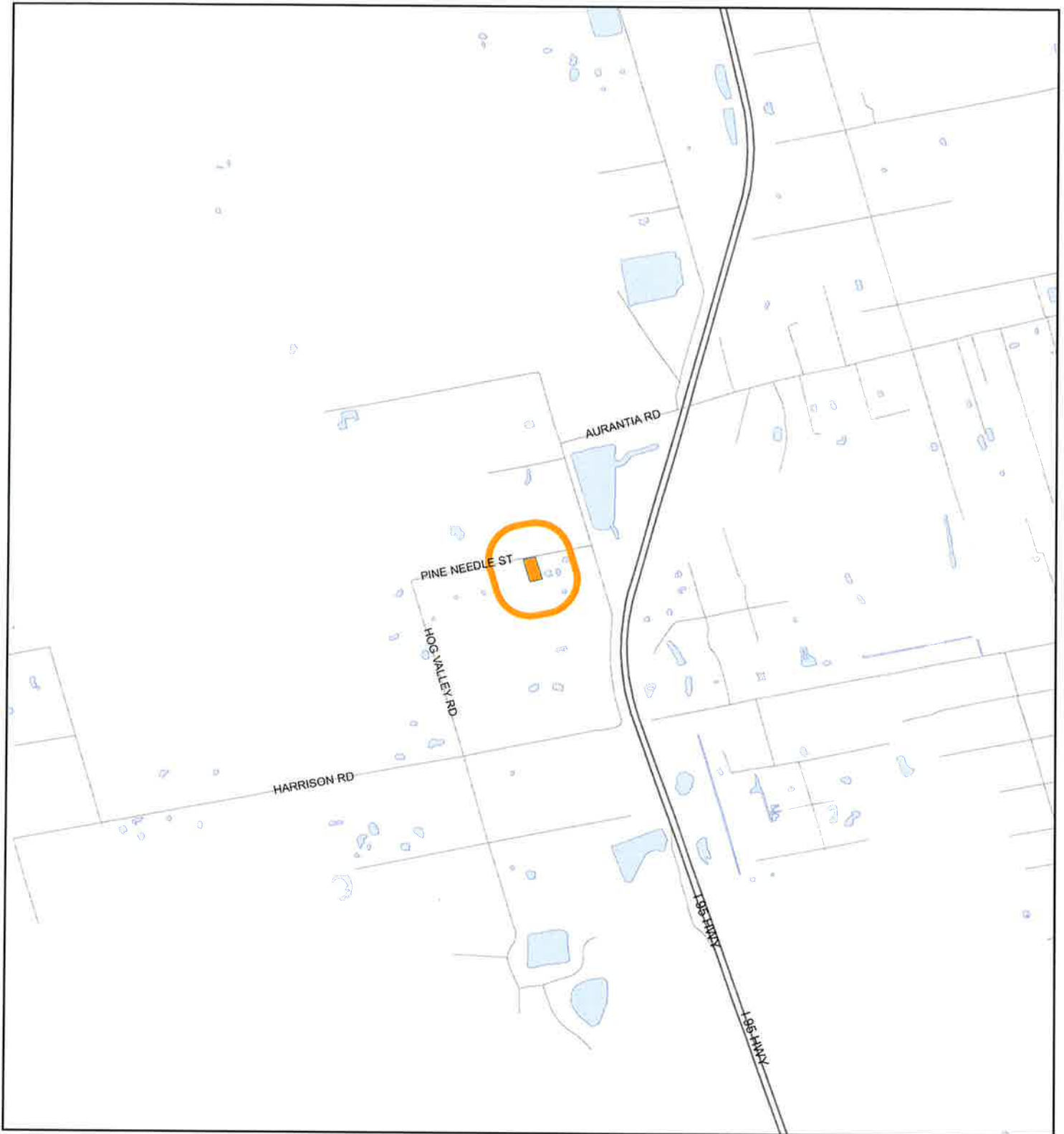
Protected Species

Federally and/or state protected species may be present on properties with wetlands. Specifically, there is potential for existence of Gopher Tortoises on site. Should any protected species be present, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

LOCATION MAP

Pless, Travis & Rebecca

23SS00023



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: 11/6/2023

Buffer
Subject Property

ZONING MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

Zoning

FUTURE LAND USE MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

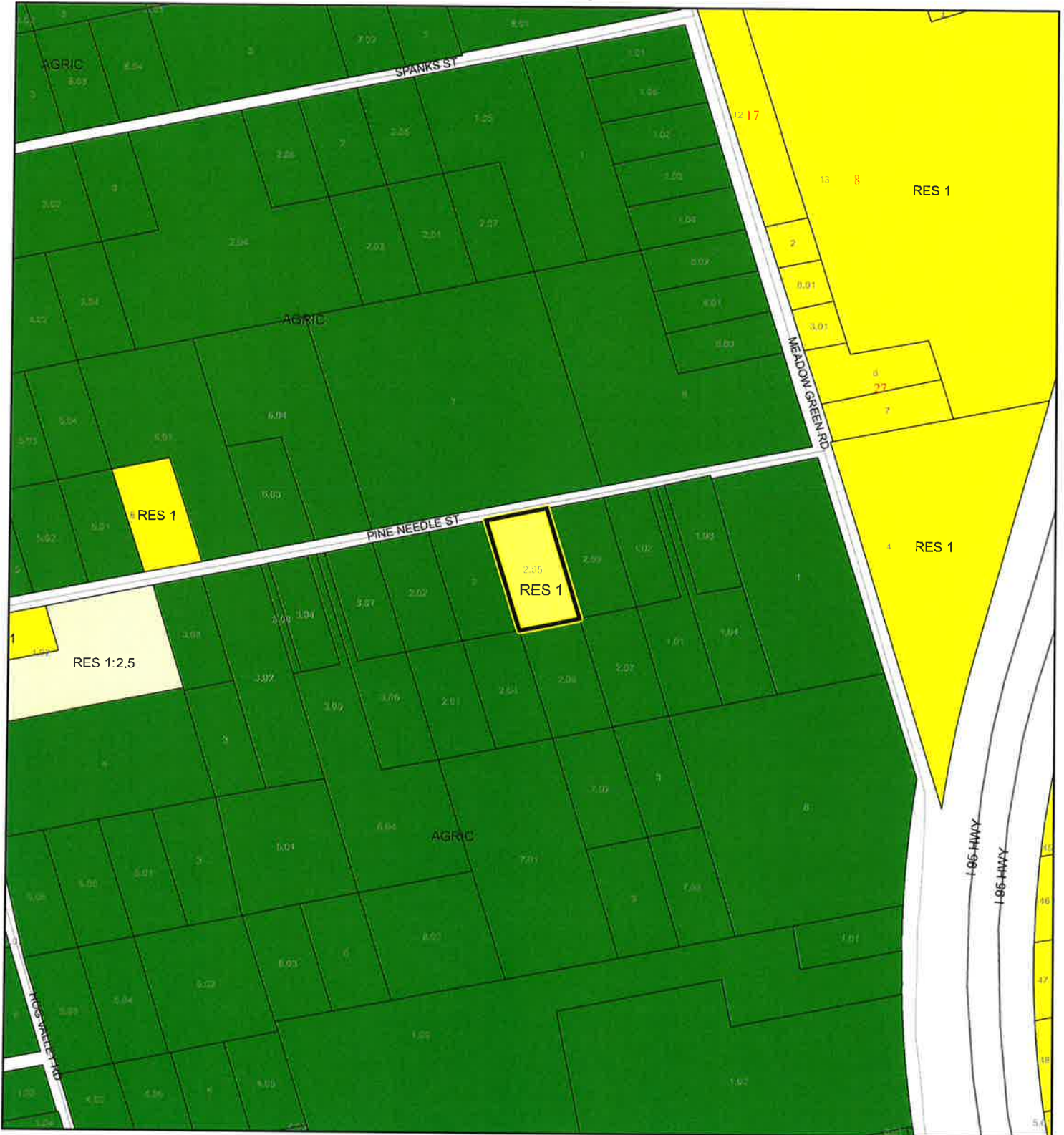
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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PROPOSED FUTURE LAND USE MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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AERIAL MAP

Pless, Travis & Rebecca
23SS00023



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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 Subject Property

 Parcels

NWI WETLANDS MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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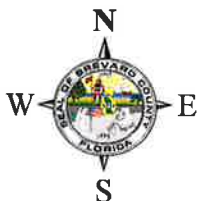
National Wetlands Inventory (NWI)

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

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

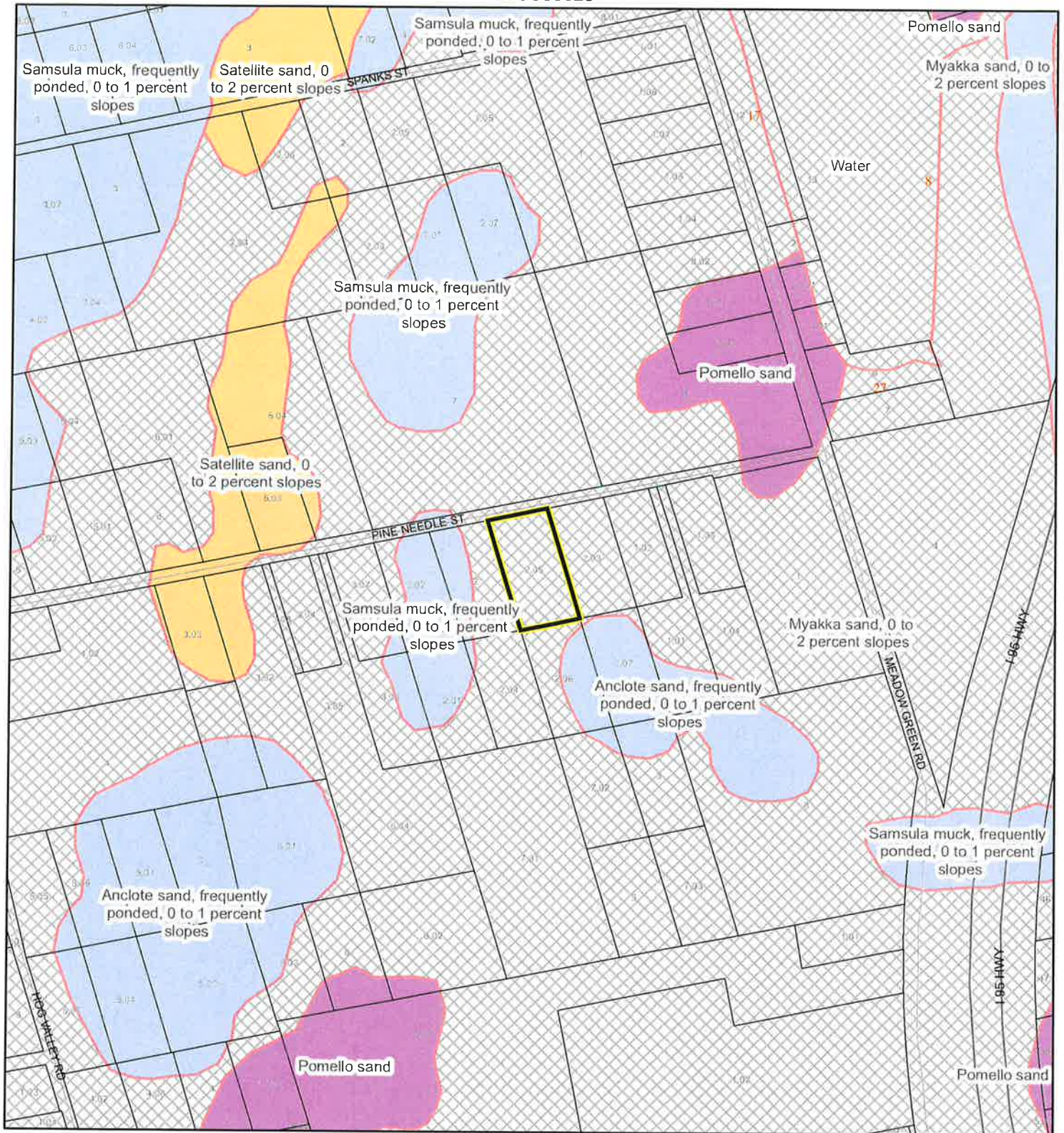
Subject Property

Parcels

USDA SCSSS SOILS MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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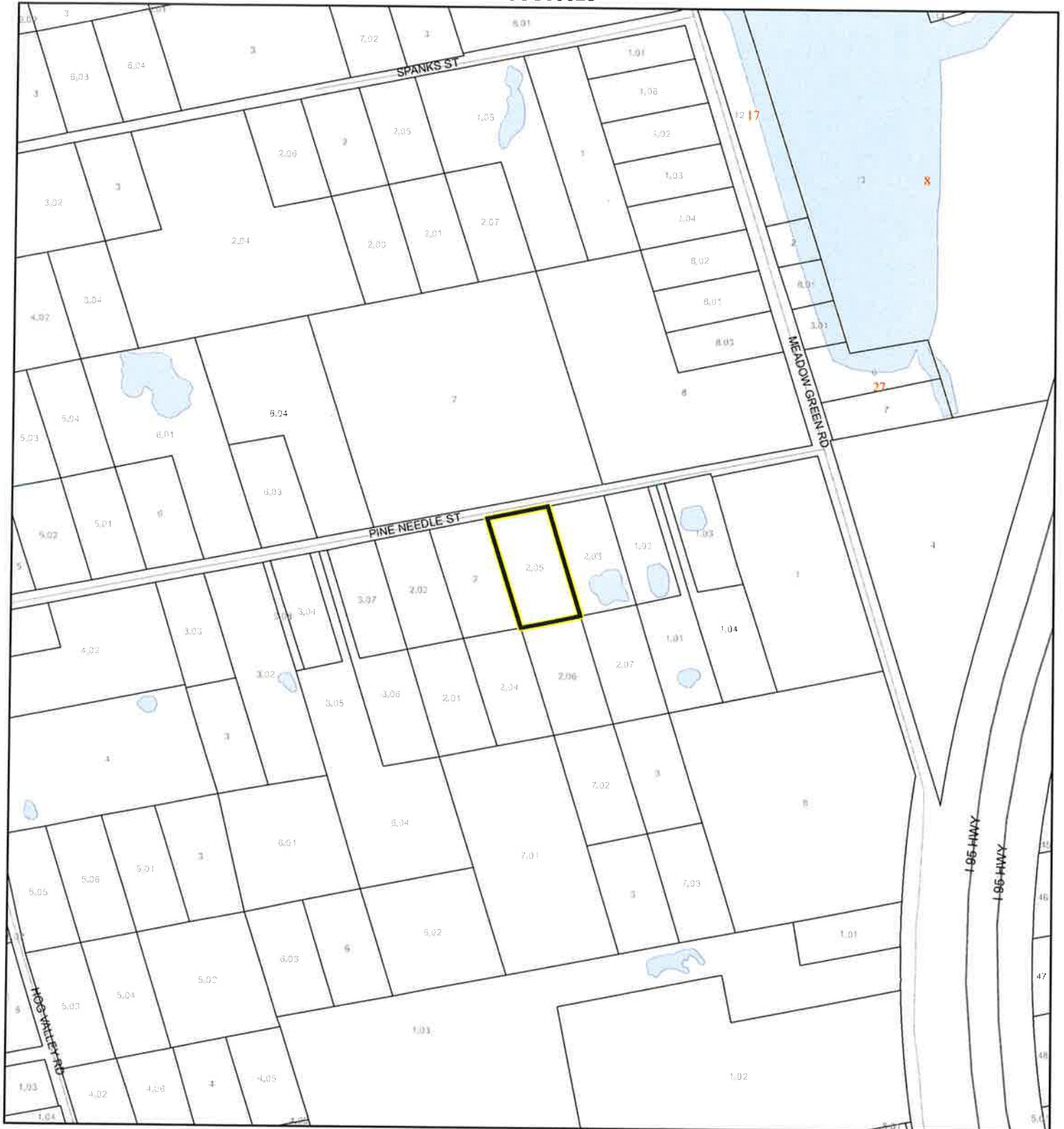
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

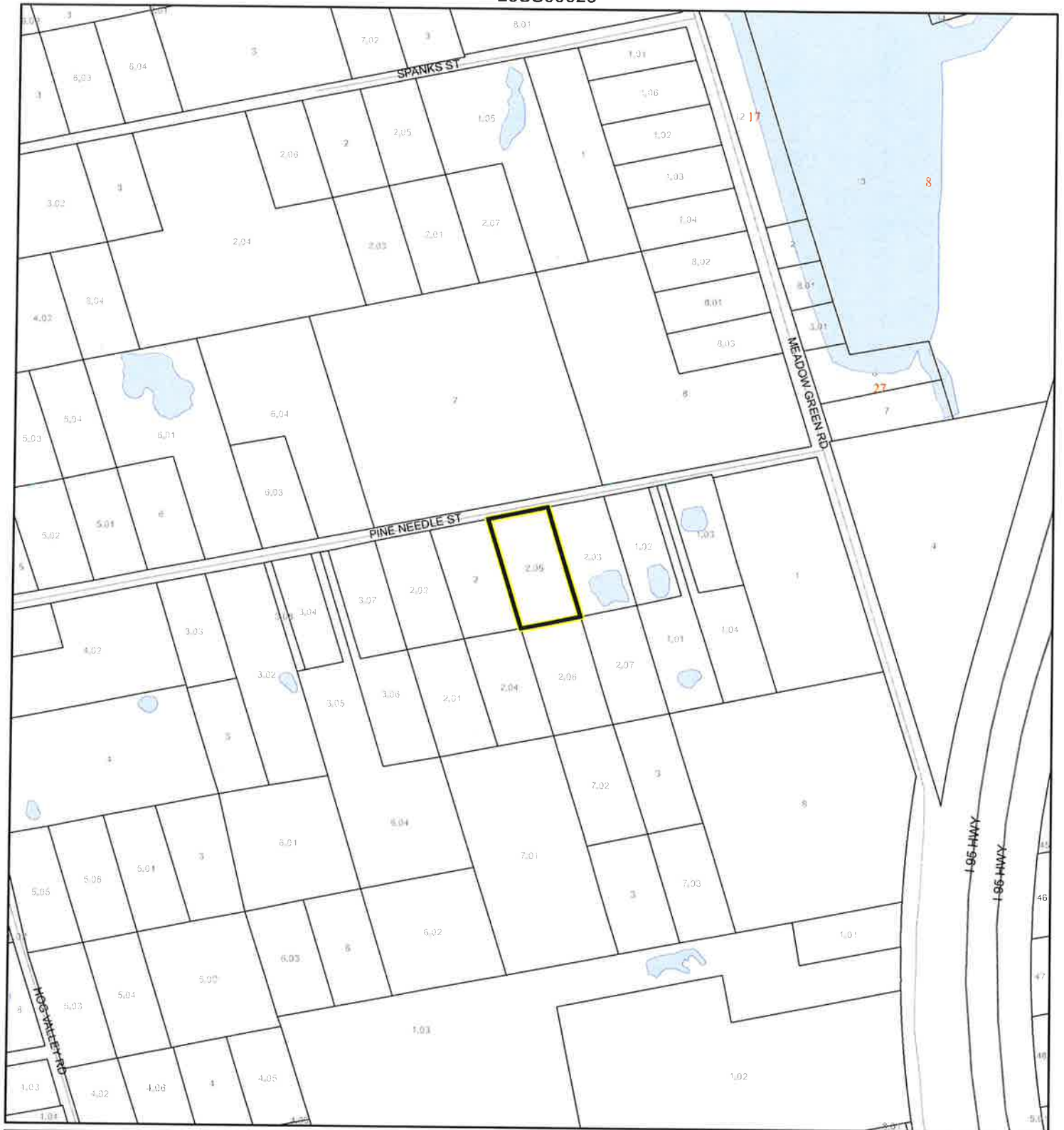
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

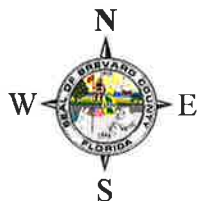
Septic Overlay

 40 Meters

 60 Meters

 All Distances

Pless, Travis & Rebecca
23SS00023



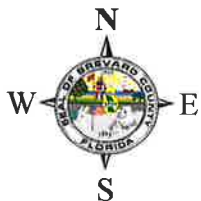
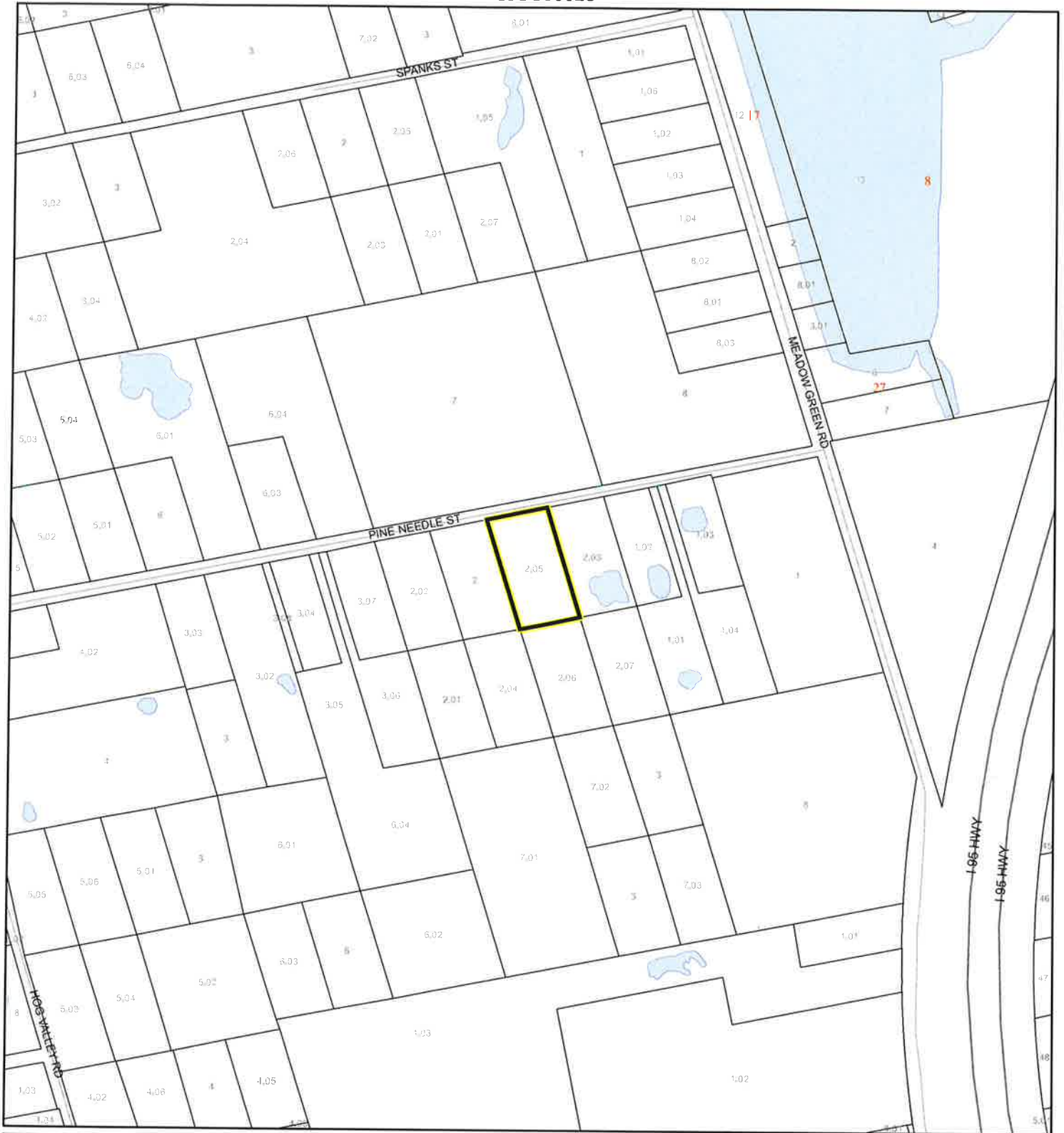
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Subject Property
 Parcels
 Eagle Nests
 FWS

SCRUB JAY OCCUPANCY MAP

Pless, Travis & Rebecca

23SS00023



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 Subject Property

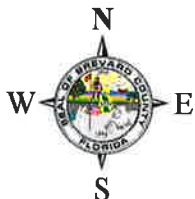
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Pless, Travis & Rebecca

23SS00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/6/2023

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, January 8, 2024**, 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: Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4 Alt); David Bassford (D5 Alt); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Billy Prasad, Deputy Director, Planning & Development; Paul Body, Senior Planner; and Kristen Champion, Special Projects Coordinator.

Excerpt of Complete Agenda

Travis and Rebecca Pless

A Small-Scale Comprehensive Plan Amendment (23S.23), to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1). The property is 1.21 acres, located on the south side of Pine Needle St., approx. 840 ft. west of Meadow Green Rd. (4753 Pine Needle St., Mims) (23SS00023) (Tax Account 2002077) (District 1)

Travis and Rebecca Pless

A change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home). The property is 1.21 acres, located on the south side of Pine Needle St., approx. 840 ft. west of Meadow Green Rd. (4753 Pine Needle St., Mims) (23SS00023) (Tax Account 2002077) (District 1)

Travis Pless, 3403 Dione St., West Melbourne, stated he would like to rezone in order to build a single-family residence.

No public comment.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of the change of the Small Scale Comprehensive Plan Amendment from AGRIC to RES 1. The motion passed unanimously.

Motion by Ron Bartcher, seconded by Robert Sullivan to recommend approval of the change of zoning classification from GU to RRMH-1. The motion passed unanimously.