

*Continued*



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.6.

4/7/2022

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### **Subject:**

Rushing Wind, LLC (Steven Austin) requests a change of zoning classification from RR-1 and IN(L) to RU-1-11, (22Z00001) (Tax Account 3008616) (District 3)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) and IN(L) (Institutional Use, Low-Intensity) to RU-1-11 (Single-Family Residential).

### **Summary Explanation and Background:**

The applicants are requesting to change the zoning of a 34.65-acre property from RR-1 and IN(L) to RU-1-11 in order to develop a subdivision. The RU-1-11 classification permits single-family residences on minimum 7,500 square-foot lots, with a minimum width and depth of 75 feet, and a minimum living area of 1,100 square feet. A companion application for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 4 accompanies this request.

In general, the character of the area is rural with low-density residential to the East. Across Micco Road to the north is property within the City limits of Palm Bay. To the east of the subject property is the Lakes at St. Sebastian Preserve, a subdivision with RU-1-13 zoning, with lot sizes of approximately 0.25 acres. The subdivision has a BDP limiting the overall density to 2 units per acre. To the south of the subject property is undeveloped state-owned land. The area to the west is undeveloped and within the jurisdiction of Palm Bay. The City of Palm Bay has stated that there are currently no plans to develop these large parcels to the west.

The subdivision to the east is the closest similar zoning classification, RU-1-13. RU-1-11 and RU-1-13 have the same requirements for minimum lot size, lot width, and lot depth, and have the same setback requirements. RU-1-13 requires a minimum living area of 1,300 square feet whereas RU-1-11 requires a minimum living area of 1,100 square feet.

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

On March 14, 2022, the Planning and Zoning Board heard the request and voted 6:2 to recommend approval with a BDP (Binding Development Plan), limiting density to 2 units per acre.

**Clerk to the Board Instructions:**

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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 Viera, Florida 32940  
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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**22Z00001**

**Rushing Wind LLC**

**RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential)**

Tax Account Numbers: 3008616  
 Parcel I.D.s: 30G-38-01-HJ-\*-38  
 Location: South side of Micco Rd. approximately 0.37 miles west of Dottie Drive (District 3)  
 Acreage: 34.65

Planning & Zoning Board: 3/14/2022  
 Board of County Commissioners: 4/07/2022

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RR-1 and IN(L)	RU-1-11
<b>Potential*</b>	<ul style="list-style-type: none"> <li>• 25 SFR units (RR-1 portion)</li> <li>• Low-intensity institutional uses</li> </ul>	138 SFR units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 1 & RES 6	YES** RES 4 & RES 6

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Approval is pending approval of companion request **22PZ00003** which proposes to change the Future Land Use Designation from Residential 1 (RES 1) to Residential 6 (RES 6).

**Background and Purpose of Request**

The applicants are requesting to change the zoning of a 34.65-acre property from RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential) in order to develop a subdivision. The parcel is currently vacant.

The site has access along Micco Road, which is a paved county-maintained road. In order to develop the parcel at a density of four units per acre or higher, the applicants will be required to connect to potable water and sewer.

The original zoning of the property was AU (Agricultural Residential). On November 3, 2005, 28.866 acres of the parcel were rezoned from AU to RR-1 as part of zoning action **Z-11135**. On September 4, 2008, 9.026 acres were rezoned from AU and RR-1 to IN(L) as part of zoning action **Z-11440**.

### **Land Use**

The subject property is currently designated as Residential 1 (RES 1) and Residential 6 (RES 6) FLU. The proposed RU-1-11 zoning is consistent with the existing Residential 6 (RES 6) FLU designation, but not with the existing Residential 1 (RES 1) FLU designation. A companion application, **22PZ00003**, if approved, would change the Future Land Use designation on the RES 1 portion of the parcel to RES 4.

### **Applicable Land Use Policies**

**Policy 1.2** - Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

**Connection to centralized potable water and wastewater treatment is required. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.**

**Policy 1.7** - The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 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 4 land use designation; or

**The subject site is not immediately adjacent to RES 4 land use designation; however, it is located adjacent to RES 6 immediately to the north which is a higher density than what is being proposed on the subject site.**

**The closest RES 4 land use designation is approximately .4 miles to the east on the north side of Micco Road at Barefoot Bay.**

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

**The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.**

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

**The subject site is adjacent to the incorporated area of Palm Bay along the west side.**

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

**The applicant is not proposing a Planned Unit Development.**

**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.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

**The proposed use (residential subdivision) is not anticipated to have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly**

**diminish the quality of life in the existing neighborhood in the area. Currently the only other subdivision in the area is located to the east of the subject property.**

- 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;

**There has been a historical pattern of residential development along Micco Road.**

**Approximately .4 miles east of the subject site is the Barefoot Bay manufactured home community with a RES 4 Future Land Use designation with development beginning in the 1970's and continuing up to the present.**

**Directly adjacent to the east of the subject site is The Lakes at St. Sebastian Preserve, a single-family development with houses constructed in 2019 through the present.**

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

**There has not been any actual development within this area in the preceding three (3) years.**

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

**There have not been any development approvals within the past three (3) years.**

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

In general, the character of the area is rural with a low-density residential neighborhood to the east. Across Micco Road to the north is property within the City limits of Palm Bay. To the east of the subject property is the Lakes at St. Sebastian Preserve, a subdivision with RU-1-13 zoning that was approved in August 2013. Lot sizes in this subdivision are around 0.25 acres. The site has a Binding Development Plan limiting the overall density to 2 units per acre in order to be consistent with the RES 2 land use. To the south of the subject property is state-owned land that is undeveloped. The area to the west of the subject property is entirely undeveloped, with some of it within the jurisdiction of Palm Bay. The City of Palm Bay has stated that there are currently no plans to develop these large parcels to the west.

There is no RU-1-11 in the area, with the RU-1-13 directly to the east being the closest similar zoning classification. RU-1-11 and RU-1-13 have the same requirements for minimum lot size, lot width, and lot depth, and have the same setback requirements. RU-1-13 requires a minimum living area of 1,300 sq. ft. whereas RU-1-11 requires a minimum living area of 1,100 sq. ft. The rezoning to RU-1-13 on the adjacent property included a Binding Development Plan limiting development to two units per acre.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	City of Palm Bay Vacant Orchard Groves	GU & AU	RES 1
<b>South</b>	State-owned land	AU	PUB-CONS
<b>East</b>	Residential Common Area and Single-Family Residences	GU	RES 1
<b>West</b>	City of Palm Bay Grazing Land	City of Palm Bay Rural Residential	City of Palm Bay Micco Park Village (MPVD)

RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

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

TRC-1 encompasses lands devoted to planned single-family mobile home development which permits mobile homes or residences on lots of minimum 6,500 square feet with a lot width of 65 feet and a lot depth of 80 feet.

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

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

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Micco Rd., between Babcock and Dottie Dr., which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of C, and currently operates at 16.33% of capacity daily. This rezoning is anticipated to increase the MAV utilization by 6.44%. The corridor is anticipated to operate at 22.77% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

The applicants provided a school impact analysis letter dated January 7, 2022, that indicates there is sufficient capacity for 96 single-family homes.

The subject property is not connected to potable water or sewer. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary  
Item # 22Z00001**

**Applicant:** Rushing Wind

**Zoning Request:** RR-1 and IN(L) to RU-1-11

**Note:** Applicant wants to increase density for a subdivision

**P&Z Hearing Date:** 03/14/22; **BCC Hearing Date:** 04/07/22

**Tax ID No:** 3008616

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

**Land Use Comments:**

**Hydric Soils/Wetlands**

The entire parcel contains mapped hydric soils (Eau Gallie sand, Riviera sand, and Pineda sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as



unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of site plan review, a wetland determination/delineation will be required.

### **Indian River Lagoon Nitrogen Reduction Overlay**

Approximately 1/3 of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Land Clearing and Landscape Requirements**

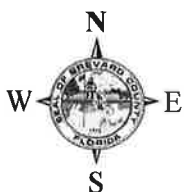
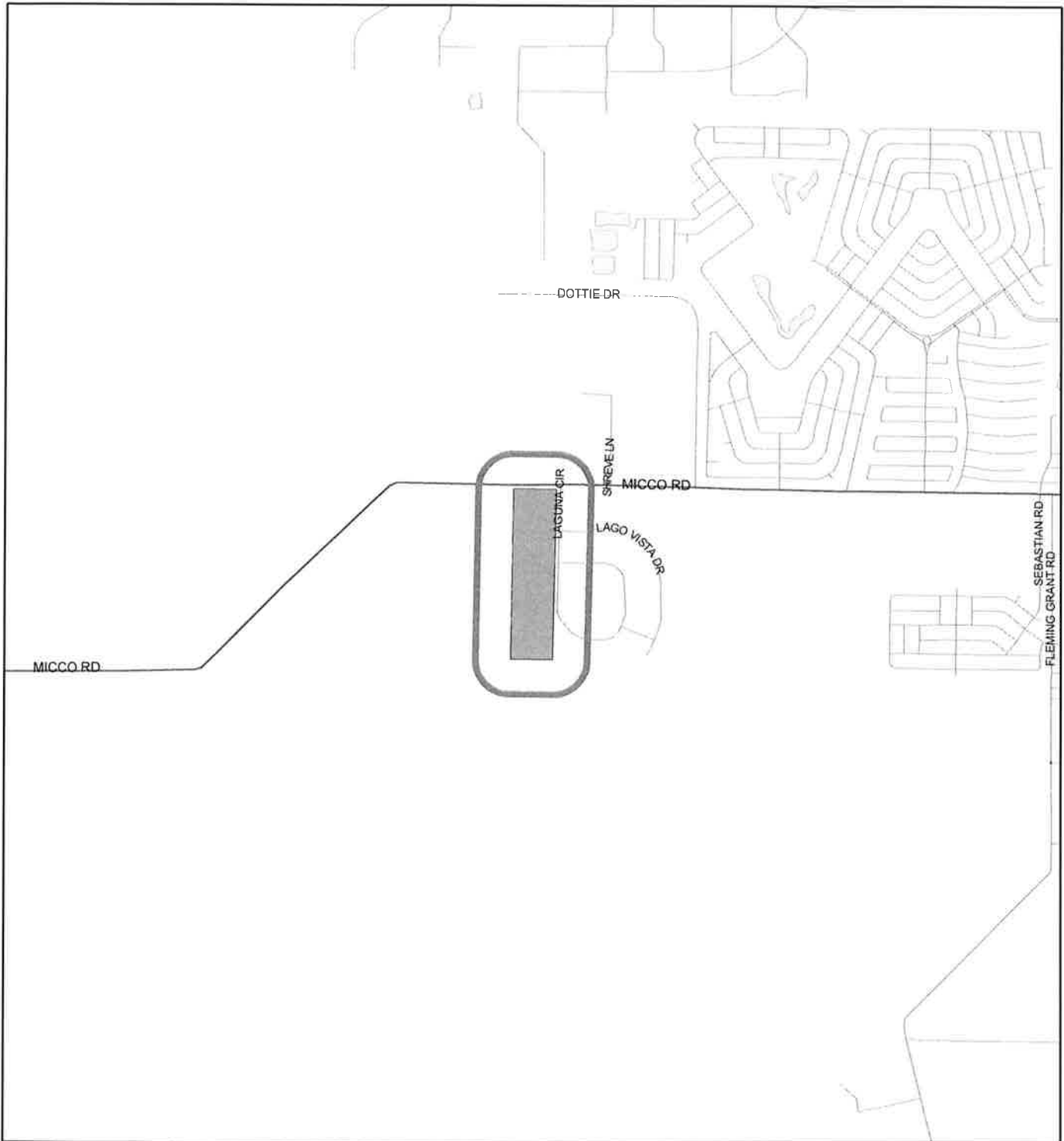
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Septic systems may limit tree planting locations.

### **Protected Species**

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

# LOCATION MAP

RUSHING WIND, LLC  
22Z00001





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

Buffer Distance: 500 feet

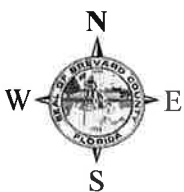
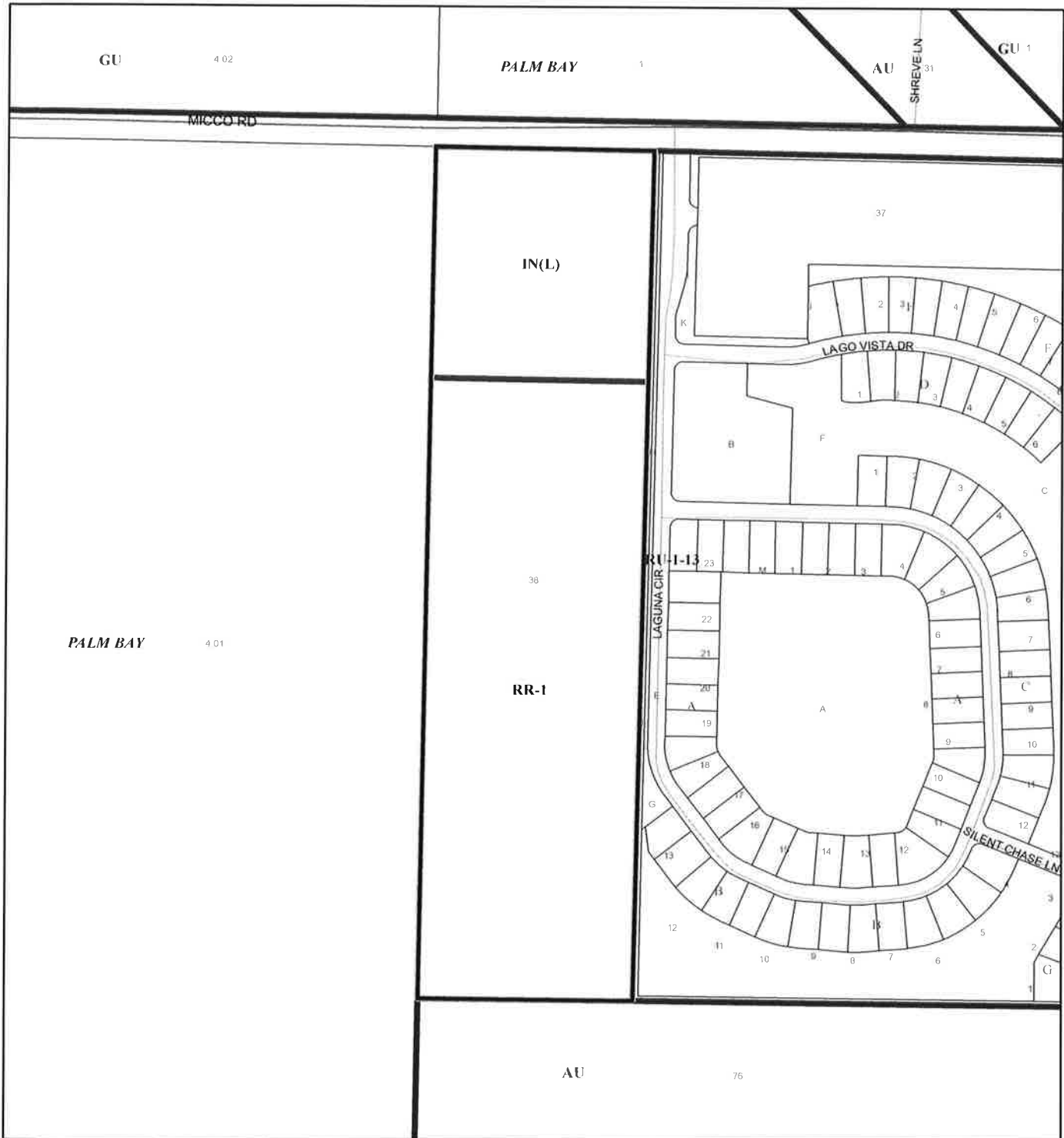
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

-  Buffer
-  Subject Property

# ZONING MAP




RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

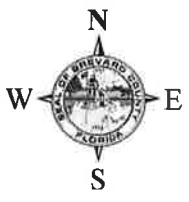
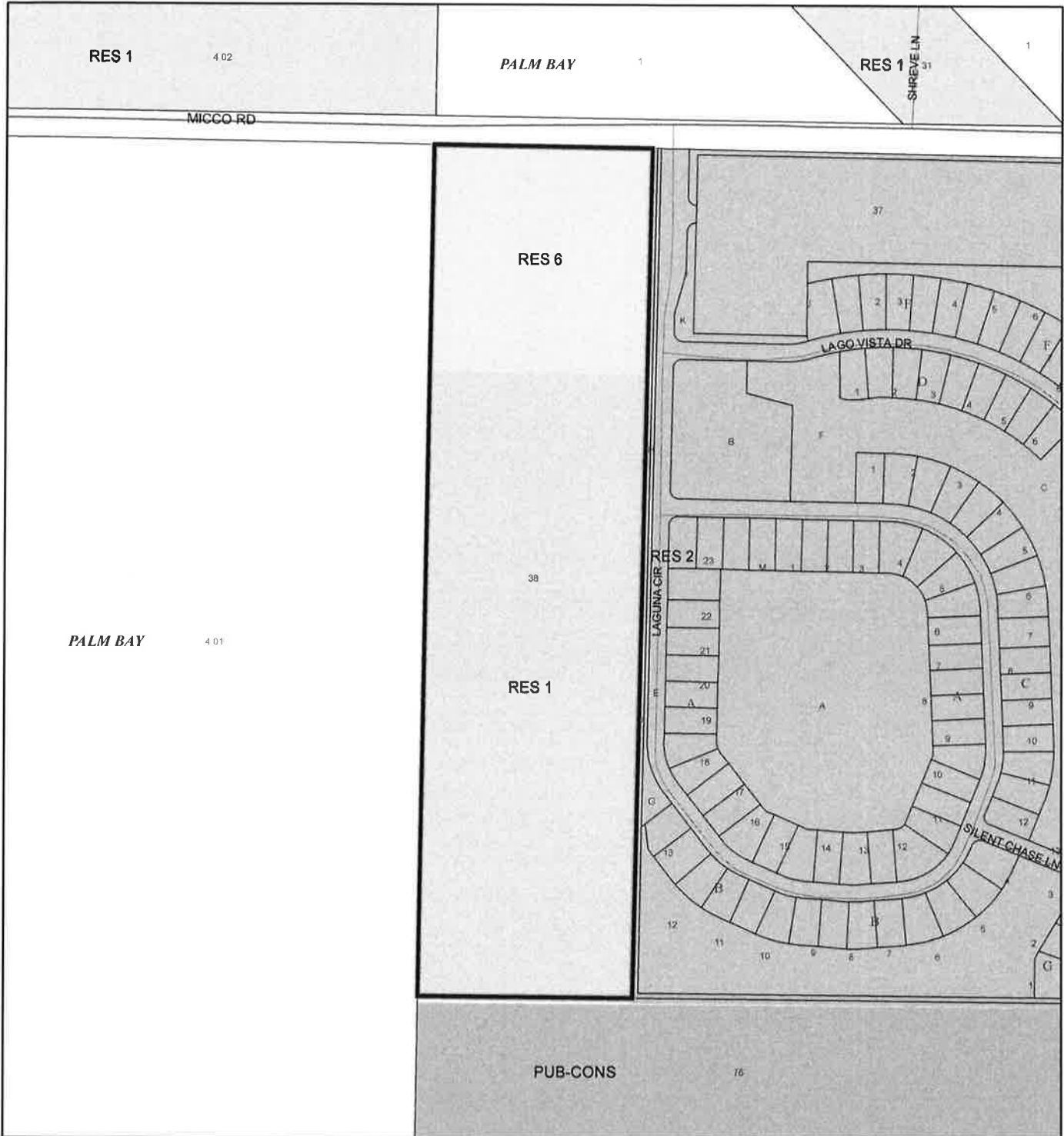
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

**—** Subject Property  
**□** Parcels

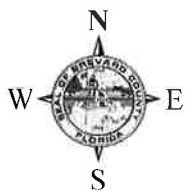
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

# AERIAL MAP

RUSHING WIND, LLC

22Z00001




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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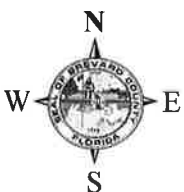
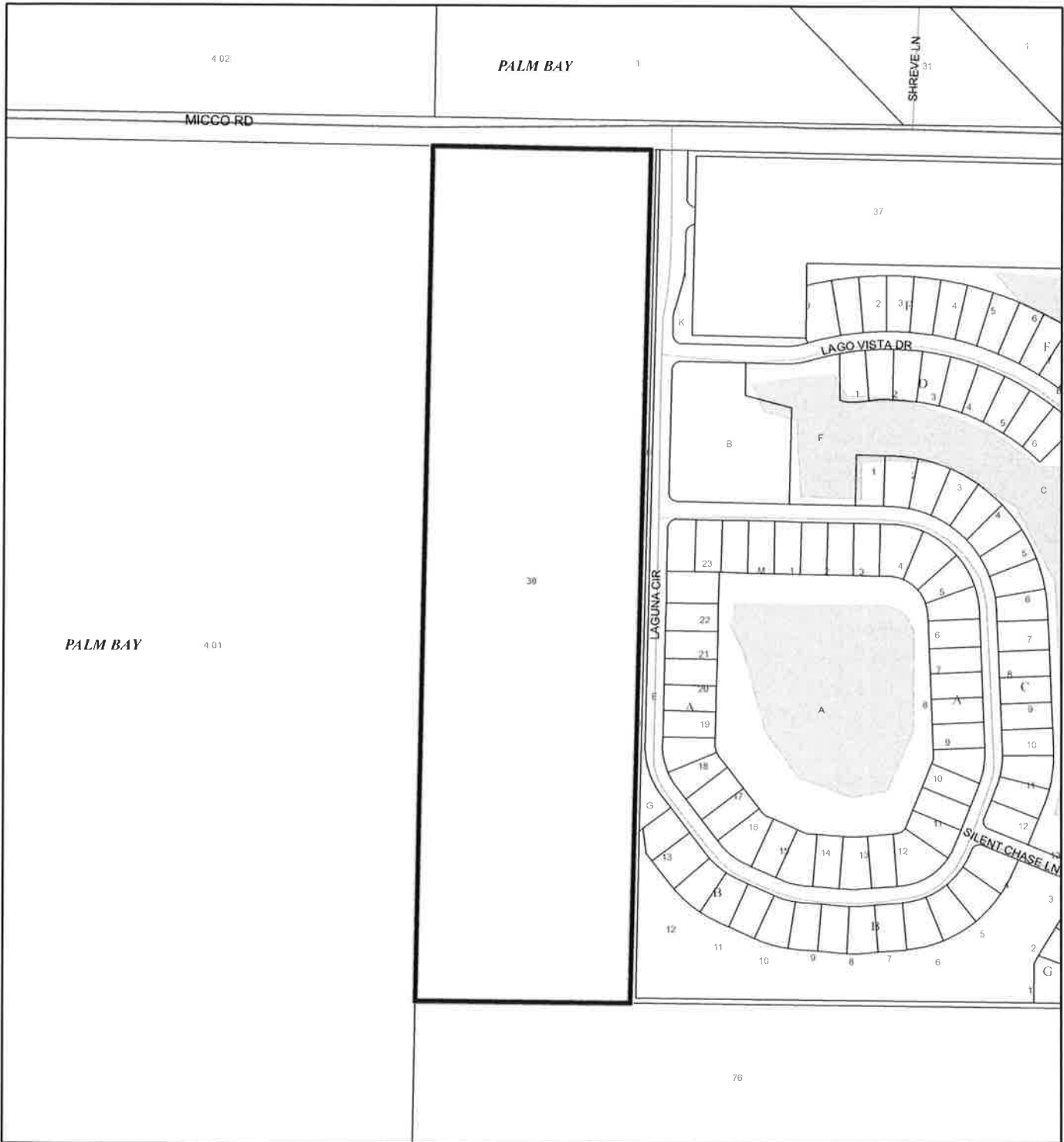
Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

 Parcels

# NWI WETLANDS MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

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

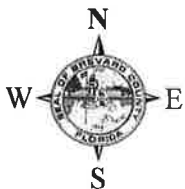
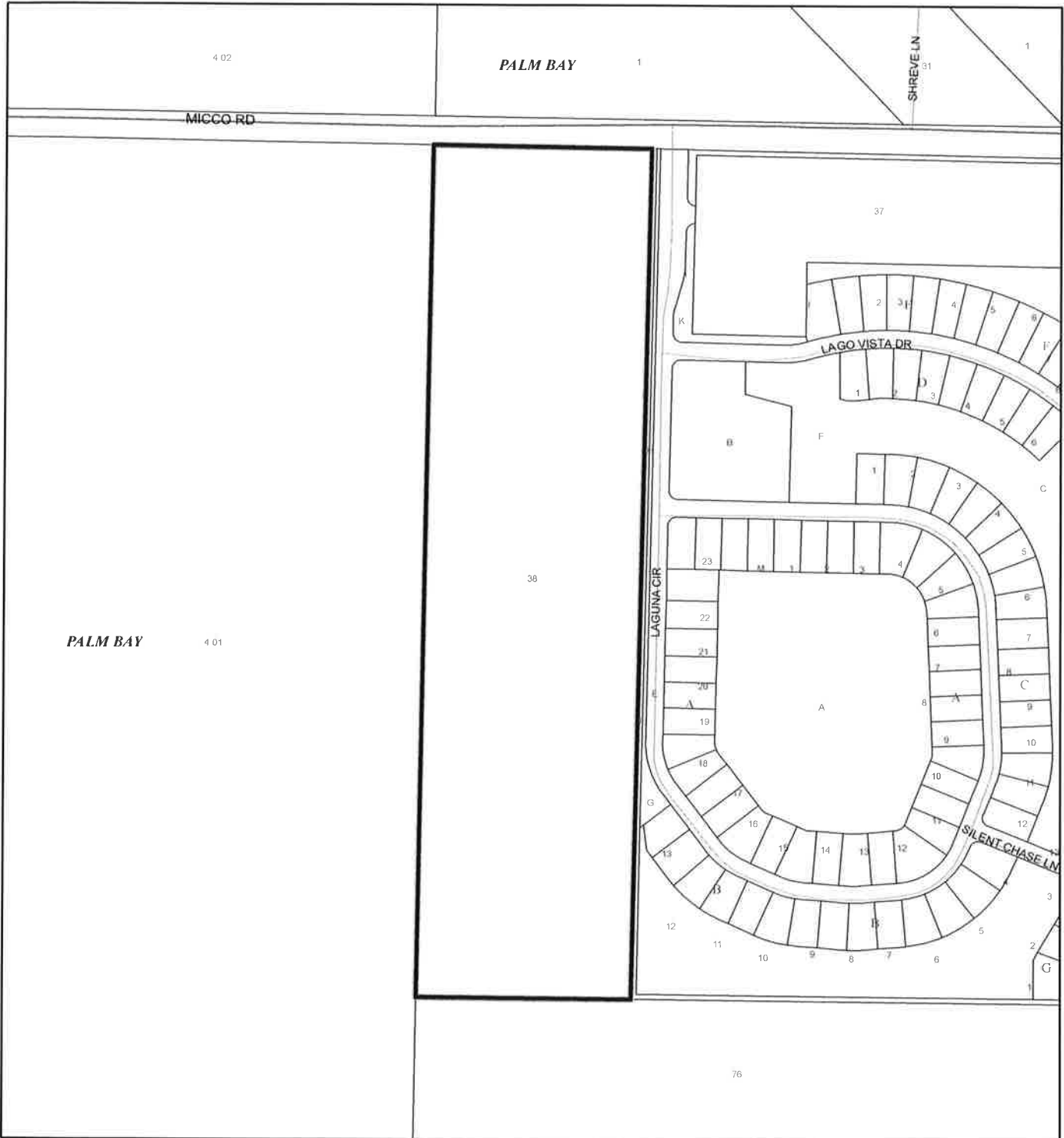
Produced by BoCC - GIS Date: 1/21/2022

### 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

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/21/2022

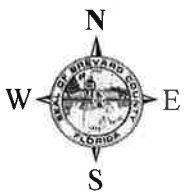
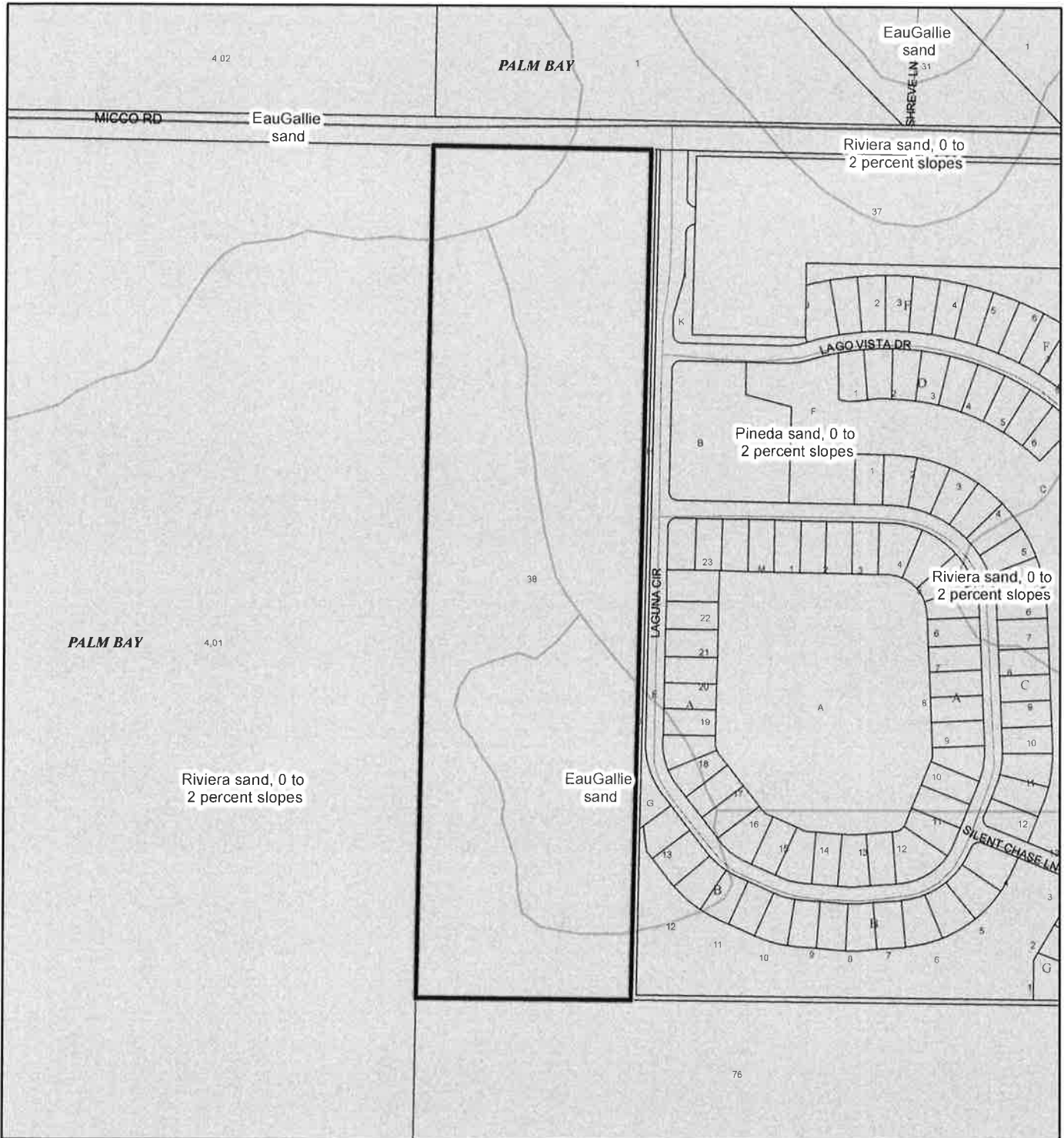
## SJRWMD FLUCCS WETLANDS

-  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

RUSHING WIND, LLC  
22Z00001









1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/21/2022

## USDA SCSSS Soils

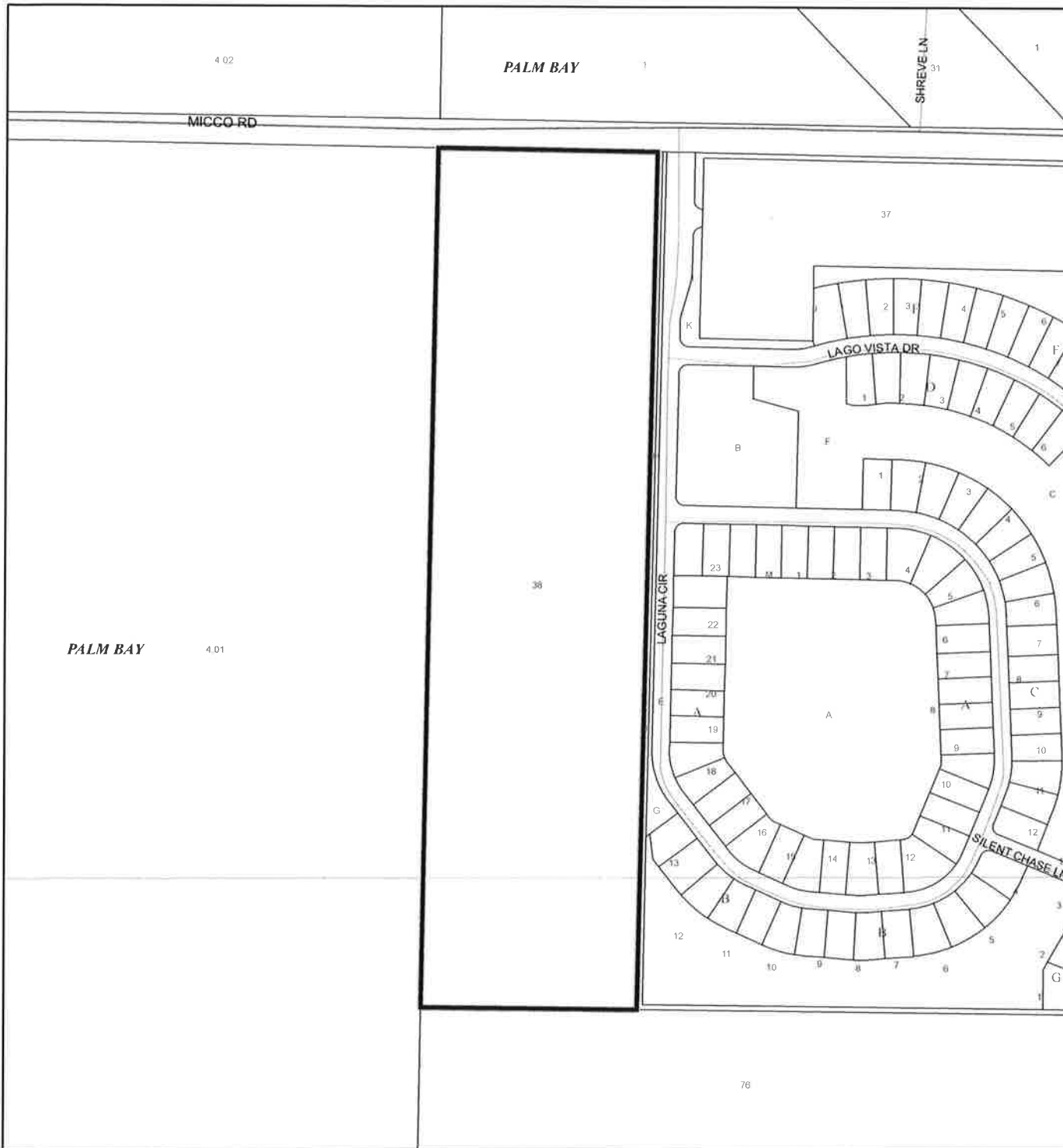
-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None

-  Subject Property
-  Parcels



# FEMA FLOOD ZONES MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

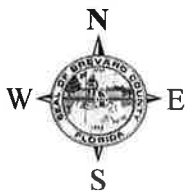
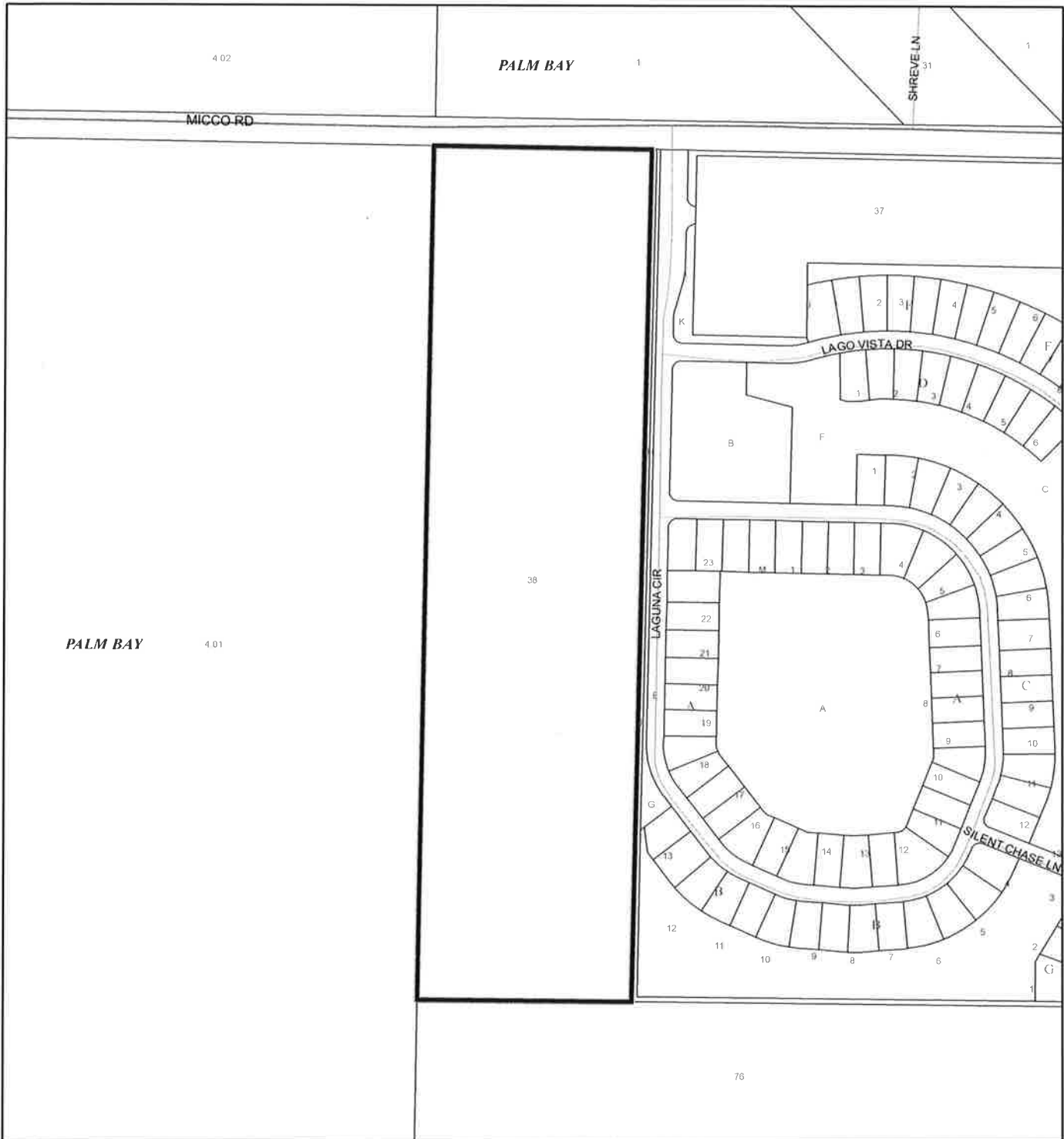
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

FEMA Flood Zones		
	Subject Property	
		Parcels

# COASTAL HIGH HAZARD AREA MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

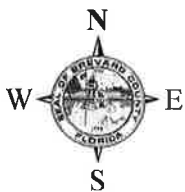
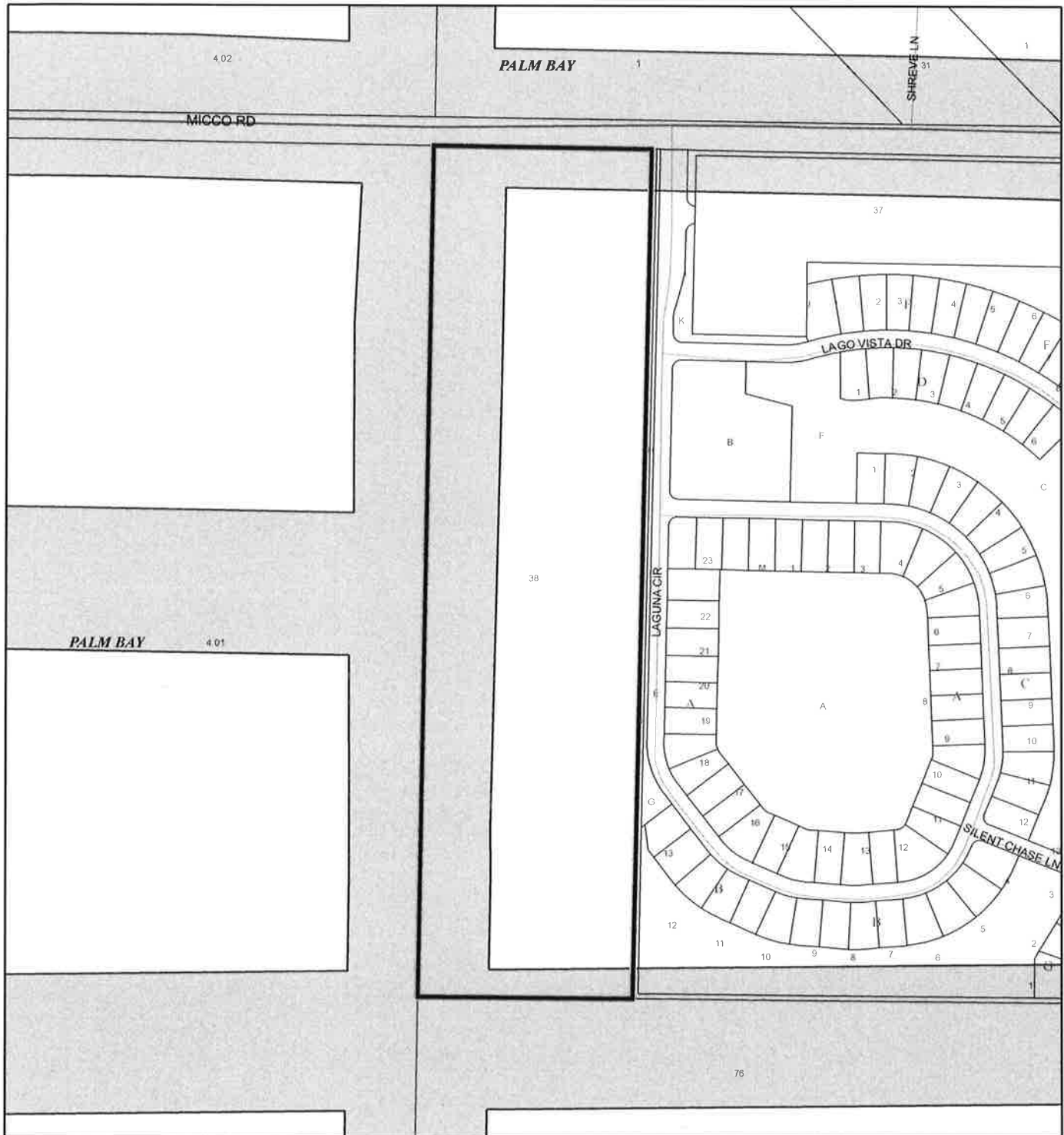
 Parcels

### Coastal High Hazard Area

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

 Parcels

### Septic Overlay

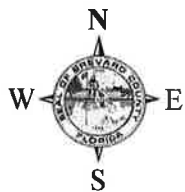
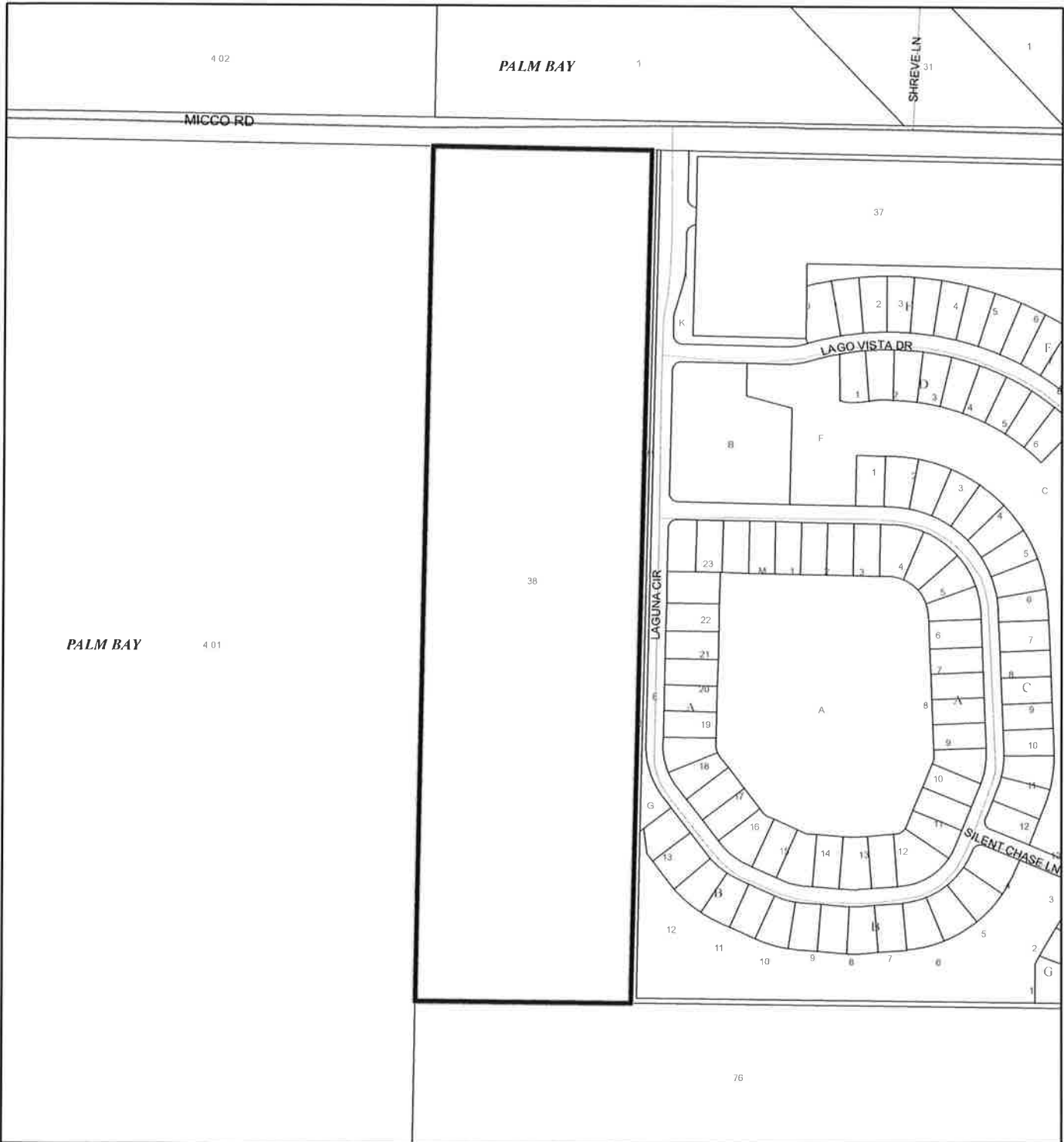
 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

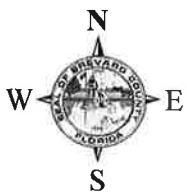
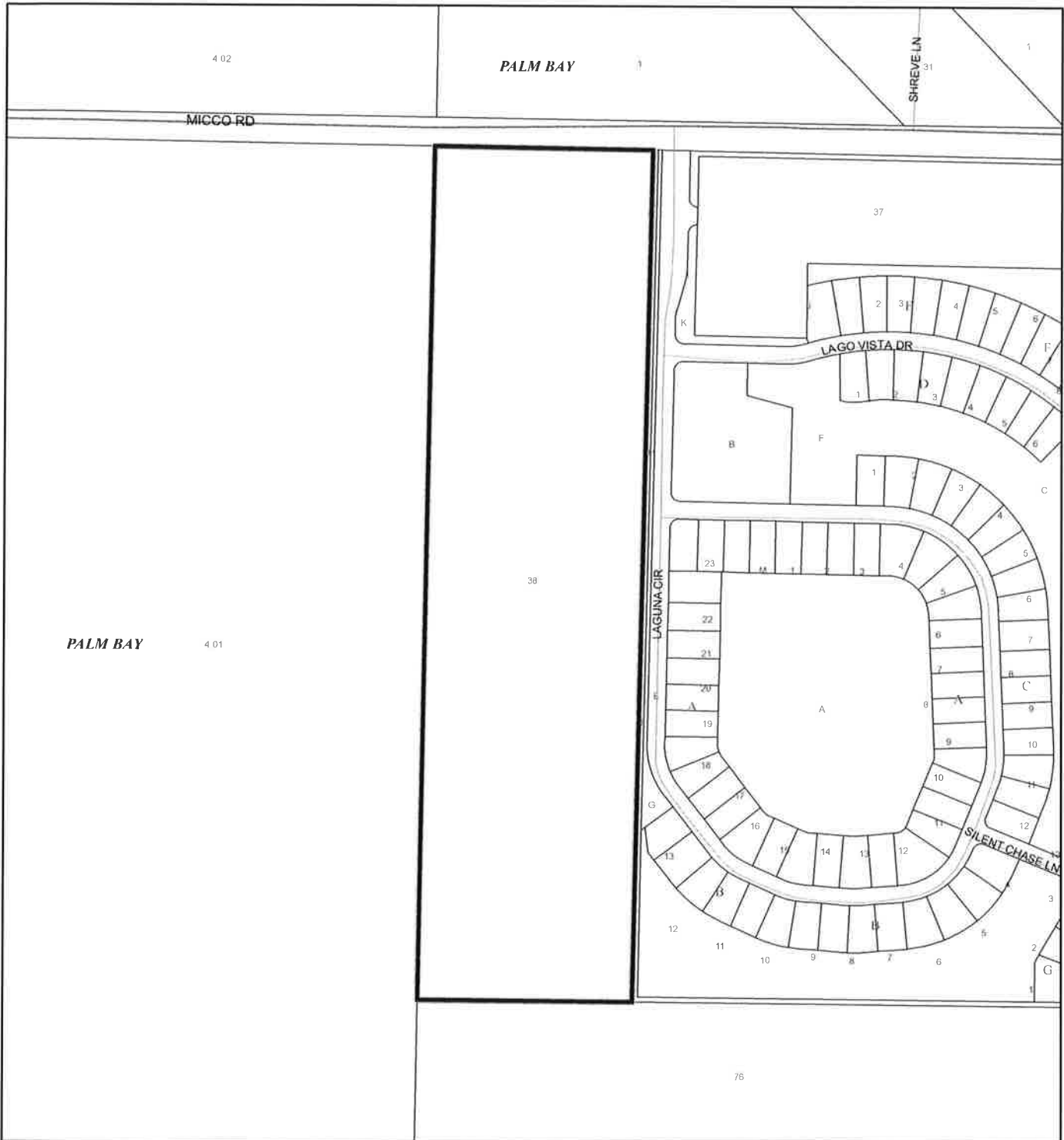
 Subject Property

 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP




RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

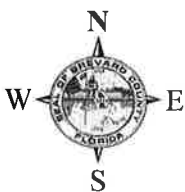
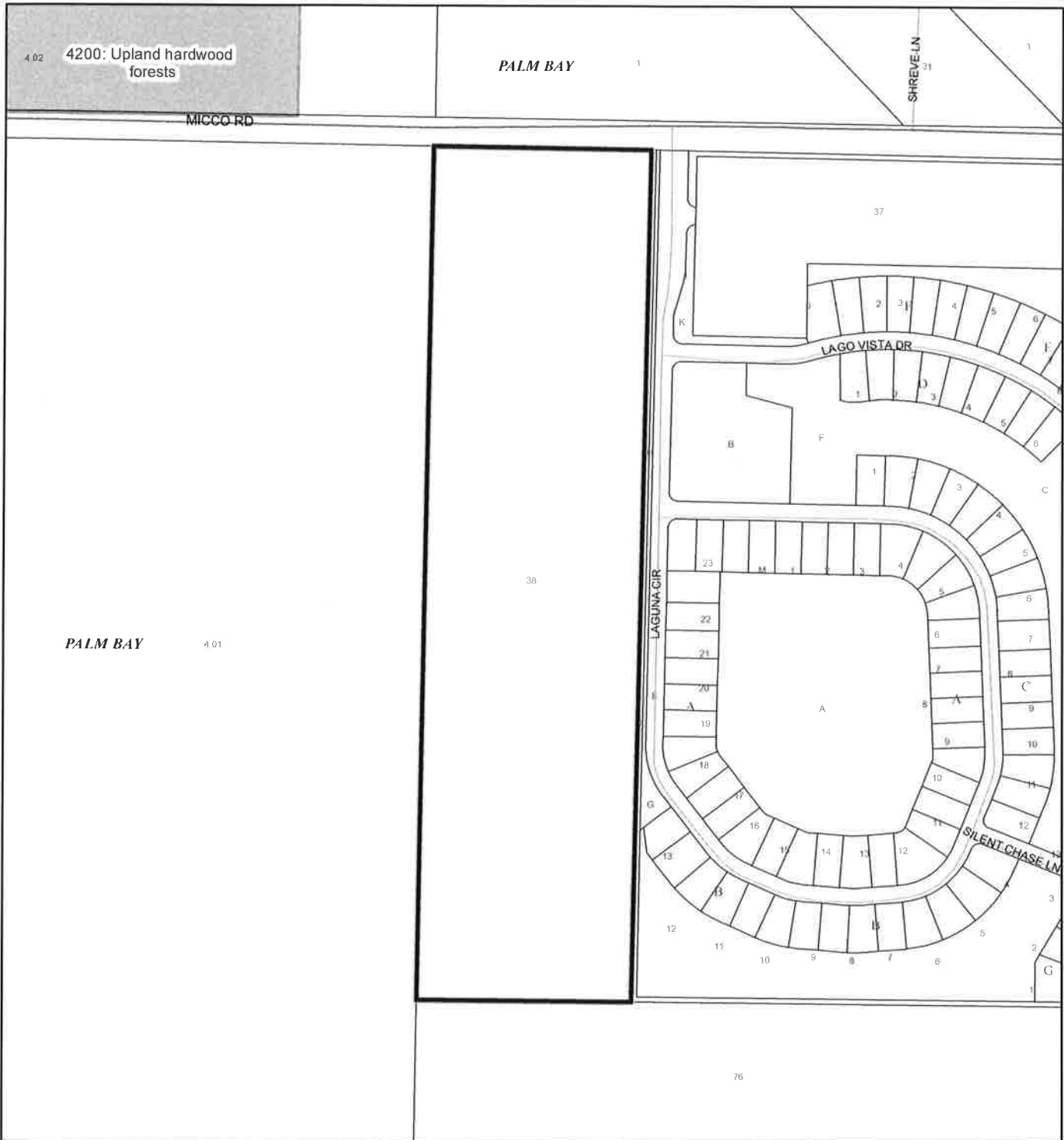
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RUSHING WIND, LLC  
22Z00001



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/21/2022

## 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

# School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699  
Dr. Mark W. Mullins, Ed.D., Superintendent

School Concurrency  
Revised Page 4  
22PZ00003 & 22Z00001  
Rushing Wind



March 15, 2022

Mr. Kyle Harris, Planner 1  
Planning & Development Department  
Brevard County Board of County Commissioners  
2726 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Rushing Wind Development,  
City Project No. 3008616  
School Impact Analysis – Capacity Determination CD-2022-04**

Dear Mr. Harris,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 3008616 (Parcel ID number: 30G-38-01-HJ-\*-38), containing approximately 34.65 acres in unincorporated District 3, Brevard County, Florida. The proposed development includes 96 single-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2022-23 to 2026-27 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27* which is attached for reference.

Single-Family Homes	96		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	26.88	27
Middle	0.08	7.68	8
High	0.16	15.36	15
<b>Total</b>	<b>0.52</b>		<b>50</b>

Planning & Project Management  
Facilities Services  
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646



An Equal Opportunity Employer

**FISH Capacity (including relocatable classrooms) from the  
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to  
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	913	913	935	1,001	1,067
Southwest	1,211	1,211	1,211	1,211	1,211
Bayside	2,263	2,263	2,263	2,263	2,263

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	738	824	929	1,061
Southwest	940	922	1,000	1,119	1,157
Bayside	1,728	1,850	1,942	2,002	2,069

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	-	-	-	-
Southwest	-	7	7	7	7
Bayside	-	14	14	14	14

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	6	11	17	27
Southwest	-	2	3	5	8
Bayside	-	3	6	10	15

**Total Projected Student Membership (includes  
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	744	835	946	1,088
Southwest	940	931	1,010	1,131	1,172
Bayside	1,728	1,867	1,962	2,026	2,098

**Projected Available Capacity =  
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	223	169	100	55	(21)
Southwest	271	280	201	80	39
Bayside	535	396	301	237	165

At this time, Sunrise Elementary School is not projected to have enough capacity for the total of projected and potential students from the Rushing Wind development. Because there is a shortfall of available capacity in the concurrency service areas of the Rushing Wind development, the capacity of adjacent concurrency service areas must be considered.



The adjacent elementary school concurrency service areas are Port Malabar Elementary School, Columbia Elementary School, and Westside Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Rushing Wind development is shown:

**FISH Capacity (including relocatable classrooms) from the  
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to  
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	852	852	852	852	852
Columbia	751	751	751	751	751

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	630	636	645	632
Columbia	484	546	568	569	572

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	-	-	-	-
Columbia	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	6	11	17	27
Columbia	-	6	11	17	27

**Total Projected Student Membership (includes  
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	636	647	662	659
Columbia	484	552	579	586	599

**Projected Available Capacity =  
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	216	216	205	190	193
Columbia	267	199	172	165	152

Considering the adjacent elementary school service areas, there is sufficient capacity for the total projected student membership to accommodate the Rushing Wind development.

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP  
Manager – Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services  
File CD-2022-04

David G. Lindemann, AICP, Director of Planning & Project Management,  
Facilities Services  
File CD-2022-04

# Rushing Wind Location Map

N



Indian  
River

**Rushing Wind  
96 Single-Family Units**



**Schools Affected by Development:**  
Sunrise Elementary School  
Southwest Middle School  
Bayside High School

Drawn By:  
Planning & Project Management  
Karen M. Black  
01/07/2022

3,400 1,700 0 3,400 Feet





Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service  
Data and Analysis for School Years 2021-22 to 2026-27

Summary table with columns for school year (2021-22 to 2026-27) and utilization rates (85%, 88%, 84%, 101%).

Table with columns: School, Type, Grades, Utilization Factor, FISH Capacity, School Year 2021-22, School Year 2022-23, School Year 2023-24, School Year 2024-25, School Year 2025-26, School Year 2026-27.

Elementary School Concurrency Service Areas

Main data table with columns for School, Type, Grades, Utilization Factor, FISH Capacity, and utilization percentages for school years 2021-22 through 2026-27.

Middle School Concurrency Service Areas																	
	7-8	90%	1,514	1,171	77%	1,514	1,171	77%	1,514	1,217	80%	1,514	1,319	87%	1,514	1,360	90%
Central	Middle	90%	960	843	88%	960	851	89%	960	829	86%	960	854	89%	960	837	87%
Delaura	Middle	90%	680	510	75%	680	510	75%	680	485	71%	680	506	74%	680	539	78%
Hoover	Middle	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%	660	531	80%
Jefferson	Middle	90%	873	822	94%	873	822	94%	873	583	67%	873	583	67%	873	535	61%
Johnson	Middle	90%	1,064	690	65%	1,064	690	65%	1,064	707	66%	1,064	752	71%	1,064	813	76%
Kennedy	Middle	90%	869	682	78%	869	682	78%	869	641	74%	869	628	72%	869	658	75%
Medison	Middle	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	446	57%
McVain	Middle	90%	611	356	58%	611	356	58%	611	359	59%	611	353	58%	611	349	57%
Southwest	Middle	90%	1,211	940	78%	1,211	940	78%	1,211	922	76%	1,211	1,000	83%	1,211	1,157	96%
Stone	Middle	90%	1,024	747	73%	1,024	747	73%	1,024	705	69%	1,024	772	75%	1,024	846	83%
<b>Middle Totals</b>			<b>10,247</b>	<b>7,555</b>		<b>10,247</b>	<b>7,517</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,941</b>		<b>10,247</b>	<b>8,019</b>	

Junior / Senior High School Concurrency Service Areas																				
	Jr / Sr High	7-12	90%	2,084	1,517	73%	2,084	1,517	73%	2,084	1,627	78%	2,084	1,637	79%	2,084	1,625	78%		
Cocoa	Jr / Sr High	90%	1,445	943	65%	1,445	955	66%	1,445	917	63%	1,445	890	62%	1,445	821	57%	1,445	782	54%
Cocoa Beach	Jr / Sr High	90%	1,852	1,555	84%	1,852	1,557	84%	1,852	1,526	82%	1,852	1,511	82%	1,852	1,465	79%	1,852	1,448	78%
Space Coast	Jr / Sr High	90%	5,381	4,015		5,381	4,021		5,381	4,028		5,381	3,923		5,381	3,856		5,381	3,856	
<b>Jr / Sr High Totals</b>			<b>10,247</b>	<b>7,517</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,881</b>		<b>10,247</b>	<b>7,941</b>		<b>10,247</b>	<b>8,019</b>		<b>10,247</b>	<b>8,019</b>	

Senior High School Concurrency Service Areas																	
	9-12	95%	1,451	1,077	74%	1,451	1,076	74%	1,451	1,084	75%	1,451	1,078	74%	1,451	1,086	75%
Astronaut	High	95%	2,263	1,728	76%	2,263	1,728	76%	2,263	1,850	82%	2,263	1,942	86%	2,263	2,069	91%
Bayside	High	95%	2,221	1,610	72%	2,221	1,605	72%	2,221	1,634	74%	2,221	1,655	75%	2,221	1,700	77%
Eau Gallie	High	95%	2,314	1,951	85%	2,314	1,951	85%	2,314	2,149	93%	2,314	2,193	95%	2,314	2,248	97%
Heritage	High	95%	2,370	2,210	93%	2,370	2,208	93%	2,370	2,201	93%	2,370	2,200	93%	2,370	2,178	94%
Melbourne	High	95%	1,962	1,523	78%	1,962	1,523	78%	1,962	1,494	76%	1,962	1,454	74%	1,962	1,389	71%
Meritt Island	High	95%	2,631	1,286	49%	2,631	1,325	50%	2,631	1,467	56%	2,631	1,573	60%	2,631	1,643	62%
Palm Bay	High	95%	1,836	1,568	85%	1,836	1,568	85%	1,836	1,641	89%	1,836	1,658	90%	1,836	1,638	89%
Rockledge	High	95%	1,527	1,513	99%	1,527	1,513	99%	1,527	1,533	99%	1,527	1,470	95%	1,527	1,438	93%
Satellite	High	95%	1,849	1,231	67%	1,849	1,272	69%	1,849	1,286	70%	1,849	1,313	71%	1,849	1,270	69%
Thusville	High	95%	2,203	2,216	101%	2,203	2,233	95%	2,203	2,272	88%	2,203	2,386	90%	2,203	2,583	95%
Viera	High	95%	22,627	17,878		22,627	18,126		22,627	18,630		22,627	18,930		22,627	19,066	
<b>High Totals</b>			<b>10,247</b>	<b>7,517</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,881</b>		<b>10,247</b>	<b>7,941</b>		<b>10,247</b>	<b>8,019</b>	

Schools of Choice (Not Concurrency Service Areas)																	
	Elementary	100%	475	414	87%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
Freedom 7	Elementary	100%	481	396	82%	481	417	87%	475	414	87%	475	414	87%	475	414	87%
South Lake	Elementary	100%	569	498	88%	569	508	89%	569	508	89%	569	508	89%	569	508	89%
Stevenson	Elementary	100%	618	544	88%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
West Melbourne	Elementary	100%	1,077	921	85%	1,077	950	88%	1,077	950	88%	1,077	950	88%	1,077	950	88%
Edgewood	Jr / Sr High	90%	1,264	945	75%	1,264	945	75%	1,264	945	75%	1,264	946	75%	1,264	946	75%
West Shore	Jr / Sr High	90%	4,484	3,711		4,484	3,787		4,484	3,787		4,484	3,787		4,484	3,787	
<b>Schools of Choice</b>			<b>85,210</b>	<b>63,089</b>		<b>85,282</b>	<b>63,743</b>		<b>85,514</b>	<b>64,697</b>		<b>85,658</b>	<b>65,450</b>		<b>85,768</b>	<b>65,794</b>	
<b>Brevard Totals</b>			<b>10,247</b>	<b>7,517</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,881</b>		<b>10,247</b>	<b>7,941</b>		<b>10,247</b>	<b>8,019</b>	

**Notes**

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2021-22 are reported from the FISH database as of October 12, 2021.
- Student Membership is reported from the Fall Final Membership Count (10/15/2021).
- Davis Demographics SchoolSite Enrollment Forecasting Extension for ACGIS estimates future student populations by analyzing the following data:
  - Development Projections from Brevard County Local Government Jurisdictions
  - Brevard County School Concurrency Student Generation Multipliers (SGM)
  - Fall Membership student addresses and corresponding concurrency service areas
  - Student Mobility Rates / Cohort Survival Rates
  - Brevard County Birth rates by zip code
- Davis Demographics estimates are then adjusted using the following factors:
  - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
  - Current From/To attendance patterns are assumed to remain constant
  - Nonenrolled student addresses are assumed to continue in their attendance schools.
  - Charter School Growth
- In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
- A total of 15 Relocatable Classrooms are assumed to add future student stations as listed below:
  - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
  - Intermediate relocatable classrooms are proposed to be added at Roy Allen Elementary, Jupiter Elementary, Sunrise Elementary, and Westside Elementary Schools (Total 12 Classrooms)
  - High school relocatable classrooms are proposed to be added at Satellite High and Viera High (Total of 3 Classrooms)
- A classroom addition is planned for construction at Viera High School for 2023-24. The factored capacity is adjusted for the proposed 350 student stations.

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 14, 2022**, 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: Henry Minneboo (D1); Ron Bartcher (D1); Lorraine Koss (Alt. D2) (present for and voted on H.3. - H. 14.); Ben Glover (D3) (present for and voted on H.1. - H.13.); Mark Wadsworth, Chair (D4); Liz Alward (D4); David Bassford (Alt. D5) (voted on H.1. - H.12, and H.14; abstained on H.13.); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; George Ritchie, Planner III; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Minutes

#### **Rushing Wind, LLC (Steven Austin and William Buchman)**

A Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 (Residential 1) to RES 4 (Residential 4). The property is 24 acres, located on the south side of Micco Rd., approx. .37 miles west of Dottie Dr. (No assigned address. In the Micco area) (Tax Account 3008616) (District 3)

#### **Rushing Wind, LLC (Steven Austin and William Buchman)**

A change of zoning classification from RR-1 (Rural Residential) and IN(L) (Institutional Use, Low-Intensity), to RU-1-11 (Single-Family Residential). The property is 34.65 acres, located on the south side of Micco Rd., approx. 0.37 miles west of Dottie Dr. (No assigned address. In the Micco area.) (Tax Account 3008616) (District 3)

Steve Austin, 409 Pelican Key, Melbourne Beach, stated the subject property is next to a 100-acre development that used to be RR-1 and is now one-quarter-acre lots, and they would like to have similar zoning.

Ben Glover noted the street coming in looks like part of the community. Mr. Austin replied it is the same drive they had for the one-acre lots, but they are not part of the other development.

William Buchman stated they own the property on the west side and it was permitted in 2006. The project on the east side is completed at four units per acre, and they would like to market their land, which is why they want the comp plan change.

Jeffrey Ball stated the board should not focus on the access, because access will have to meet code at the time the site plan is addressed. They will need to provide access to a county-maintained road. He added, the property adjacent to the east is RES 2, and the zoning was approved with a BDP to cap the density at two units per acre.

Mr. Buchman noted the west boundary line is in the City of Palm Bay.

John Hopengarten asked if the lots in the development to the east are build-to-suit lots? Mr. Austin replied they are all sold and built-out. Mr. Buchman stated the builders have bought the lots and houses are being built.

Mr. Hopengarten asked if they are planning on doing the same thing on their property. Mr. Buchman replied they plan to sell to builders and they will come back with engineers.

Motion by Ben Glover to approve the request. He explained the area needs more housing, and if someone wants to sell land to build on it, it's not like the lots next door are small lots.

Liz Alward asked where they will be getting the water and sewer for the subdivision. Mr. Austin replied water is not an issue, but they will have to use septic unless the capacity is increased in Barefoot Bay.

Ms. Alward asked if they are within the Barefoot Bay Water and Sewer District. Mr. Buchman replied no, they would have to annex into Barefoot Bay, but that is up to the builders to figure out. Ms. Alward stated she is concerned about the sewer and not having the capacity for the land use change. Mr. Buchman stated according to Environmental Health, they can do three units per acre.

Ms. Alward stated if they are not in the Barefoot Bay Water and Sewer District boundary, they can't approach the district unless there is capacity. Mr. Buchman replied they are not hooking up to sewer. Ms. Alward asked if they are going to use septic tanks on four units per acre. Mr. Buchman replied yes.

Ms. Alward stated according to the School Board there is not enough capacity for the total projected and potential students for the Rushing Wind development. She asked if they have had any correspondence with the school board. Mr. Buchman replied they submitted it all to the County, and they said it is fine. Ms. Alward stated according to the school board, the only capacity is schools many miles away, but the schools closer do not have capacity.

Ms. Alward stated she is not willing to support the motion to approve until she has a better understanding of what they plan on doing as far as septic. She said she supports development, but she doesn't support something that doesn't seem planned.

Mr. Bartcher stated a portion of the area is in the septic overlay, and asked if they will be using the high-performance septic tanks. Mr. Buchman replied yes, 246 nitrogen reduction units.

Mr. Bartcher asked if the board's School Board representative have anything to offer about the school concurrency. Mr. Hopengarten stated they have an issue because Sunrise Elementary is over capacity. Mr. Bartcher stated any children in the subdivision will have to be bused quite a distance.

Ms. Alward stated the comprehensive plan and the zoning accounted for 34.6 acres, which is 25 units, and septic on 25 units is a lot different than 138 units, which is what is being proposed.

Mr. Buchman stated they do not think they're going to get that. He said it was an option of two units per acre or four units per acre. He said the property next door is one-third acre lots, and they were hoping to get the four so they could give it to the engineers and they could come back with a plan.

Mr. Austin stated the builders will have to do some engineering. If they get quarter-acre lots they may not be able to get enough houses with septic.

Mr. Ball explained Policy 1.2 says, "In Residential 30, Residential 15, Residential 10, Residential 6, and Residential 4 land use designations, centralized potable water and wastewater treatment shall be

available concurrent with the impact of the development.” He said he is hearing that wastewater is not available, but the RES 4 requires connection to central water and sewer. When considering a land use change, the board can consider the availability of infrastructure and that can mean water, sewer, roads, and school capacity. He said the comp plan requires connection to wastewater if RES 4. If the board is more inclined to approve RES 2 to not have the requirement for central sewer, then a BDP would need to be placed on the zoning to restrict the density because the zoning request is for RU-1-11, and RES 2 is not consistent with that zoning classification.

Mr. Bartcher stated it seems the board doesn't have much choice but to deny the request. He said there is a school concurrency problem, they have to meet the RES 4 requirement and they are saying they can't do that, and the board wouldn't want to recommend something that is against the comp plan.

Mr. Ball stated the board can recommend a lesser intense land use category, such as RES 2. Mr. Buchman pointed out they already have RES 6 on the front. Mr. Ball replied RES 6 is already out there, and he's not sure how that was established, but that is not being considered. He said the applicants are requesting a RES 4 land use designation and the comp plan requires central water and sewer.

Mr. Bartcher asked the applicants if they are willing to change their request to RES 2. Mr. Austin replied they will, but they are trying to be consistent with the development next door.

Ms. Alward asked staff how many units they can get with RES 2. Mr. Ball replied at 24 acres, it would be 48 units.

Mr. Glover withdrew his motion to approve RES 4.

Mr. Bartcher asked if the applicants are willing to change their request to RES 2. Mr. Austin replied yes.

No Public comment.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval of the Small Scale Comprehensive Plan Amendment from RES 1 to RES 2, as amended by the applicant. The motion passed 6:2, with Liz Alward and Lorraine Koss voting nay.

Mr. Ball noted that since the board's recommendation on the land use was for RES 2, the applicants would need to agree to a BDP to cap the density at two units per acre, which would give them the ability to design the subdivision according to the RU-1-11 standards, but cap the density at two units per acre.

Ms. Alward asked how many units that would be. Mr. Ball replied 48 units.

Mr. Bartcher asked the applicants if they would agree to a binding development plan. Mr. Buchman and Mr. Austin agreed to a binding development plan.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval of a change of zoning classification from RR-1 and IN(L), to RU-1-11, with a BDP limiting density to two units per acre. The motion passed 6:2, with Liz Alward and Lorraine Koss voting nay.