



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

4/15/2021

Subject:

SDLD, LLC (Scott Demasso) requests a change of zoning classification from AU to EU. (21Z00001) (Tax Accounts 2501421 and 2501422) (District 2)

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 request for a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential) on two lots totaling 0.99 acres. The lots do not meet the minimum lot size for the AU zoning classification. The applicant submitted building permit applications for each lot, but the permits cannot be approved until rezoning. The proposed EU zoning classification may be considered to be consistent with the current Residential 15 Future Land Use, and permits detached single-family residential land uses on minimum 15,000 square-foot lots, with a minimum width and depth of 100 feet, and a minimum living area of 2,000 square feet.

In addition to rezoning, the applicant must show how the lots satisfy the access requirements in Sec. 62-102 to obtain a building permit. The lots are located adjacent to a 30-foot wide easement that extends from the riverfront parcel to the west, also owned by the applicant, out to South Tropical Trail. The existing homes along the easement obtained building permits before the effective date of this ordinance.

The Board may wish to consider whether this request for EU is consistent and compatible with the surrounding area, given the surrounding lots are zoned AU and RU-1-13.

On March 8, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 21Z00001

On motion by Commissioner Lober, seconded by Commissioner Zonka, the following resolution was adopted by a unanimous vote:

WHEREAS, SDLD, LLC has requested a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential), on property described as Tax Parcels 266.3 and 264, as recorded in ORB 8774, Pages 1280 – 1281, of the Public Records of Brevard County, Florida.

Section 02, Township 25, Range 36. (0.99 +/- acres) Located on the west side of S. Tropical Trail, approximately 0.14 mile south of River Cliff Lane. (No assigned address. In the Merritt Island area.); and

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

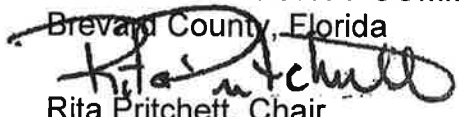
WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to EU be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of April 15, 2021.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

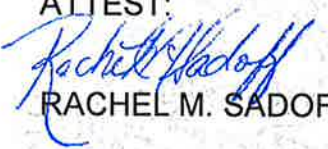


Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on April 15, 2021.

ATTEST:



RACHEL M. SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – March 8, 2021

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development 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

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

21Z00001

SDLD, LLC

AU (Single-Family Agricultural) to EU (Estate Use Residential)

Tax Account Number: 2501422 & 2501421
Parcel I.D.: 25-36-02-00-266.3 & 25-36-02-00-266.4
Location: West side of S Tropical Trail, approximately 759 feet south of River Cliff Lane (District 2)
Acreage: 0.99 acre

Planning and Zoning Board: 03/08/2021

Board of County Commissioners: 04/15/2021

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)

	CURRENT	PROPOSED
Zoning	AU	EU
Potential*	0 single-family units	0 single-family units**
Can be Considered under the Future Land Use Map	RES 15	RES 15

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** The lot currently does not have access to a county-maintained road.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential) on two lots totaling 0.99 acres. The lots do not meet the minimum lot size for the AU zoning district. The applicant submitted building permit applications for each lot, but the permits cannot be approved until rezoning. The minimum lot size in the EU zoning classification is 15,000 sq. ft., which both lots meet.

In addition to rezoning, the applicant must show how the lots satisfy the access requirements in Sec. 62-102 to obtain a building permit. The lots are located adjacent to a 30' wide easement that extends from the riverfront parcel to the west also owned by the applicant out to South Tropical Trail. The existing homes along the easement obtained building permits before the effective date of this ordinance.

The AU zoning is the original zoning for the parcel as established by Brevard County in 1958.

Land Use

The subject property retains the RES 15 (Residential 15) FLU designation. The current zoning of AU on the subject property is consistent with the RES 15 FLU per 62-1255 (2). The proposed zoning of EU is consistent with the RES 15 FLU per 62-1255 (2).

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

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

The abutting parcels to the south have a FLU designation of RES 6 (Residential 6). The abutting parcels to the east, west, and north have a FLU designation of RES 15. The proposed zoning change from AU to EU is consistent with the RES 15 FLU designation, as well as the adjacent RES 6 FLU designation.

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

The subject parcels are currently undeveloped with AU zoning.

The abutting parcels to the south are part of a subdivision zoned RU-1-13. The abutting parcels to the north, east, and west are zoned AU. The AU zoned parcels do not meet the minimum lot requirement for the AU zoning classification.

The current AU zoning classification permits a single-family residence 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.

The proposed EU classification permits detached single-family residential land uses on minimum 15,000 sq. ft. lots, with a minimum width and depth of 100 feet. The minimum house size is 2,000 square feet.

Sec. 62-102 establishes the criteria for issuance of a residential building permit for lots without direct access to a county-maintained road. Access by easement or license allows for building permits to be obtained on parcels created before January 1, 2011, when it can be shown that the lot has access to a public street through a county approved access easement. The subject lots do not have county approved access easement.

Unpaved road agreements occur when the board of county commissioners and a single or multiple property owners whose property abuts a right-of-way which is not maintained by the county may enter into an agreement to allow the issuance of a permit to construct an unpaved road within country right-of-way and obtain a permit for the consideration of one or more single-family residences.

Surrounding Properties

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

The most recent construction along the easement was the house built in 1973. The existing homes that use the access along the easement were built before zoning review of access was required as established by Ordinance No. 80-50 on December 10, 1980. Prior to this ordinance, owners of the lots were required to appear before the Board of County Commissioners for approval to build, with no specific cap on the number of lots that could be developed. Ordinance No. 80-50 established that no more than two building permits may be issued along an easement and did not include a grandfathering provision. The current code Sec. 62-102(a)5 states "[t]hat the access easement is for the exclusive use of the parcel for which the building permit is to be issued."

Environmental Constraints

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is South Tropical Trail, between South Courtenay and SR 520, which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of D, and currently operates at 10.61% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.15%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 10.76% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The parcels are not serviced by Brevard County sewer or the City of Cocoa sewer.

The parcels are serviced by City of Cocoa water.

For Board Consideration

The Board may wish to consider whether this request for EU is consistent and compatible with the surrounding area, given the surrounding lots are zoned AU and RU-1-13.

NATURAL RESOURCES MANAGEMENT DEPARTMENT Zoning Review & Summary

Item # 21Z00001

Applicant: SDLD, LLC

Zoning Request: AU to EU

Note: Applicant wishes to fix lot size in order to build a single-family home.

P&Z Hearing Date: 03/08/21; **BCC Hearing Date:** 04/15/21

Tax ID Nos: 2501422

- 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:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- 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:

Aquifer Recharge Soils

The entire parcel contains mapped aquifer recharge soils (Paola fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The entire 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. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific landscape requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

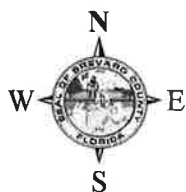
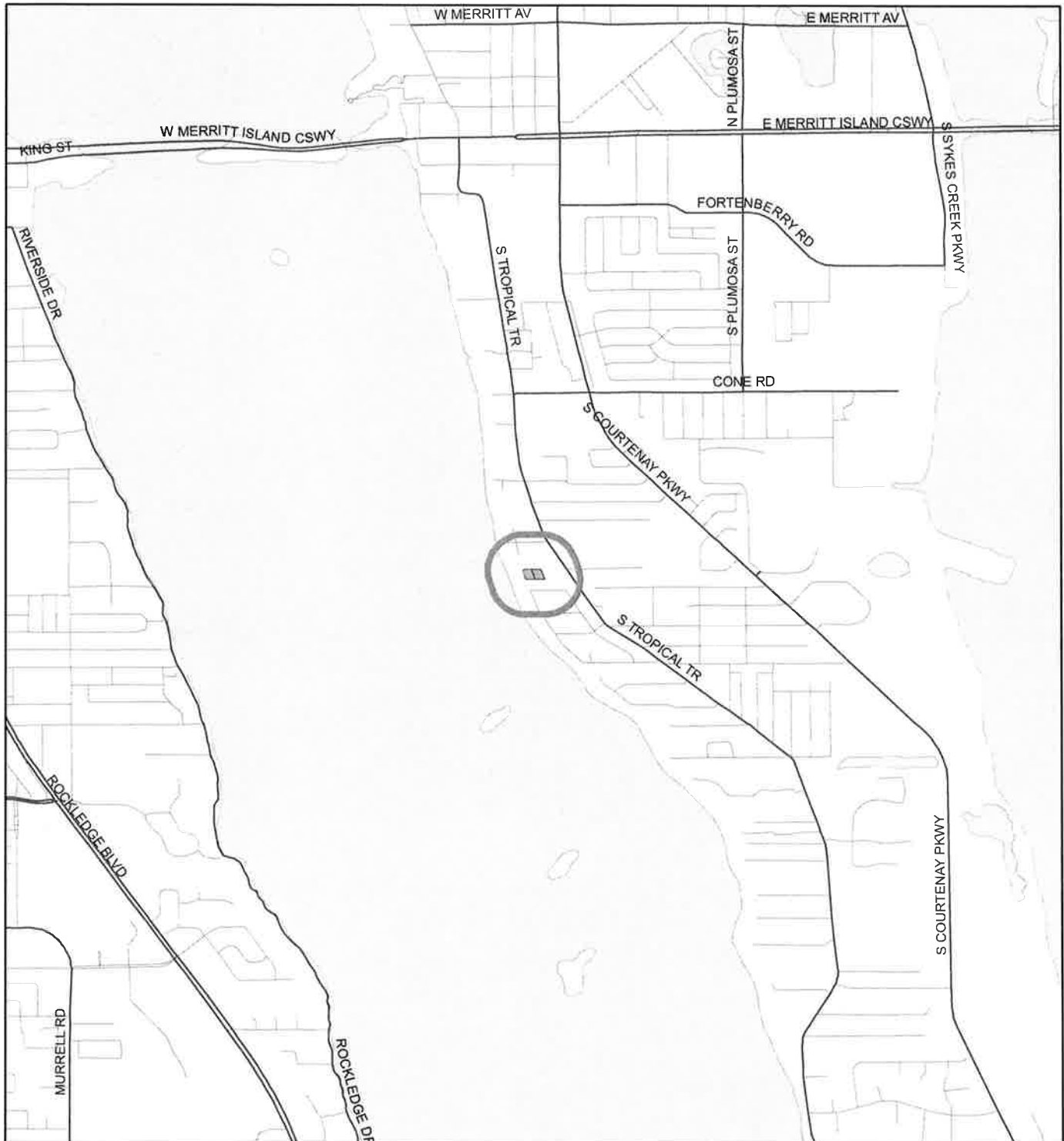
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. 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

SDLD, LLC

21Z00001




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

Buffer Distance: 500 feet

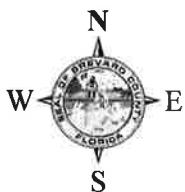
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/15/2021

— Buffer
 Subject Property

ZONING MAP

SDLD, LLC
21Z00001



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: 1/15/2021

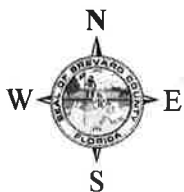
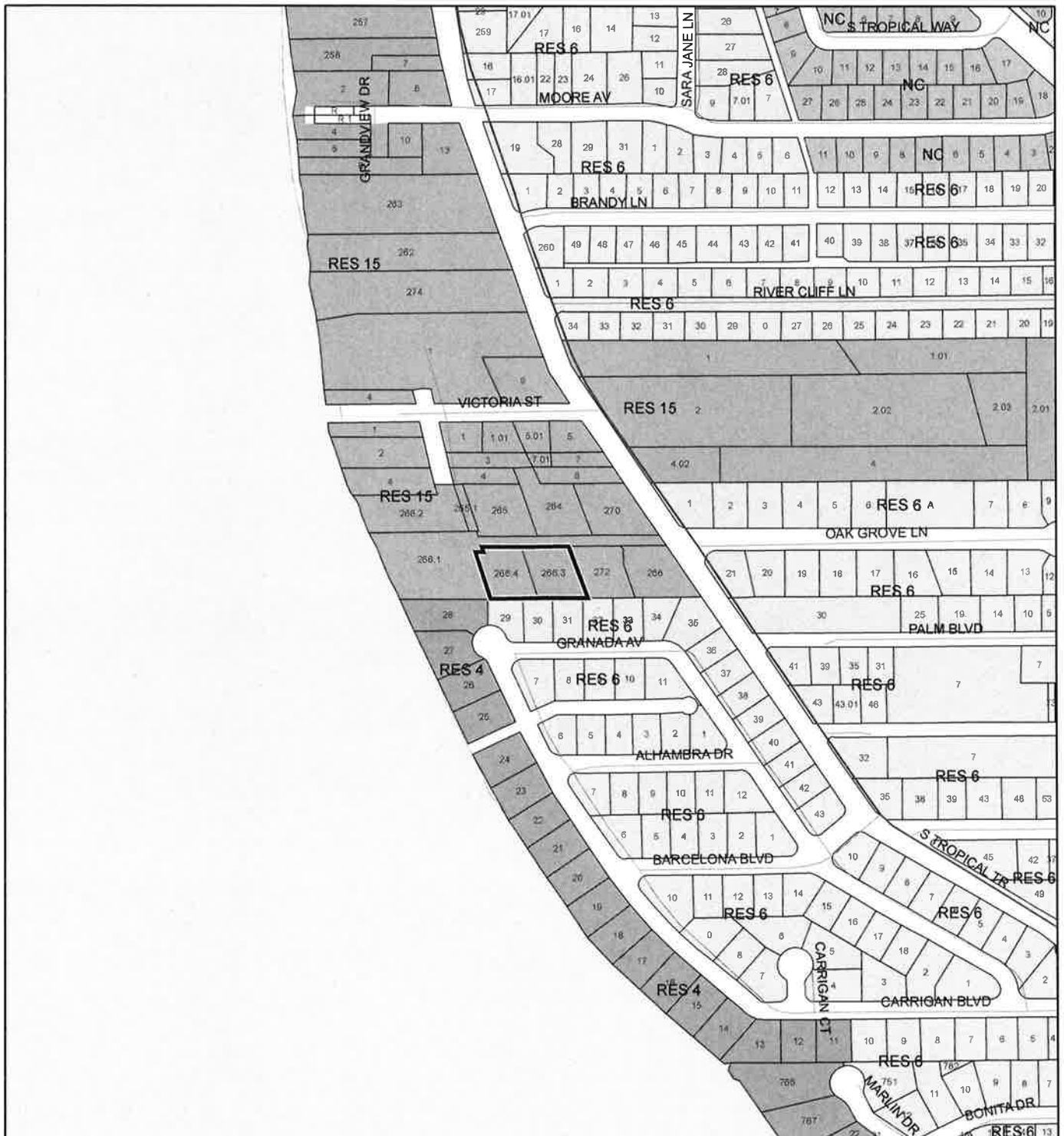
— Subject Property

□ Parcels

□ Zoning

FUTURE LAND USE MAP

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

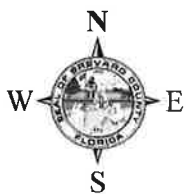
— Subject Property
□ Parcels

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: 1/14/2021

AERIAL MAP

SDLD, LLC
21Z00001



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

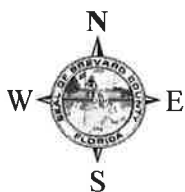
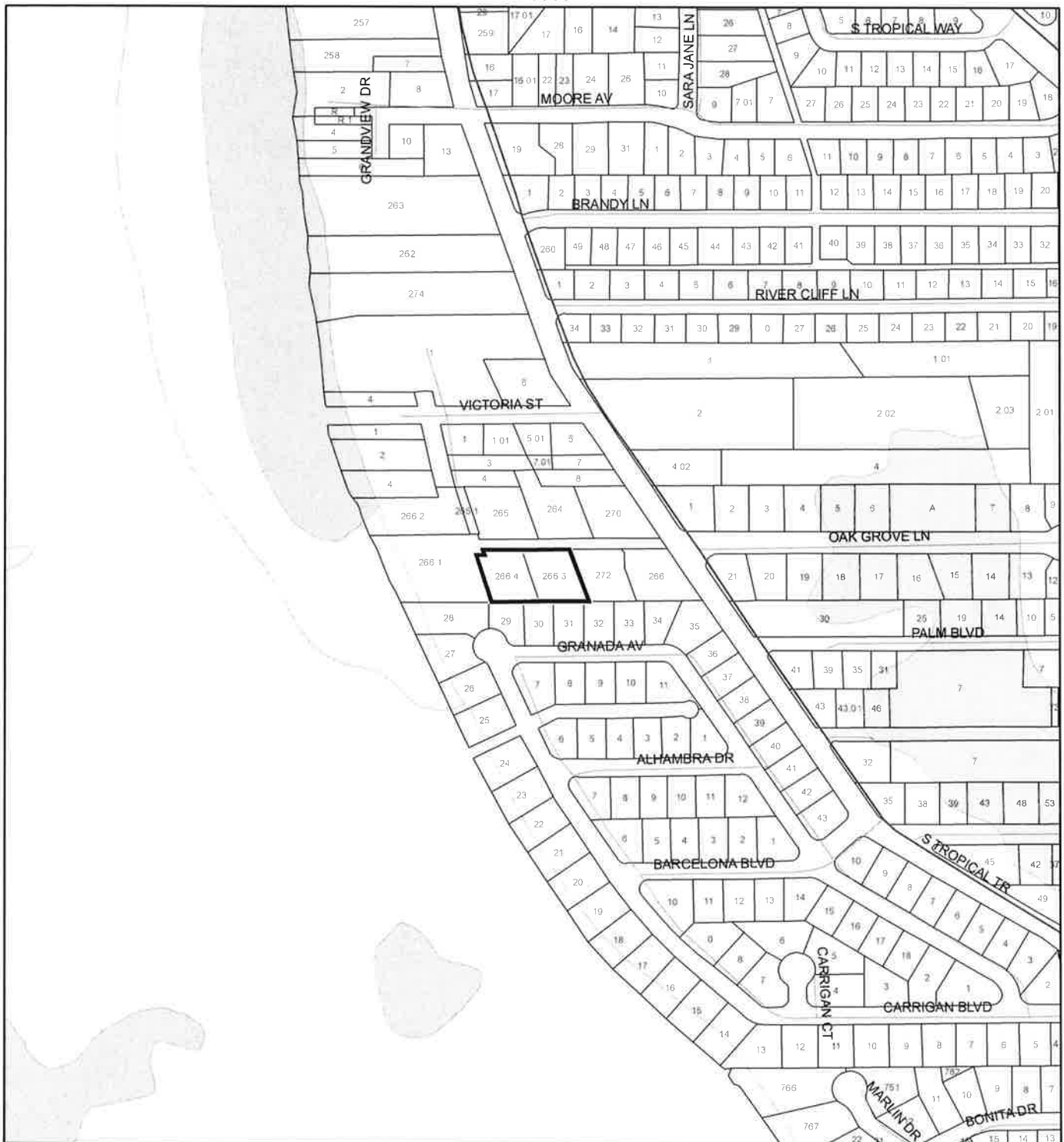
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/14/2021

— Subject Property
□ Parcels

NWI WETLANDS MAP

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

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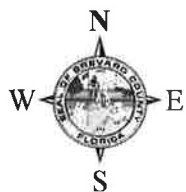
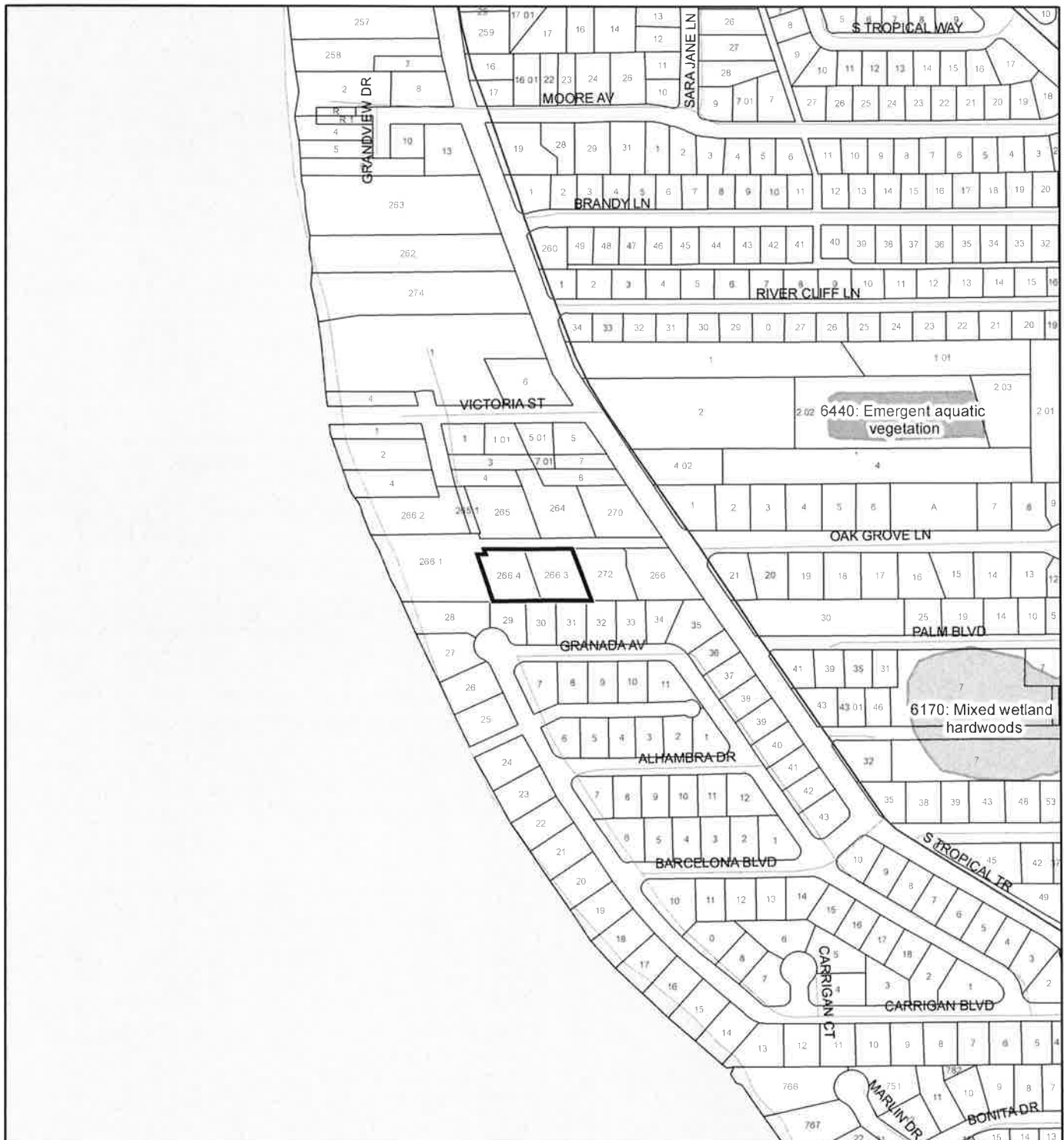
Produced by BoCC - GIS Date: 1/14/2021

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

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/14/2021

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

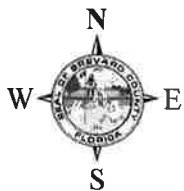
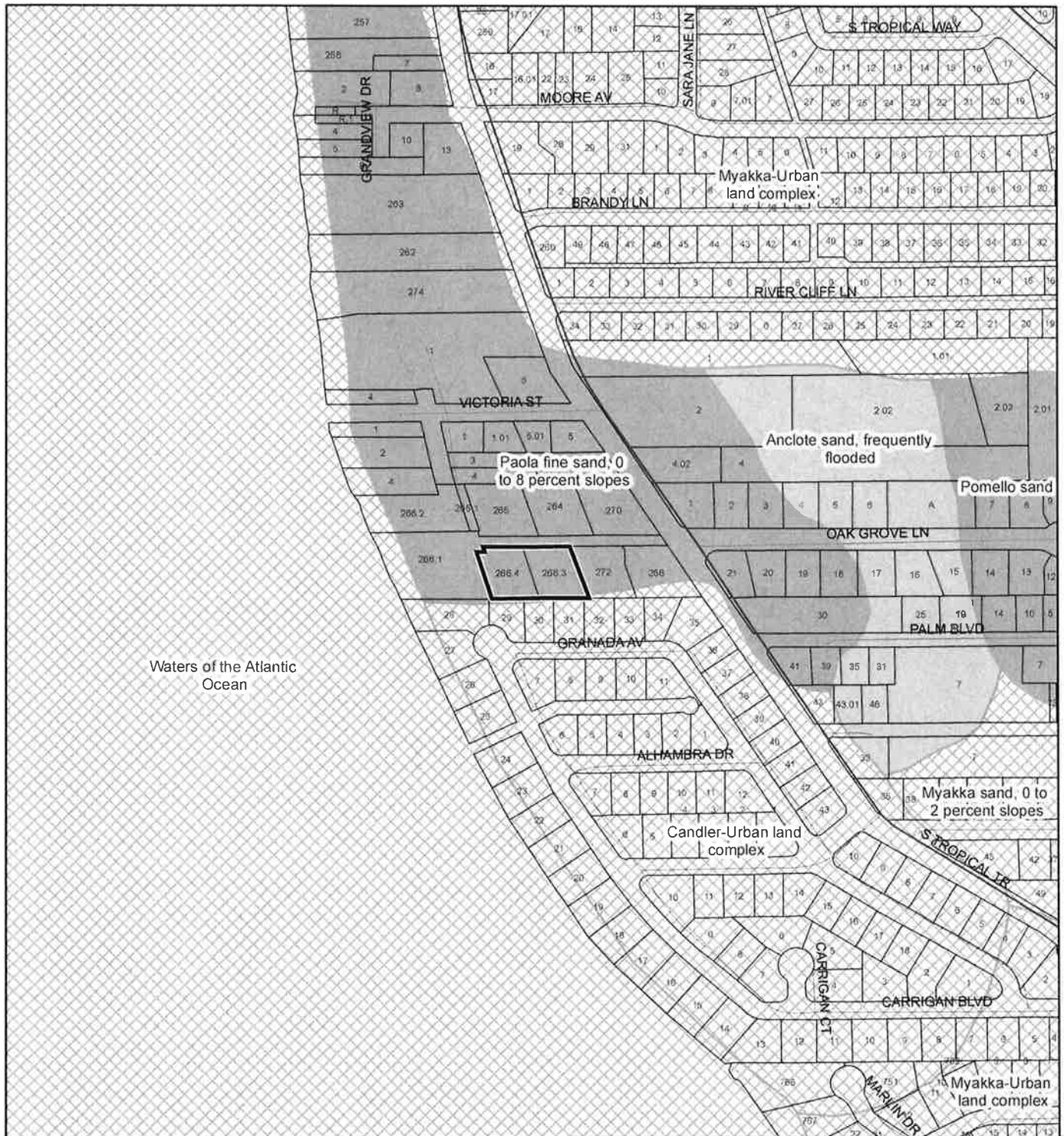
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

SDLD, LLC

21Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/14/2021

USDA SCSSS Soils

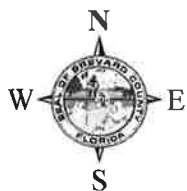
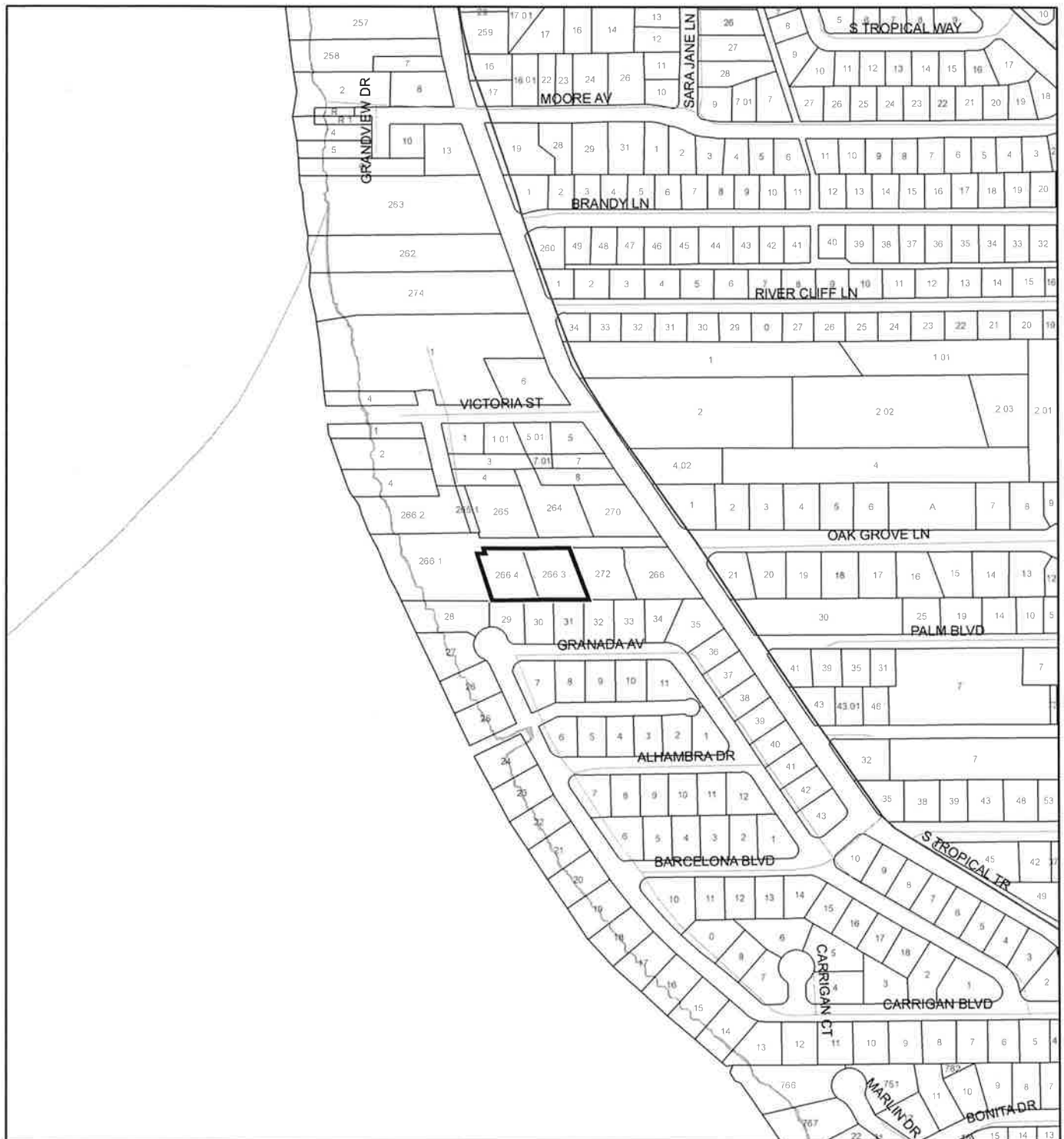
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

SDLD, LLC

21Z00001



1:4,800 or 1 inch = 400 feet

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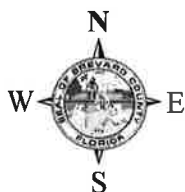
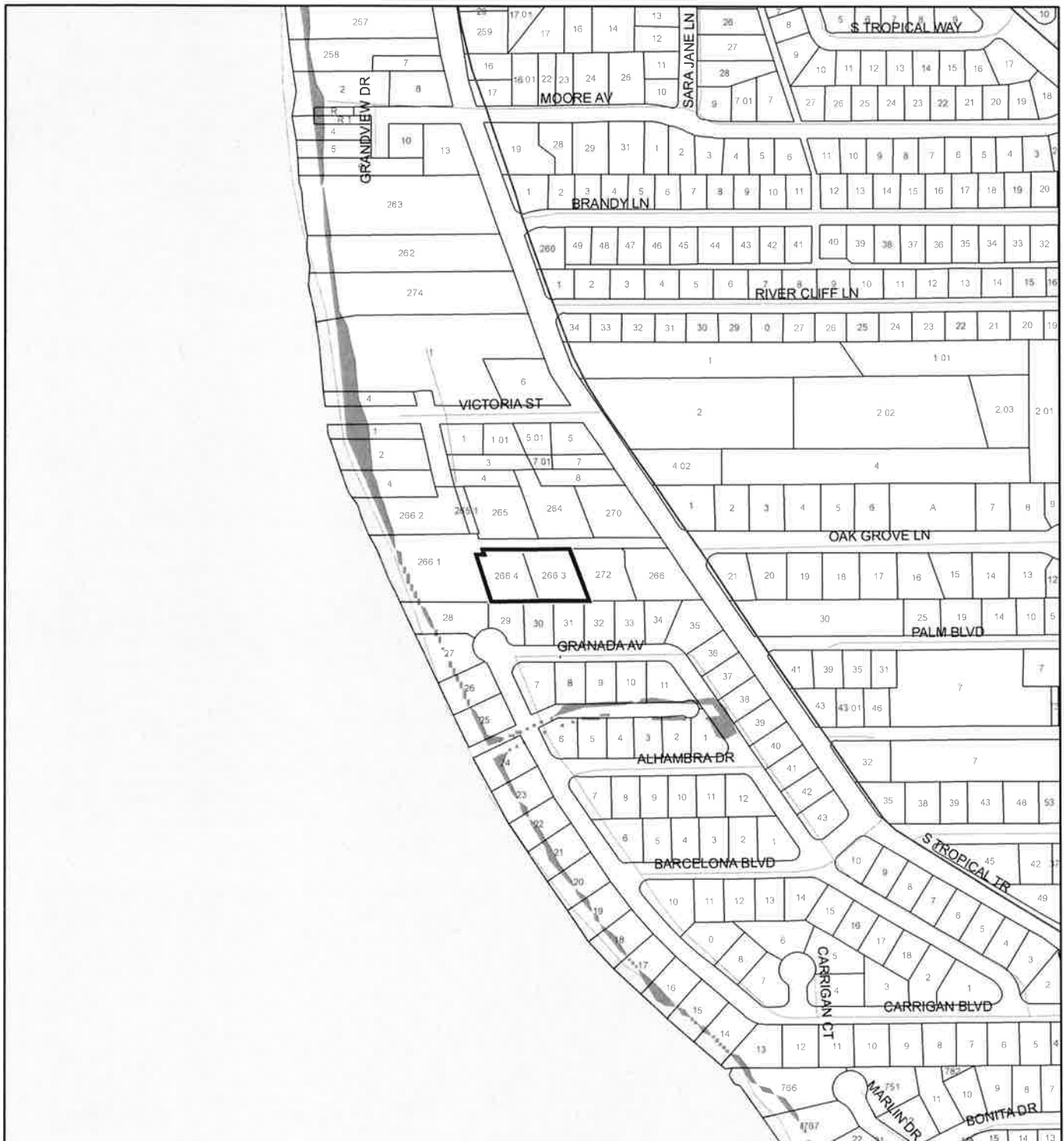
Produced by BoCC - GIS Date: 1/14/2021

FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/14/2021

— Subject Property

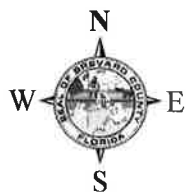
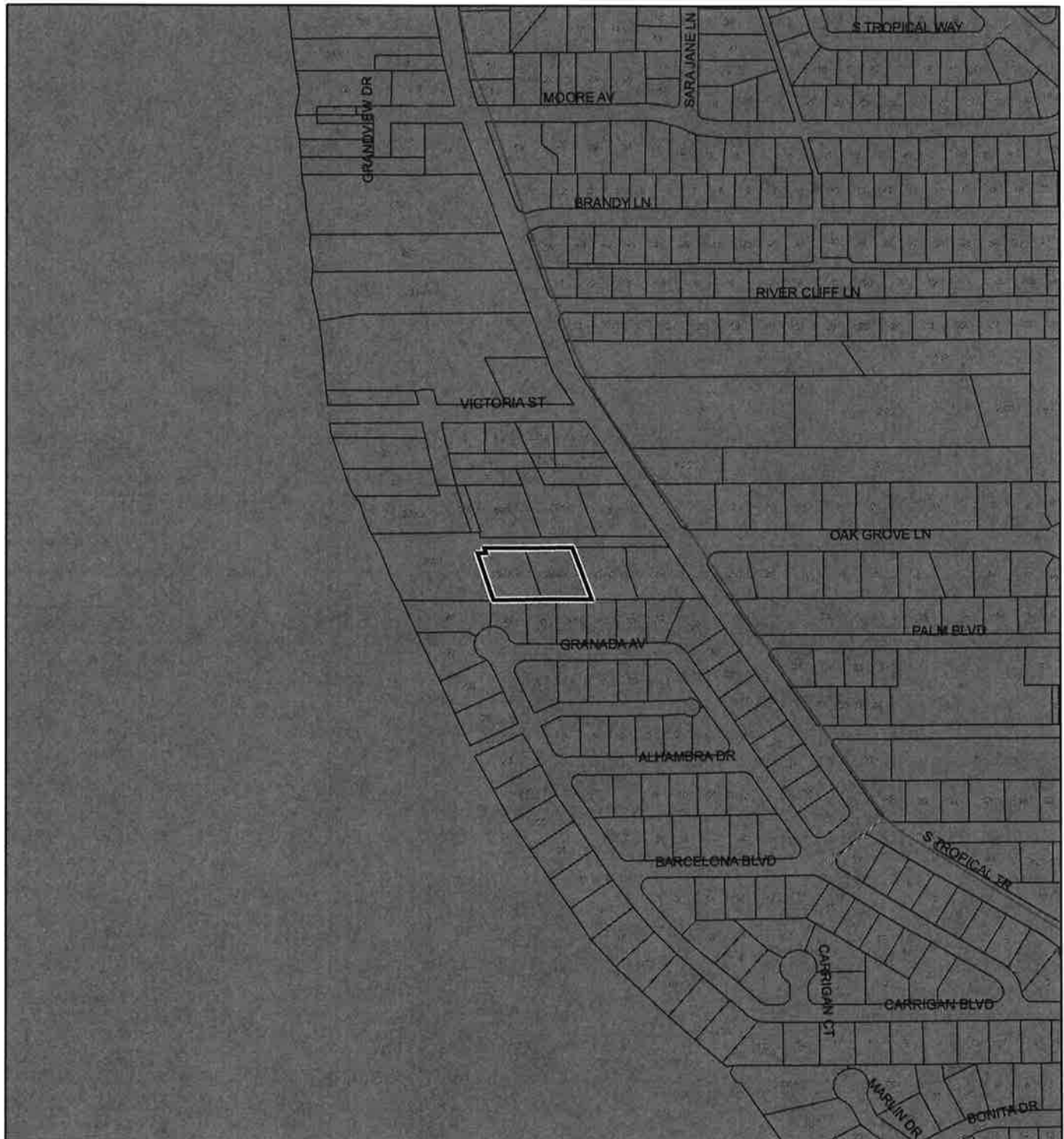
□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/14/2021

— Subject Property

□ Parcels

Septic Overlay

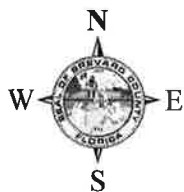
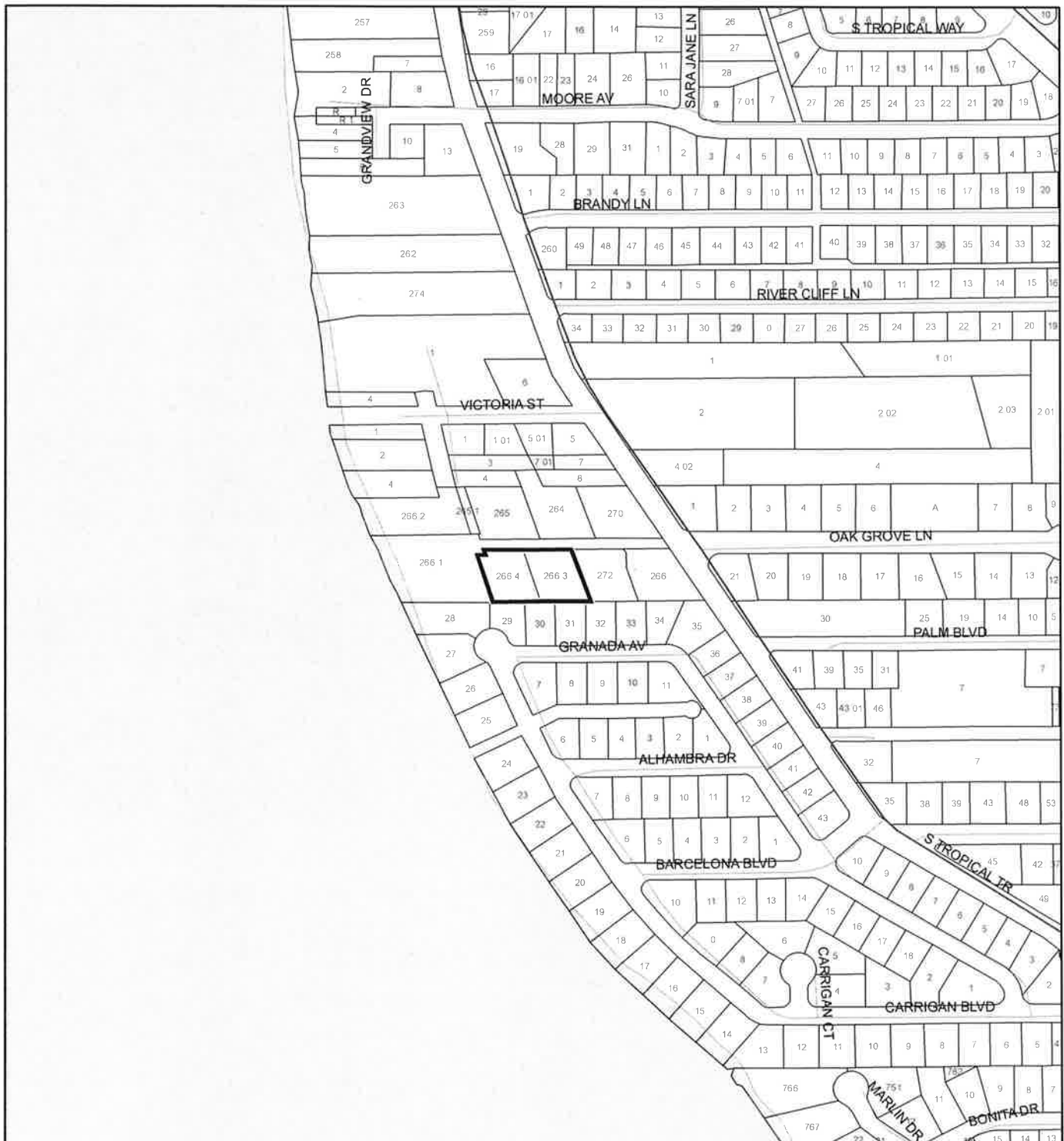
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/14/2021

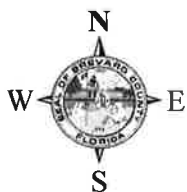
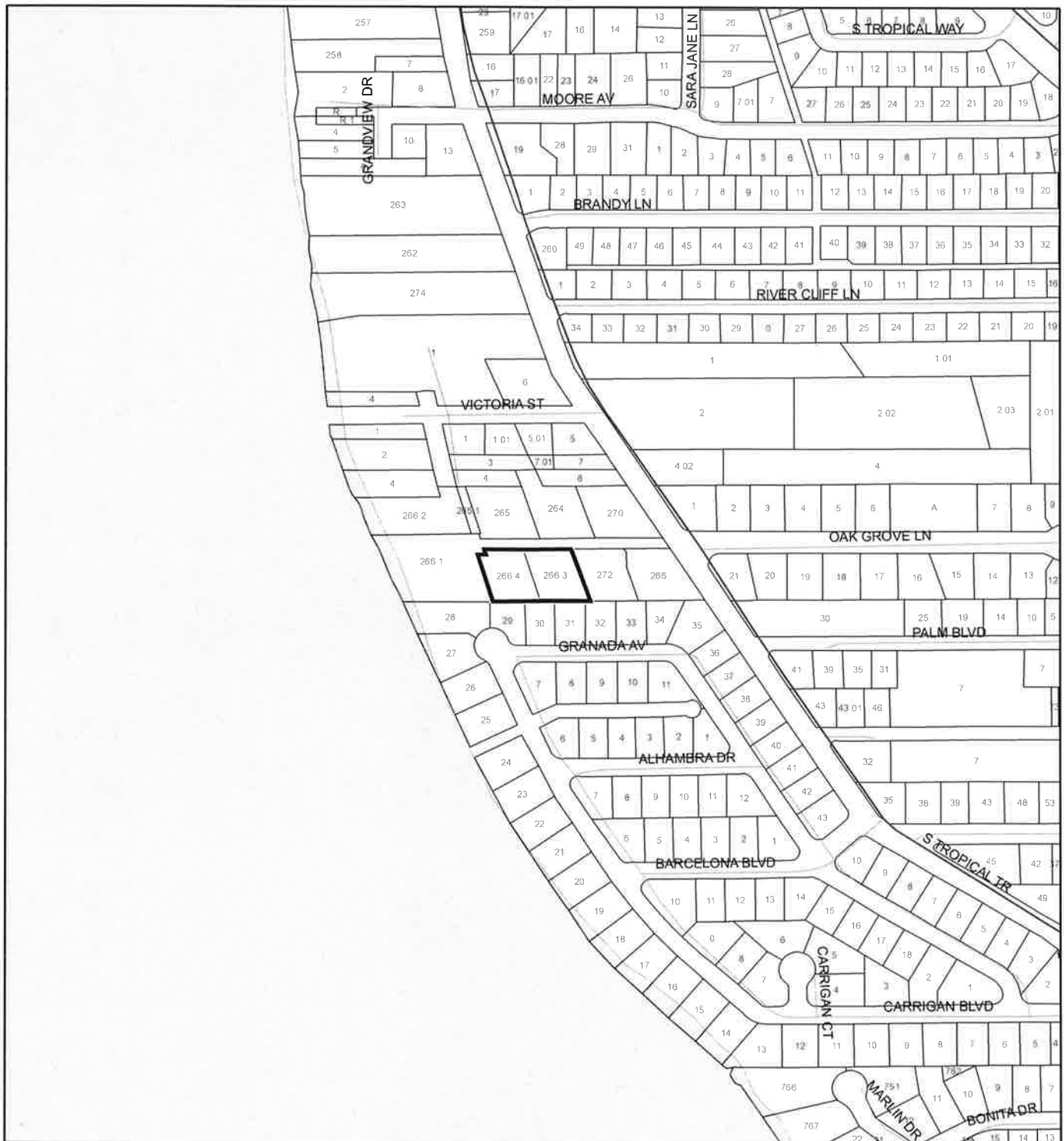
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




SDLD, LLC
21Z00001



1:4,800 or 1 inch = 400 feet

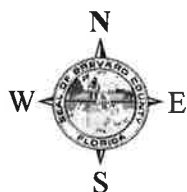
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/14/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SDLD, LLC
21Z00001






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: 1/14/2021

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21200001

Existing FLU: Res 15 Existing Zoning: AU

Proposed FLU: Res 15 Proposed Zoning: EU

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Name(s) SDLD LLC Company
977 S. TROPICAL TR MERCOT ISLAND FL 32952
Street City State Zip Code
SDMASSO@SPACECOASTHONDA.COM 321-544-1111
Email Phone Cell

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other _____

Name(s) _____ Company _____
Street _____ City _____ State _____ Zip Code _____
Email _____ Phone _____ Cell _____

981 S TROPICAL TR
2501422

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: _____

Acreage of Request: 0.99

Reason for Request:

Rezone AU to EU to fix lot size issue

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

[Signature]
Signature of Property Owner or
Authorized Representative

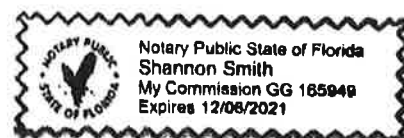
1/4/21
Date

State of Florida
County of Brevard

Subscribed and sworn before me, by X physical presence or _____ online notarization,
this 4 day of January, 20 21, personally appeared
Scott DeMasso, who is personally known to me, or produced
_____ as identification, and who did / did not take an oath.

[Signature]
Notary Public Signature

Seal



Office Use Only:

Accela No. 20200001 Fee: 1149.00 Date Filed: 1/5/2021 District No. 2

Tax Account No. (list all that apply) 2501422 + 2501421

Parcel I.D. No.

25 36 02 00 266.4 + 266.3
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued by: KH Notification Radius: 500'

MEETINGS

DATE

TIME

☒ P&Z

3/8/21

3:00 pm

☐ PSJ Board

☐ NMI Board

☐ LPA

☐ BOA

☒ BCC

4/15/21

5:00 pm

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials KH

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes

☒ No

If yes, list _____

Location of subject property:

West side of S Tropical Trail, approx. 759 feet
South of River Cliff Lane

Description of Request:

Rezone AU → EU

Owner's Name: SDLD, LLC
Hearing Date: March 8, 2021

212 00001

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Denny Long,
to me well known and known to me to be the person described in and who executed the foregoing
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

[Signature]
Signature

Sworn and Subscribed before me, this 23 day of February.



(Print, Type, or Stamp Commissioned Name of Notary Public) Cynthia M. Cook
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: n/a

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

REZONING NOTICE

21700001

USA Revised Family History Form, and Family Group Set, both available for \$1.50 each, or \$2.50 for both, from the National Society of Genealogists, 1000 North 17th Street, Suite 100, Arlington, VA 22209. The form is available in French and Spanish.

Driver	STAD, U.S.	Vehicle	2002
Manufacturer	AV	Model	Passenger
Year of Manufacture	2002	AV	2002

The information on this form is confidential and should be kept confidential. It is not to be distributed outside the agency or to the public. It is to be used only for the purpose of the investigation. It is to be destroyed when the investigation is completed. It is to be kept in a secure place. It is to be handled with care. It is to be used only for the purpose of the investigation. It is to be destroyed when the investigation is completed. It is to be kept in a secure place. It is to be handled with care.

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 8, 2021**, 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: Ron Bartcher; Harry Carswell; Brian Hodggers; Ben Glover; Mark Wadsworth, Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

SDLD, LLC (Scott Demasso)

A change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential). The property is 0.99 +/- acres, located on the on the west side of S. Tropical Trail, approximately 0.14 mile south of River Cliff Lane. (No assigned address. In the Merritt Island area.) (21Z00001) (Tax Accounts 2501421 and 2501422) (District 2)

Scott Demasso, 977 S. Tropical Trail, stated the reason for the request is to build two houses on two lots.

Peter Filiberto stated the staff comments state the applicant must show how the lots satisfy the access requirements of Section 62-102 to obtain a building permit. Mr. Demasso replied he is aware of that and is working with Planning and Development. He noted there is a road there and he owns another piece of property at the end of the road; it is an old egress/ingress easement that is 30 feet and he owns 30 feet, so there is 60 feet. He said the first step is to change the zoning because without changing the zoning a house cannot be built, and then he will figure out the next step.

No public comment.

Mr. Filiberto stated with the applicant acknowledging the access requirement, he supports the request.

Motion by Peter Filiberto, seconded by Brian Hodggers, to approve the change of classification from AU to EU. The motion passed unanimously.