

TABLED



**AGENDA REPORT**  
**March 7, 2019**

**Joseph Brandon and Nikki Thomas request a Small Scale Comprehensive  
Plan Amendment from RES 1:25 to RES 1. (18PZ00153) (District 1)**

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**SUBJECT:**

Joseph Brandon and Nikki Thomas request a Small Scale Comprehensive Plan Amendment from RES 1:25 (Residential 1:2.5) to RES 1 (Residential 1). The property is 3.15 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims) (18PZ00153) (District 1)

**FISCAL IMPACT:**

None.

**DEPT/OFFICE:**

Planning and Development

**REQUESTED ACTION:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 (Residential 1:2.5) to RES 1 (Residential 1).

**SUMMARY EXPLANATION and BACKGROUND:**

This request is seeking a change in Future Land Use (FLU) designation from Residential 1:2.5 (RES 1:2.5) to Residential 1 (RES 1) on a 3.15 acre portion of the total 19.75 acre parcel. This area of unincorporated Brevard County between Highway 1 (US 1) and the Indian River is comprised of mainly RES 1, RES 1:2.5 and Agricultural (AGRIC) land use designations, transitioning from one unit per acre density allowances closest to Highway 1 (US 1), to one unit per five (5) acres closest to the Indian River. To the north of the property is in Volusia County with a Future Land Use designation of Conservation with a limitation on Floor Area Ratio to 0.10 and a density of one (1) unit per ten (10) acres.

Most of the subject property retains Residential 1 (RES 1) and the applicants are asking to have one consistent Future Land Use designation across the entire 19.75 acre parcel, allowing for development at 1 unit per acre.

A preliminary concurrency analysis does not indicate that the proposed change in FLU designation would result in any impacts to level of service on the surrounding roadway network. The applicant has been notified that any future subdivision would need to provide paved access and internal roadways. Connectivity to County Line Ditch Road at the Volusia County intersection just north of the subject property will be necessary for development. Volusia County Traffic Engineering has indicated that the additional trips resulting from this

proposal are not anticipated to result in a Level of Service deficiency on County Line Ditch Road.

Water and sewer services are not available to the subject property; however, Brevard County's Comprehensive Plan does not require water and sewer services for development at less than four (4) dwelling units per acre or greater. The area is outside of the septic overlay area, as it is over 3700 feet away from the Indian River Lagoon.

The Board may wish to consider if changing the Future Land Use from Residential 1:25 to Residential 1 is consistent with the surrounding area. This request is accompanied by a companion proposal for a change of zoning classification from Agricultural Residential (AU) to Rural Residential (RR-1).

On February 11, 2019, the Local Planning Agency heard the request and voted 6:2 to approve.

**ATTACHMENTS:**

**Description**

- ☐ **Administrative Policies**
- ☐ **Staff Comments**
- ☐ **GIS Maps**
- ☐ **School Concurrency**
- ☐ **Public Comment**
- ☐ **Planning and Zoning Minutes**

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to 4/18 H.6

ORDINANCE NO. 19-\_\_

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2019, 19S.03, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2019 as Plan Amendment 19S.03; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 19S.03; and

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

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

WHEREAS, on February 11, 2019, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 19S.03, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on March 7, 2019, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 19S.03; and

WHEREAS, Plan Amendment 19S.03 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 19S.03 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 19S.03 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 19S.03, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

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

DONE AND ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

By: \_\_\_\_\_  
Kristine Isnardi, Chair

As approved by the Board on \_\_\_\_\_, 2019.

**EXHIBIT A**  
**19S.03 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

**1. Proposed Future Land Use Map**

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

DITCH RD

RES 1

RES 12.5

RES 1

RES 1:2.5

RES 1

DIXIE VIALY

— **SAINTS** —



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: 12/19/2018

**EXHIBIT B**  
**FINDINGS OF FACT**

**Contents**

**1. Legal Description**



NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, FEBRUARY 19, 2018, and THURSDAY, MARCH 7, 2019. Items and a North Florida Independent Special District Board items DISTRICT 1 3. (18PZ00145) – MANDA LAJIE TAYLOR – requests a change of zoning classification from GU (General Use) to AU (Agricultural Residential), on property described as Tract 8, Block 16, Canaveral Groves Unrecorded Subdivision, as filed in Survey Book 2, Page 55 of the Public Records of Brevard County, Florida. Section 33, Township 23, Range 35. (2.38 acres) Located on the east side of Florida Highway 1, approx. 1.17 miles north of Area Palms (5125 Florida Palm Ave., Cocoa A), (18PZ00147) WILLIAM EMMONS and LAURIE TURNER – request a change of zoning classification from RU-1.7 (Single-Family Residential) to SR (Suburban Residential), on property described as Tax Parcel 501, as recorded in ORB 8178, Page 868, of the Public Records of Brevard County, Florida. Section 17, Township 21, Range 35. (0.81 acres) Located on the east side of N. Singleton Ave., approx. 165 ft. north of Market St. (2505 N. Singleton Ave., Mims) 5. (18PZ00148) JAMES BRANDON – request a change of zoning classification from GU (General Use) to BU-1-A (Restricted Neighborhood Commercial), on property described as Lot 17, Block 1, Spruce Hills Subdivision, as recorded in ORB 8249, Pages 2609 – 2610, of the Public Records of Brevard County, Florida. Section 13, Township 21, Range 34. (1.15 acres) Located on the north side of W. Main St., approx. 145 ft. west of Holder Rd. (4218 W. Main St. Mims) 6. (18PZ00153) JOSEPH BRANDON and NIKKI THOMAS request a Small Scale Comprehensive Plan Amendment (195.03) from RES 1 (Residential 1) and RES 1.2:5 (Residential 1:2.5), to all RES 1, on property described as the most eastern end of Lots A & B, Block 1, Tull & Paxtons Subdivision, as recorded in ORB 6692, Pages 1049 – 1050, of the Public Records of Brevard County, Florida, extending 235 ft. from east to west along the north property line, and 278 ft. from east to west along the south property line. Section 39, Township 20G, Range 35. (3.76 acres) located on the south-east corner of Dixie Way and Dixie Way (6705 Dixie Way, Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 195.03: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan" amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendments to maintain internal consistency with the future land use element legal status; providing a severability clause; and providing an effective date. (18PZ00154) JOSEPH BRANDON and NIKKI THOMAS request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Lots A & B, Block 1, Tull & Paxtons Subdivision, as recorded in ORB 6692, Pages 1049 – 1050, of the Public Records of Brevard County, Florida. Section 39, Township 20G, Range 35. (19.75 acres) Located on the south-east corner of County Line Rd. and Dixie Way (6705 Dixie Way, Mims) 8. (18PZ00156) M.B. UNITED, INC. (Carminne Ferraro) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcels 7 & 8, as recorded in ORB 7737, Pages 317-320.

of the Public Records of Brevard County, Florida; and the east 562.87 ft. of Lot 149 in Section 15, Cocoa-Indian River Properties, according to the plat thereof, as recorded in Plat Book 5, Page 7, of the Public Records of Brevard County, Florida. Section 15, Township 23, Range 35 (13.27 acres) Located on the west side of Highway 1, between Highway 1 and Common Fern Blvd. and Ranch Rd. (No assigned address, in the Cocoa area), DISTRICT 2 9. (18P20015) BARBARA J. AND JOSEPH J. TULSKIE, JR. - (Rodney Honeycutt) request removal of an existing BDP (Binding Development Plan), and a CUP (Conditional Use Permit) for a Temporary Security Trailer, on property described as Lot 3, Block 2, Merritt Winter Homes Development Subdivision, as recorded in ORB 8210, Pages 319-320, of the Public Records of Brevard County, Florida; and Lot 3, Block 2, Merritt Winter Homes Development Subdivision, as recorded in ORB 8203, Pages 2720 - 2721, of the Public Records of Brevard County, Florida. Section 35, Township 24, Range 36, (1.55 acres) Located on the southeast corner of Tangerine Ave. and N. Tropical Trail north of 140 N. Tropical Trail, (Lot 4 and Lot 3 - No assigned address, 18P120061) JOHN L. JACKSON, TRUSTEE - (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment, 195.04, to change the Future Land Use designation from: NC (Neighborhood Commercial) and CC (Community Commercial) to all CC on property described as follows: Being a parcel of land located in Section 33, Township 24, Range 34E, of Brevard County, Florida; and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr. Trustee et al, as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida. Being more particularly described as follows: Begin at the east  $\frac{1}{4}$  corner of Section 13, thence westerly along the  $\frac{1}{4}$

section S88deg33'57"W, a distance of 2,344.11 ft.; thence leaving said quarter section line N01deg26'03"W, a distance of 59.52 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (Interstate 95), Brevard County, Section 70225, Fed Project Number 0953-11-1, said point being the point of beginning and being more particularly described as follows: thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 114.08 ft.; 2.) S01deg26'38"E, a distance of 26.02 ft.; 3.) S88deg32'35"W, a distance of 346.42 ft.; thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 1,034.89 ft. to the south line of DOT drainage pond property; thence along the south line of said DOT property the following two (2) courses: 1.) N88deg23'24"E, a distance of 287.39 ft.; 2.) S58deg03'46"E, a distance of 618.08 ft. to the east line of said property; thence along the east line of said property, thence S89deg05'30"W, a distance of 352.21 ft.; thence S00deg26'59"E, a distance of 355.76 ft. to the point of beginning. Less and except that portion which is already CC (Community Commercial), (3.28 acres). Located on the north side of S.R. 46, approx. 0.2 mile west of the I-95 and S.R. 46 interchange. (No assigned address in the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 1995-44: The Ordinance of the Board of County Commissioners of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. (18P2000-001, Ord. of the Board of County Trustees (Bruce Moia) request a change of zoning classification from GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2, on property described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34 East, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr., Trustee, et al, as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, and being more particularly described as follows: Begin at the east  $\frac{1}{4}$  corner of Section 13, thence westerly along the  $\frac{1}{4}$  section S88deg33'57"W, a distance of 2,344.11 ft.; thence leaving said  $\frac{1}{4}$  section line N01deg26'03"W, a distance of 59.52 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (I-95), Brevard County, Section 70225, FED Project No. 0953-11-1, said point being the point of beginning and being more particularly described as follows: thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 114.08 ft.; 2.) S01deg26'38"E, a distance of 26.02 ft.; 3.) S88deg32'35"W, a distance of 346.42 ft.; thence leaving the right-of-

way of S. 46 N00deg26'59"W, a distance of 1,034.89 ft., to the south line of Florida Department of Transportation (FDOT) drainage pond property; thence along the south line of said FDOT property the following two (2) courses: 1.) N88deg23'24"E, a distance of 287.39 ft.; 2.) S58deg03'46"E, a distance of 618.08 ft., to the east line of described property; thence S00deg58'29"E, a distance of 317.35 ft.; thence S89deg05'30"W, a distance of 352.21 ft.; thence S00deg26'59"E, a distance of 355.76 ft., to the point of beginning. AND further described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34 E, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr. et al., as recorded in Public Records of Brevard County, Florida, Book 6133, Page Court No. 953-11-1, said point of beginning the point of beginning and being more particularly described as follows: Thence along the north right-of-way of S.R. 46 S88deg33'22"W, a distance of 155.48 ft.; thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 355.76 ft.; thence N89deg05'30"W, a distance of 352.21 ft.; thence south 00deg58'29"E, a distance of 152.42 ft. to the north line of property owned by East Coast Petro, Inc.; thence along said north line S88deg33'22"W, a distance of 200 ft. to the west line of said property; thence leaving said north line S00deg58'29"E, a distance of 200 ft. to the point of beginning. 16.4 +/- acres. Located on the north side of S.R. 46, approx. 0.2 mile west of the I-95 and S.R. 46 interchange. (No assigned address. In the Mims area, 12 / (SP2010101010). The MIAMI COUNTY BOARD OF COUNTY COMMISSIONERS - (Tim Lanning) requests a change of zoning classification from BU-1 (General Retail Commercial) and IU (Light Industrial) to GMLH (Government Managed Lands - High Intensity), with removal of BDP (Blinding Development Plan) on IU portion only, on property described as Tax Parcel 520, as recorded in ORB 754. Page 553 - 555, of the Public Records of Brevard County, Florida, Section 19, Township 26S, Range 37E, as recorded in ORB 4563, Pages 525 - 529, of the Public Records of Brevard County, Florida, Section 19, Township 26S, Range 37E, (6 acres) Located on the southwest corner of Pineda Causeway and the Florida East Coast Railroad right-of-way. (2905/2915/2925 Pineda Cswy., Melbourne) Public Hearing before the Planning and Zoning Board (Local Planning Agency) was held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, FEBRUARY 11, 2019, at 3:00 p.m.. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MARCH 7, 2019, at 5:00 p.m. All interested parties can be heard at said time and place. If a person desires to appeal any decision of the Board with respect to this matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the

proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.6, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator II.

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DONE AND ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

By: \_\_\_\_\_  
Kristine Isnardi, Chair

As approved by the Board on \_\_\_\_\_, 2019.

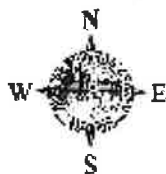
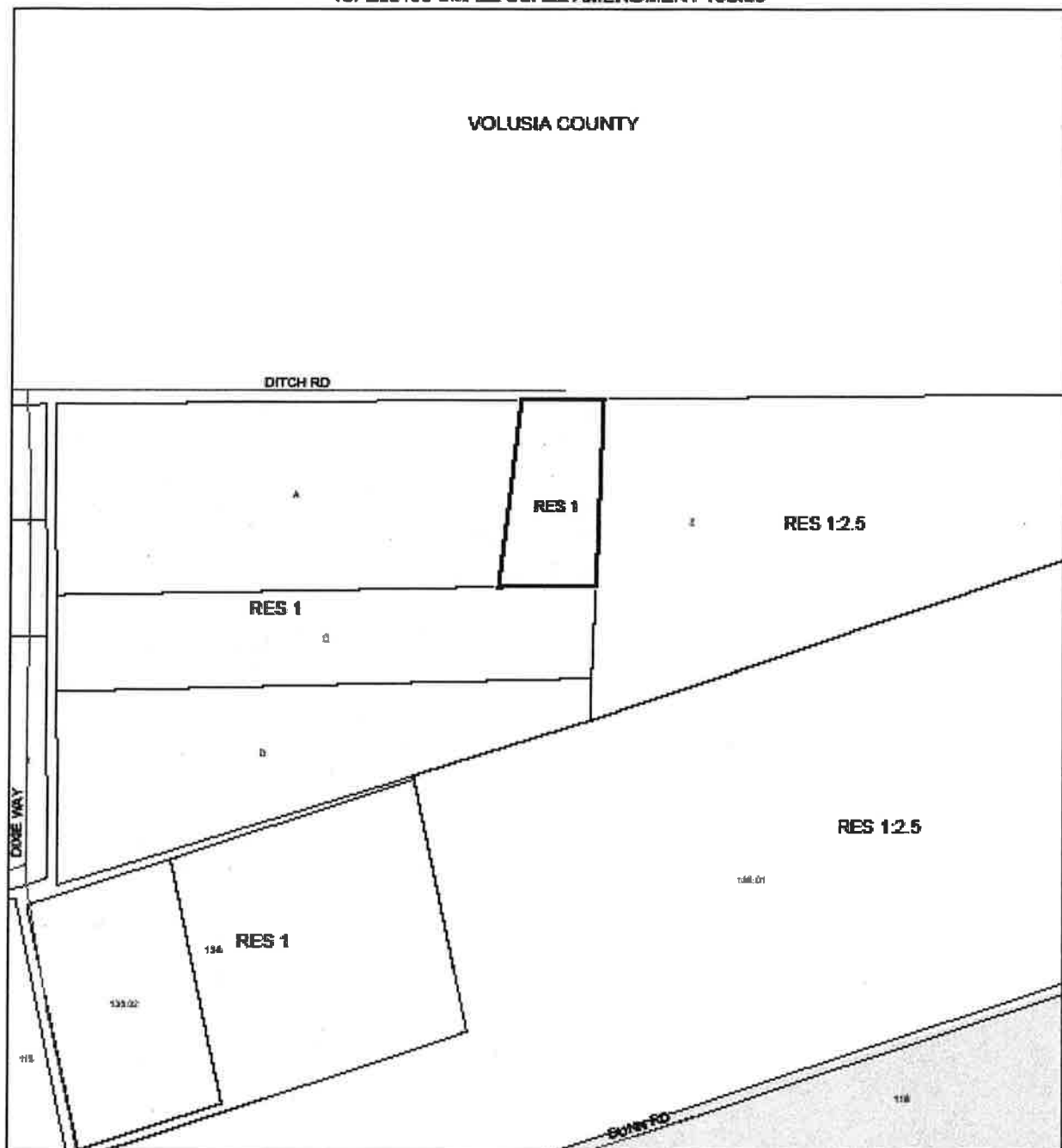
**EXHIBIT A**  
**19S.03 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18P200153 SMALL SCALE AMENDMENT 10S.03



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

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Produced by BoCC - GIS Date: 12/19/2018

**EXHIBIT B**  
**FINDINGS OF FACT**

**Contents**

**1. Legal Description**

ADK3346726, 1/24/2019

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, FEBRUARY 11, 2019, and THURSDAY, MARCH 7, 2019. Items 1 and 2 are North Merritt Island Dependent Special District Board items. DISTRICT 13 (18P200145) - MARY DA LAJOIE TAYLOR - requests a change of zoning classification from GU (General Use) to AU (Agricultural Residential), on property described as Tract 8, Block 16, Canaveral Groves Unrecorded Subdivision, as filed in Survey Book 2, Page 55, of the Public Records of Brevard County, Florida, Section 33, Township 23, Range 35, (2.38 acres) located on the east side of Florida Palm Ave., approx. 0.18 miles north of Arca Palm St. (5125 Florida Palm Ave., Cocoa, FL 32909) V. WILLIAM EMMONS and LAURIE TURNER - request a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential), on property described as Tax Parcel 501, as recorded in ORB 8178, Page 868, of the Public Records of Brevard County, Florida, Section 17, Township 21, Range 35, (0.81 acres) located on the east side of N. Singleton Ave., approx. 165 ft. north of Parker St. (2295 N. Singleton Ave., Mims) S. (18P200150) JAMES AND JENNIFER MUTTER - request a change of zoning classification from GU (General Use) to RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial), on property described as Lot 17, Block 1, Spruce Hills Subdivision, as recorded in ORB 8249, Pages 2609 - 2610, of the Public Records of Brevard County, Florida, Section 13, Township 21, Range 34, (1.15 acres) located on the north side of W. Main St., approx. 145 ft. west of Holder Rd. (4218 W. Main St., Mims) 6. (18P200153) JOSEPH BRANDON AND NIKKI THOMAS request a Small Scale Comprehensive Plan Amendment (195.03) from RES 1 (Residential) to RES 1-2.5 (Residential) (1.25), to all RES 1, on property described as the most eastern end of Lots A & B, Block 1, Tull & Paxtons Subdivision, as recorded in ORB 6692, Pages 1049 - 1050, of the Public Records of Brevard County, Florida, extending 235 ft. from east to west along the north property line, and 278 ft. from east to west along the south property line. Section 39, Township 20G, Range 35, (3.15 +/- acres) located on the southeast corner of County Line Rd. and Dixie Way. (6705 Dixie Way, Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 195.03: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series, and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date 7. (18P200154) JOSEPH BRANDON AND NIKKI THOMAS request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Lots A & B, Block 1, Tull & Paxtons Subdivision, as recorded in ORB 6692, Pages 1049 - 1050, of the Public Records of Brevard County, Florida, Section 39, Township 20G, Range 35, (197.5 acres) located on the southeast corner of County Line Rd. and Dixie Way. (6705 Dixie Way, Mims) 8. (18P200155) MAR, UNITED, INC. - (Carminie Ferraro) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehouse, and Wholesale Commercial), on property described as Tax Parcels 7 & 8, as recorded in ORB 7737, Pages 317-320,

of the Public Records of Brevard County, Florida, and the east 562.47 ft. of Lot 149, in Section 15, Cocoa Indian River Properties, according to the plat thereof, as recorded in Plat Book 5, Page 7, of the Public Records of Brevard County, Florida, Section 15, Township 23, Range 35, (33.27 acres) located on the west side of Grissom Pkwy., between Chinamon Fern Blvd. and Ranch Rd. (No assigned address, in the Cocoa area) DISTRICT 2-9. (18P200159) BARBARA J. AND JOSEPH J. TULSKIE, JR. - (Rodney Honeycutt) request removal of an existing BDP (Binding Development Plan), and a CUP (Conditional Use Permit) for a Temporary Security Trailer, on property described as Lot 1, Block D, Merritt Winter Homes Development Subdivision, as recorded in ORB 8210, Pages 319 - 320, of the Public Records of Brevard County, Florida, and Lot 3, Block D, Merritt Winter Homes Development Subdivision, as recorded in ORB 8203, Pages 2720 - 2721, of the Public Records of Brevard County, Florida, Section 35, Township 24, Range 36, (1.55 acres) located on the southeast corner of Tangerine Ave. and N. Tropical Trail (Lot 1 - 140 N. Tropical Trail, Merritt Island, Lot 3 - No assigned address) 10. (18P200160) JOHN L. JACKSON, TRUSTEE - (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment, 195.04, to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC, on property described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34E, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr. Trustee et al. as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, being more particularly described as follows: Begin at the east 1/4 corner of Section 13, thence westerly along the 1/4

section S88deg33'57"W, a distance of 2,344.11 ft., thence leaving said quarter section line N01deg26'03"W, a distance of 59.52 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (Interstate 95), Brevard County, Section 70225, Fed Project Number 0953-11-1, said point being the point of beginning and being more particularly described as follows: thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 114.08 ft.; 2.) S01deg26'38"E, a distance of 26.02 ft.; 3.) S88deg32'35"W, a distance of 346.42 ft., thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 1,034.89 ft. to the south line of FDOT drainage pond property, thence along the south line of said FDOT property the following two (2) courses: 1.) N88deg23'24"E, a distance of 287.39 ft.; 2.) S58deg03'46"E, a distance of 618.08 ft. to the east line of described property, thence S00deg58'29"E, a distance of 317 ft., thence S89deg05'30"W, a distance of 352.21 ft., thence S00deg26'59"E, a distance of 355.76 ft. to the point of beginning. Less and except that portion which is already CC (Community Commercial), (3.28 acres). Located on the north side of S.R. 46, approx. 0.2 mile west of the I-95 and S.R. 46 interchange. (No assigned address, in the Mims area). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 195.04: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series, and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date 11. (18P200161) JOHN L. JACKSON, TRUSTEE - (Bruce Moia) requests a change of zoning classification from GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehouse, and Wholesale Commercial) to all BU-2, on property described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34E, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr. Trustee, et al. as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, being more particularly described as follows: Begin at the east 1/4 corner of Section 13, thence westerly along the 1/4 section S88deg33'57"W, a distance of 2,344.11 ft., thence leaving said 1/4 section line N01deg26'03"W, a distance of 59.52 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (I-95), Brevard County, Section 70225, FED Project No. 0953-11-1, said point being the point of beginning and being more particularly described as follows: Thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 114.08 ft.; 2.) S01deg26'38"E, a distance of 26.02 ft.; 3.) S88deg32'35"W, a distance of 346.42 ft., thence leaving the right-of-

way of S.R. 46 N00deg26'59"W, a distance of 1,034.89 ft. to the south line of Florida Department of Transportation (FDOT) drainage pond property, thence along the south line of said FDOT property the following two (2) courses: 1.) N88deg23'24"E, a distance of 287.39 ft.; 2.) S58deg03'46"E, a distance of 618.08 ft. to the east line of described property, thence S00deg58'29"E, a distance of 317 ft., thence S89deg05'30"W, a distance of 352.21 ft., thence S00deg26'59"E, a distance of 355.76 ft. to the point of beginning. AND further described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34E, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr. Trustee, et al. as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, being more particularly described as follows: Begin at the east 1/4 corner of Section 13, thence westerly along the 1/4 section S88deg33'57"W, a distance of 2,188.63 ft., thence leaving said 1/4 section line N01deg26'03"W, a distance of 59.54 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (I-95), Brevard County, Section 70225, FED Project No. 0953-11-1, said point being the point of beginning and being more particularly described as follows: Thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 115.48 ft., thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 355.76 ft., thence N89deg05'30"E, a distance of 352.21 ft., thence south 00deg58'29"E, a distance of 152.42 ft. to the north line of property owned by East Coast Petro, Inc., thence along said north line S88deg33'22"W, a distance of 200 ft. to the west line of said property, thence leaving said north line S00deg58'29"E, a distance of 200 ft. to the point of beginning. 16.4 +/- acres. Located on the north side of S.R. 46, approx. 0.2 mile west of the I-95 and S.R. 46 interchange. (No assigned address, in the Mims area) 12. (18P200162) BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS - (Tim Lawry) requests a change of zoning classification from BU-1 (General Retail Commercial) and IU (Light Industrial) to GME(H) (Government-Managed Land - High intensity), with removal of BDP (Binding Development Plan) on lot portion only, on property described as Tax Parcel 520, as recorded in ORB 7544, Pages 553 - 555, of the Public Records of Brevard County, Florida, and Tax Parcel 529, as recorded in ORB 4563, Pages 4249 - 4250, of the Public Records of Brevard County, Florida, Section 19, Township 26, Range 37, (6 acres) located on the southwest corner of Pineda Causeway and the Florida East Coast Railroad right-of-way. (2905/2915/2925 Pineda Cswy., Melbourne) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C Viera, Florida on MONDAY, FEBRUARY 11, 2019, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C Viera, Florida, on THURSDAY, MARCH 7, 2019, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings, and that, for such purposes, such person may need to ensure that a verbatim record of the

proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Per: Tad Calkins, Planning and Development Director, By: Jennifer Jones, Special Projects Coordinator II.

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in

existing neighborhoods within the area which could foreseeably be affected by the proposed use;

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;
  - 2. actual development over the immediately preceding three years; and
  - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

##### **Criteria:**

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

### **Administrative Policy 5**

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

**Criteria:**

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

### **Administrative Policy 6**

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

### **Administrative Policy 7**

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

### **Administrative Policy 8**

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

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

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

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

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

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

- (b) *Approval procedure.* An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use...

...In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odor, glare and noise, particulates, smoke, fumes and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

*(c) General standards of review.*

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.
  - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
  - a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the

numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

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

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

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

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

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

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

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

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

### **DEFINITIONS OF CONCURRENCY TERMS**

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

**Current Volume:** Building permit related trips added to the latest MPO traffic counts.

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

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

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

**Acceptable Level of Service (ALOS):** Acceptable Level of Service currently adopted by the County.

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

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



## FUTURE LAND USE MAP SERIES PLAN AMENDMENT

### STAFF COMMENTS

*Small Scale Plan Amendment 19S.03 (18PZ00153)*  
**Township 20G, Range 35, Section 39**

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### Property Information

Owner / Applicant: Joseph Brandon and Nikki Thomas

Adopted Future Land Use Map Designation: Res 1:2.5

Requested Future Land Use Map Designation: Res 1

Acreage: 3.15 acres Tax Account #: 2004879 (a portion of)

Site Location: Southeast corner of County Line Road and Dixie Way

Current Zoning: AU

Requested Zoning: RR-1

### Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Volusia County Vacant	C	Conservation
<b>South</b>	Citrus Grove	AU	RES 1
<b>East</b>	Citrus Grove, partially planted	AU	RES 1:2.5
<b>West</b>	Single Family	AU	RES 1

### Background & Purpose

The applicant is seeking to amend the Future Land Use designation from Residential 1:2.5 (RES 1:2.5) to Residential 1 (RES 1) on a portion of a parcel totaling 3.15 acres of the greater 19.75 acre parcel of land. The parcel of land has two (2) Future Land Use designations with RES 1 on the 16.6 acres to the west and RES 1:2.5 on the easternmost 3.15 acre portion of the property. The subject parcel is located uniquely at the very northern end of the County as the parcels northern boundary abuts Volusia County parcels and Unincorporated Brevard County in the Scottsmoor area, on the southeast corner of the intersection of County Line Road and Dixie Way.

The 3.15 acre portion of the greater parcel abuts a vacant parcel of land in Volusia County to the north, a citrus grove to the east and south and a 7.5 acre parcel developed with a single-family residence and an undeveloped 2.5 acre parcel, both retaining Agricultural Residential (AU) zoning, to the west in Brevard County.

There are two (2) different Future Land Use designations due to the creation of the County's Comprehensive Plan in 1988. The original Brevard County Comprehensive Plan included a Future Land Use Map and a Residential Density Map. On March 19, 1991, the Board of County Commissioners approved a 17,000 acre residential density change going from RES 1:2.5 to RES 1. The Land Use change was initiated by Brevard County due to approximately 5,000 lots that were either inconsistent or nonconforming to the Residential Density Map at that time. The reason for the Future Land Use change was to provide people with an opportunity to utilize their property rights. The areas along the Indian River Lagoon and the westernmost portion of this property were reduced from one dwelling unit per acre to one dwelling unit per five acres.

The property is located midway between Highway 1 (US 1) and the Indian River Lagoon. The parcel is approximately 3,500 west of the Indian River. The Future Land Use in this area is Agricultural (AGRIC) along the Lagoon and increases in density heading west to RES 1:2.5 to RES 1. To the north is Volusia County Conservation land. The area is rural with conservation lands, agricultural lands with some developed single-family residential homes throughout the area.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the Zoning classification from Agricultural Residential (AU) to Rural Residential (RR-1).

This area is outside of the 2007 Mims Small Area Study area, which examined the density amongst other things, on 34,517 acres on a big portion of northern Brevard. The Board of County Commissioners upheld density at Residential 1 (RES 1) or one unit to the acre, on land as far east of Highway 1 (US 1) as Dixie Way in the area to the south of the subject parcel.

## Environmental Resources

*Please refer to comments provided by the Natural Resource Management Department.*

## Historic Resources

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

## Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

### Residential 1 (maximum of 1 unit per acre)

#### Policy 1.9

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

#### Criteria:

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

*The subject portion of the overall parcel is located adjacent to parcels having a Future Land Use designation of Volusia County Conservation to the north, RES 1:2.5 to the east and RES 1 to the south and west.*

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

*There is a transition from an Agriculture (AGRIC) Future Land Use designation closest to the Indian River to the east, which allow for development of up to one unit per five (5) acres, to a less dense use of RES 1:2.5 to RES 1 between Dixie Way and US-1. This parcel is uniquely situated along the north/south transition in the area from having development potential at one unit per 2.5 acres to one unit per acre. The applicants are asking to have one consistent Future Land Use designation allowing for development at 1 unit per acre across the entire 19.75 acre parcel.*

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

*This area along County Line Road is in Unincorporated Volusia County to the north and Unincorporated Brevard County to the South. This parcel is not adjacent to an incorporated area.*

- D. Up to a 25% density bonus to permit up to 1.25 dwelling 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 by properties with the CHHA.

*The 3.15 acre portion of the overall 19.75 parcel does not qualify on its own to be developed as a PUD however the overall parcel does meet the minimum criteria of ten (10) acres or greater and is not located within a Coastal High Hazard Area (CHHA).*

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not generate traffic that would cause deficiency of adopted roadway levels of service. Today, based upon the 2017 traffic counts, the traffic capacity indicates that this section of Highway 1 (US 1) from Burkholm Road to Volusia County is at 9.54% of the maximum acceptable volume (MAV). With this proposal to change the Future Land Use designation from Residential 1:2.5 (RES 1:2.5) to Residential 1 (RES 1) the MAV would increase to 9.90%.

## **For Board Consideration**

This request is seeking a change in Future Land Use (FLU) designation from Residential 1:2.5 (RES 1:2.5) to Residential 1 (RES 1) on a 3.15 acre portion of the total 19.75 acre parcel. This area of Unincorporated Brevard County between Highway 1 (US 1) and the Indian River is comprised of mainly RES 1, RES 1:2.5 and AGRIC land use designations, transitioning from one unit per acre density allowances closest to Highway 1 (US 1) to one unit per five (5) acres closest to the Indian River. Most of the subject property retains Residential 1 (RES 1) and the applicants are asking to have one consistent Future Land Use designation allowing for development at 1 unit per acre across the entire 19.75 acre parcel.

A preliminary concurrency analysis does not indicate that the proposed change in FLU designation would result in any impacts to level of service. The applicant has been notified that any future subdivision would need to provide paved access and internal roadways. Connectivity to County Line Ditch Road at the Volusia County intersection just north of the subject property will be necessary for development.

Water and sewer services are not available to the subject property; however, Brevard County's Comprehensive Plan does not require water and sewer services for development at less than four (4) dwelling units per acre or greater.

This request is accompanied by a companion proposal for a change of Zoning classification from Agricultural Residential (AU) to Rural Residential (RR-1).

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review  
SUMMARY**

**Item #: 18PZ00154**

**Applicant: Joseph & Nikki Thomas**

**Zoning Request: AU to RR-1**

**P&Z Hearing Date: 02/11/19**

**BCC Hearing Date: 03/07/19**

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

<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

**Comments:**

**This review relates to the following property: Twp. 20G, Rng. 35, Sec. 39;  
Tax ID No. 2004879**

The subject parcel contains mapped NWI and SJRWMD wetlands and hydric soils (Pompano sand - 0 to 2% slopes and Wabasso sand - 0 to 2% slopes) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators 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) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Pompano sand – 0 to 2% slopes may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Portions of the property are mapped as being within the estuarine floodplain as identified by the

Federal Emergency Management Agency (FEMA), and as shown on the attached FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

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

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

# LOCATION MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

VOLUSIA COUNTY



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.

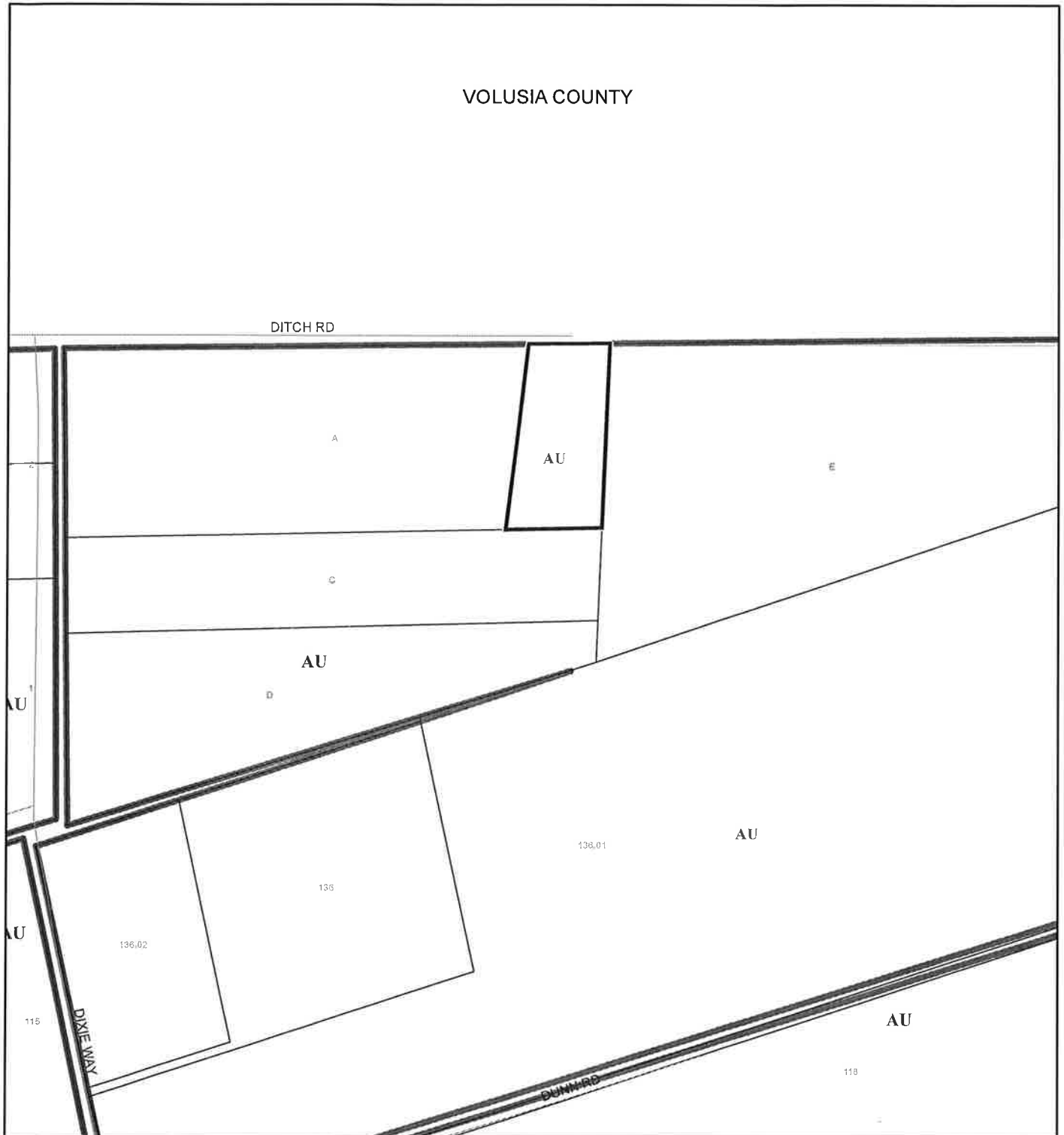
Produced by BoCC - GIS Date: 12/19/2018

— Buffer  
■ Subject Property

# ZONING MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

VOLUSIA COUNTY



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/19/2018

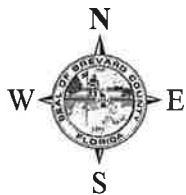
- Subject Property
- Parcels
- Zoning



# FUTURE LAND USE MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

VOLUSIA COUNTY



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

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THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

DITCH RD

RES 1

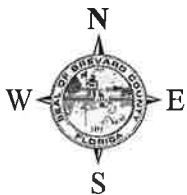
RES 1:2.5

RES 1

RES 1:2.5

RES 1

~~DUNN RE~~



1:4,800    or 1 inch = 400 feet

 Subject Property  
 Parcels

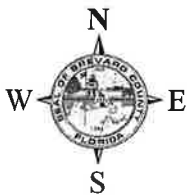
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Produced by BoCC - GIS    Date: 12/19/2018

# AERIAL MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

VOLUSIA COUNTY



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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Produced by BoCC - GIS Date: 12/19/2018

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03



1:4,800 or 1 inch = 400 feet

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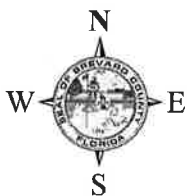
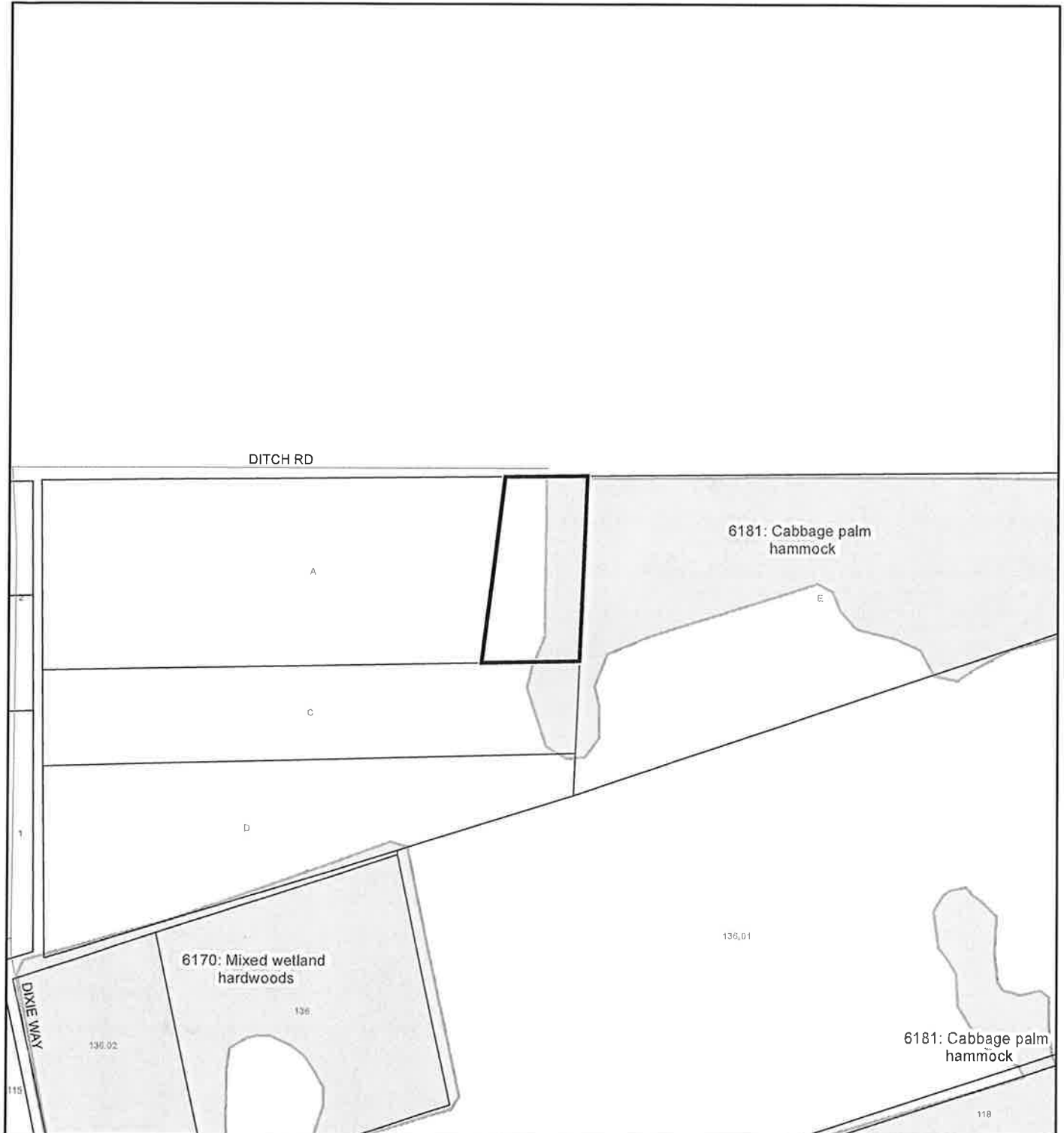
Produced by BoCC - GIS Date: 12/19/2018

## National Wetlands Inventory (NWI)

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

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/19/2018

## SJRWMD FLUCCS WETLANDS

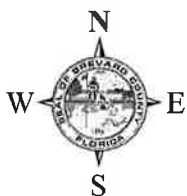
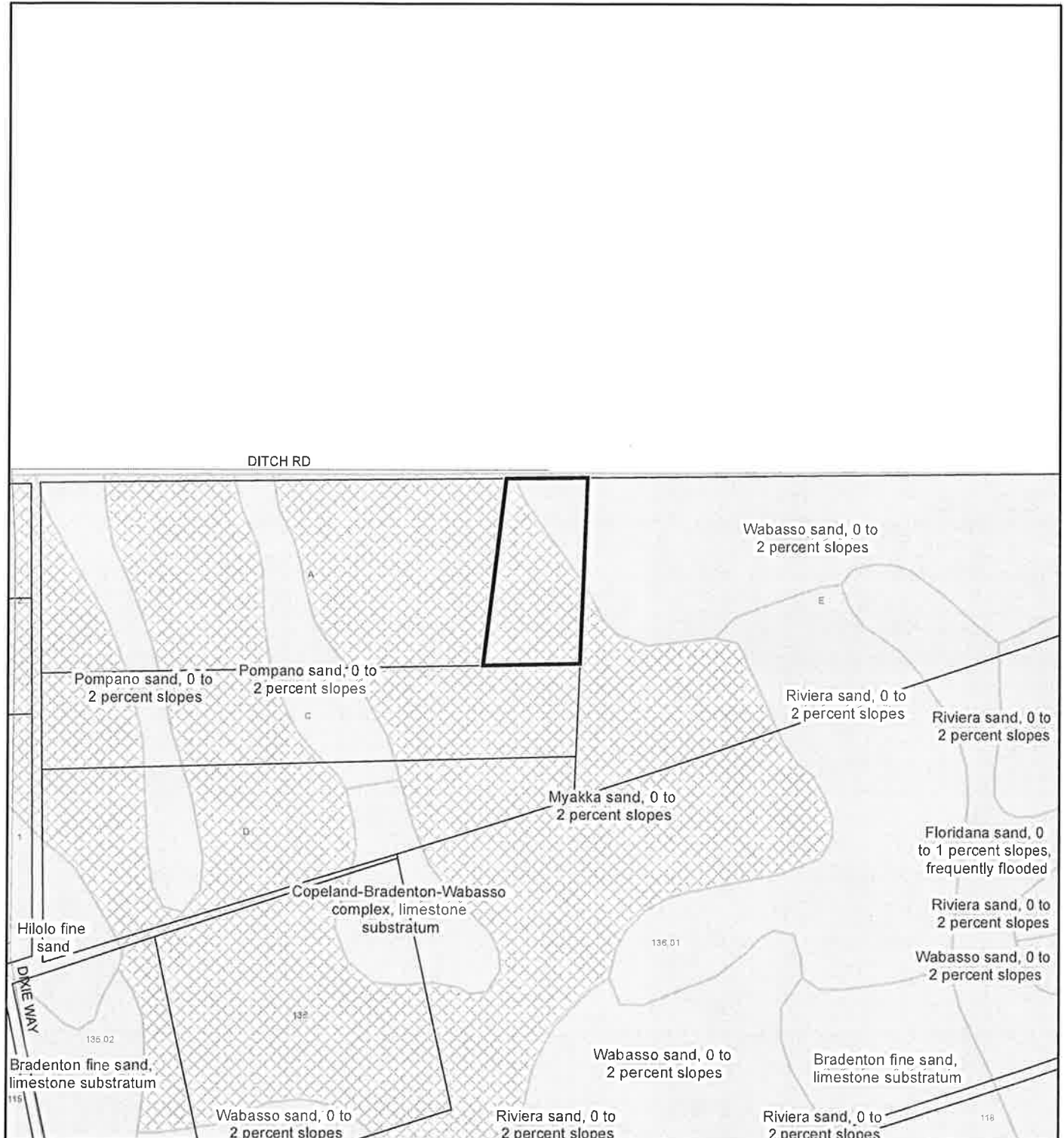
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03

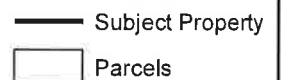
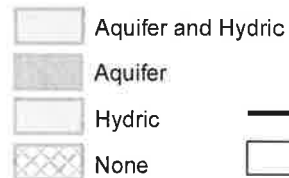


1:4,800 or 1 inch = 400 feet

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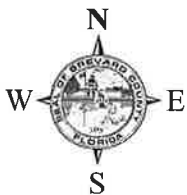
Produced by BoCC - GIS Date: 12/19/2018

## USDA SCSSS Soils



# FEMA FLOOD ZONES MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03



1:4,800 or 1 inch = 400 feet

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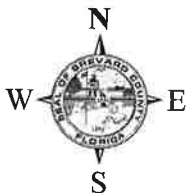
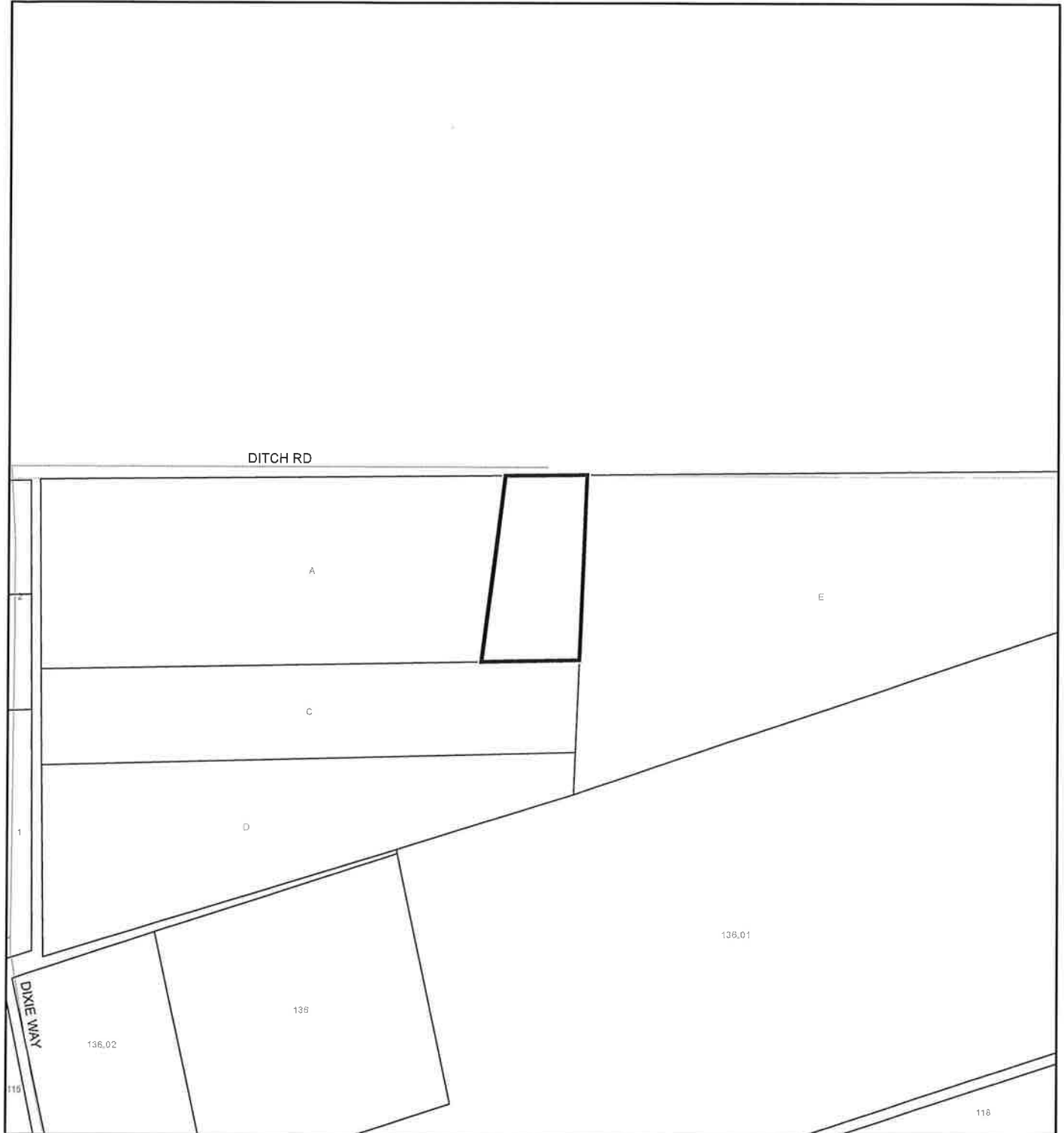
Produced by BoCC - GIS Date: 12/19/2018

## FEMA Flood Zones

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

# EAGLE NESTS MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/19/2018

 Subject Property

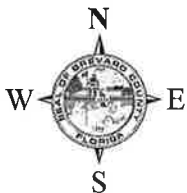
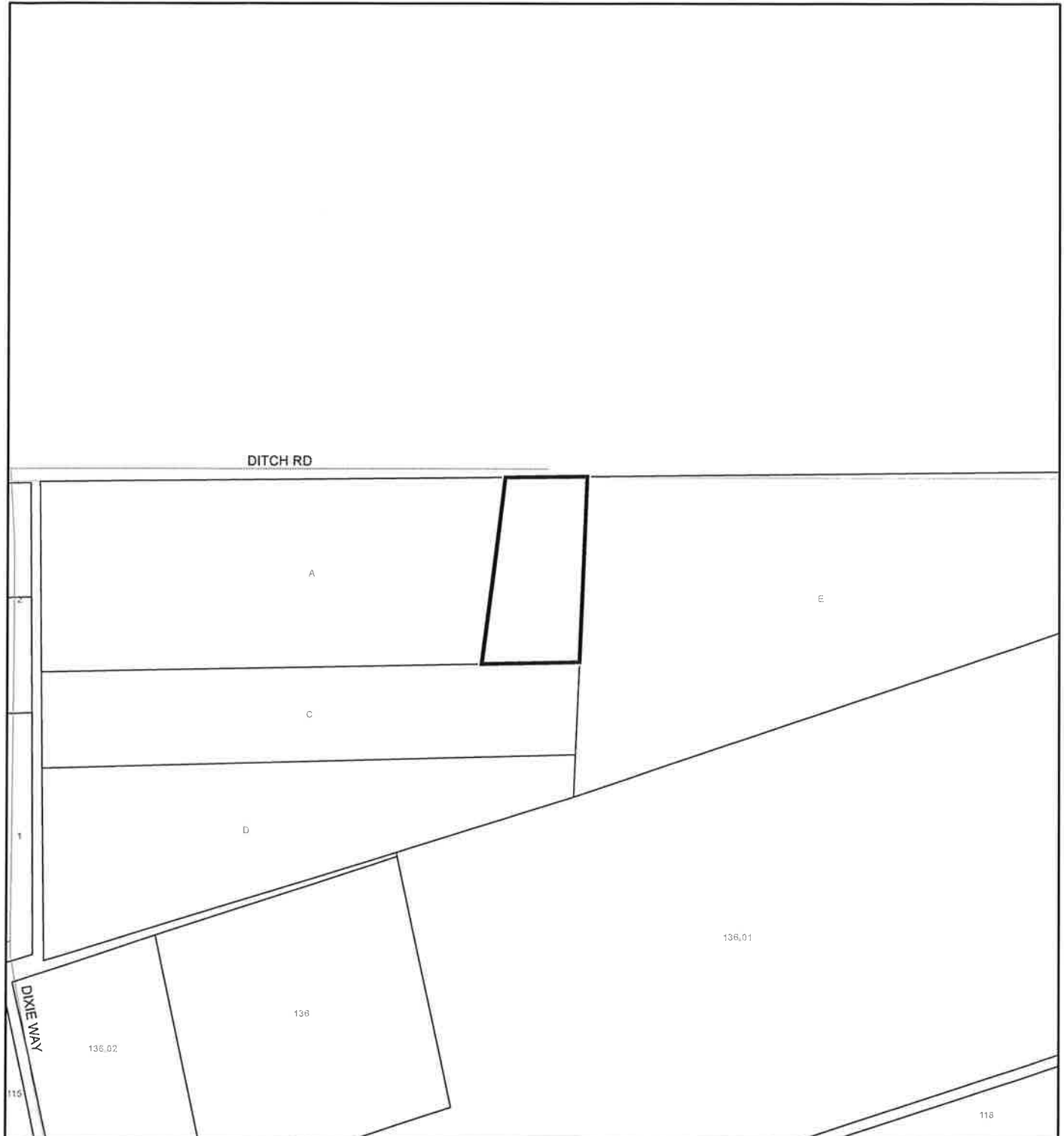
 Parcels

 Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP




THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03



1:4,800 or 1 inch = 400 feet

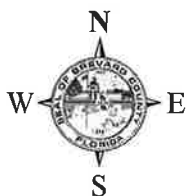
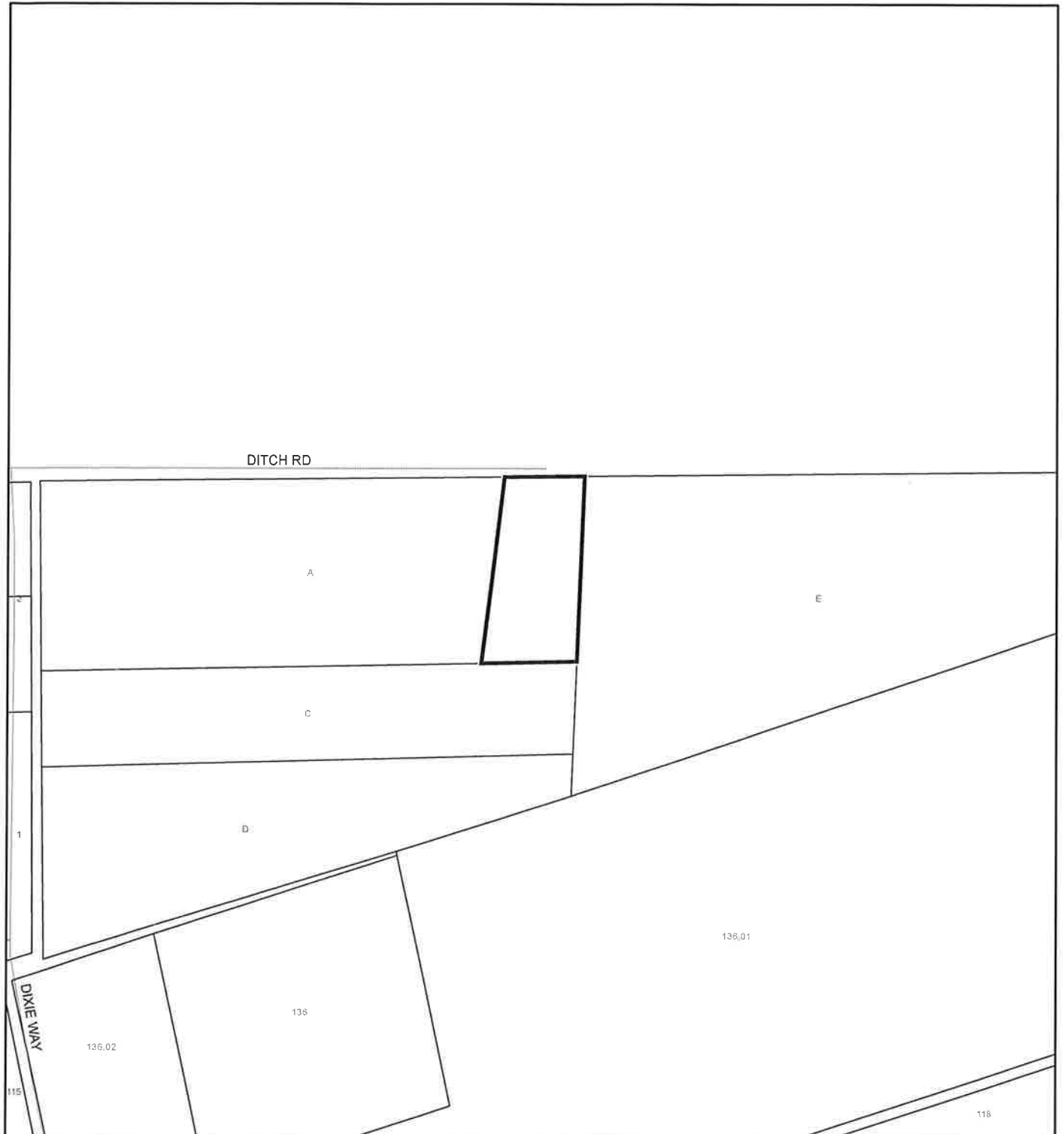
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00153 SMALL SCALE AMENDMENT 19S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/19/2018

## SJRWMD FLUCCS Upland Forests

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

 Subject Property  Parcels



## School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699  
Desmond K. Blackburn, Ph.D., Superintendent

December 7, 2018

Mr. George Ritchie  
Planning & Development Department  
Brevard County Board of County Commissioners  
2726 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Thomas Property Development  
School Impact Analysis – Capacity Determination CD-2018-20**

Dear Mr. Ritchie,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 2004879 (Parcel ID: 20G-35-39-01-\* -A) containing approximately 19.75 acres in Brevard County, Florida. The proposed single family development includes 16 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 2017-18 to 2022-23 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2017-2018 to 2022-23* which is attached for reference.

Single Family Homes	16		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	4.48	4
Middle	0.08	1.28	1
High	0.16	2.56	3
<b>Total</b>	<b>0.52</b>		<b>8</b>

Planning & Project Management  
Facilities Services  
Phone: (321) 633-1000 x450 • FAX: (321) 633-4646



An Equal Opportunity Employer

**FISH Capacity (including relocatables) from the  
Financially Feasible Plan Data and Analysis for School Years 2017-18 to 2021-22**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	573	573	595	639	683
Madison	743	743	743	743	743
Astronaut	1,446	1,446	1,446	1,446	1,446

**Projected Student Membership**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	496	532	588	631	664
Madison	472	518	531	496	509
Astronaut	1,056	1,073	1,121	1,191	1,235

**Students Generated by Previously Issued SCADL Reservations**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	33	70	95	114	114
Madison	18	21	24	24	24
Astronaut	126	132	137	137	137

**Cumulative Students Generated by  
Proposed Development**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	-	1	3	4	4
Madison	-	0	1	1	1
Astronaut	-	1	2	3	3

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

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	529	603	686	749	782
Madison	490	539	556	521	534
Astronaut	1,182	1,206	1,260	1,331	1,375

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

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	44	(30)	(91)	(110)	(99)
Madison	253	204	187	222	209
Astronaut	264	240	186	115	71

At this time, Pinewood Elementary is not projected to have enough capacity for the total of projected and potential students from the Thomas Property Development. Because there is a shortfall of available capacity in the concurrency service area of the Thomas Property Development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Thomas Property Development is shown:

<b>FISH Capacity (including relocatables) from the Financially Feasible Plan Data and Analysis for School Years 2017-18 to 2021-22</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		725	725	725	725	725
<b>Projected Student Membership</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		399	387	405	422	438
<b>Students Generated by Previously Issued SCADL Reservations</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		6	6	6	6	6
<b>Cumulative Students Generated by Proposed Development</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		-	1	3	4	4
<b>Total Projected Student Membership (includes Cumulative Impact of Proposed Development)</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		405	394	414	432	448
<b>Projected Available Capacity = FISH Capacity - Total Projected Student Membership</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		320	331	311	293	277

Considering the adjacent elementary school concurrency service areas, there is sufficient capacity for the total projected student membership to accommodate the Thomas Property Development.

This is a non-binding review; a *Concurrency Determination* must to 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,

A handwritten signature in black ink, appearing to read 'David G. Lindemann', written over a light blue horizontal line.

David G. Lindemann, AICP  
Manager - Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years  
2017-2018 to 2022-23*  
Copy: Susan Hann, Assistant Superintendent Facilities Services  
File CD-2018-20

# Brevard County Public Schools



## Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service Data and Analysis for School Years 2017-18 to 2022-23

Summary		2017-18		2018-19		2019-20		2020-21		2021-22		2022-23	
Highest Utilization Elementary Schools:	101/137	97%	97%	97%	97%	97%	97%	97%	97%	97%	97%	97%	97%
Highest Utilization Middle Schools:	88%	88%	88%	88%	88%	88%	88%	88%	88%	88%	88%	88%	88%
Highest Utilization Jr / Sr High Schools:	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Highest Utilization High Schools:	94%	94%	94%	94%	94%	94%	94%	94%	94%	94%	94%	94%	94%
School	Type	Grades	Utilization Factor	School Year 2017-18		School Year 2018-19		School Year 2019-20		School Year 2020-21		School Year 2021-22	
				FISH Capacity	Member-ship	Future FISH Capacity	Student Projection	Future FISH Capacity	Student Projection	Future FISH Capacity	Student Projection	Future FISH Capacity	Student Projection
Elementary School Concurrency Service Areas													
New Central Elementary	Elementary	PK-6	100%	751	680	751	685	751	682	751	681	751	681
Allen	Elementary	PK-6	100%	884	735	884	733	884	733	884	733	884	733
Andersen	Elementary	PK-6	100%	902	877	902	877	902	877	902	877	902	877
Apollon	Elementary	PK-6	100%	747	695	747	695	747	695	747	695	747	695
Auratus	Elementary	PK-6	100%	761	565	761	565	761	565	761	565	761	565
Audubon	Elementary	PK-6	100%	548	380	548	381	548	381	548	381	548	381
Cape View	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Cambridge	Elementary	PK-6	100%	573	551	573	551	573	551	573	551	573	551
Challenger 7	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Columbe	Elementary	PK-6	100%	693	580	693	580	693	580	693	580	693	580
Coquina	Elementary	PK-6	100%	1,154	889	1,154	889	1,154	889	1,154	889	1,154	889
Croton	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Discovery	Elementary	PK-6	100%	980	572	980	572	980	572	980	572	980	572
Endeavour	Elementary	PK-6	100%	729	560	729	560	729	560	729	560	729	560
Enterprise	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Faughan	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Gemini	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Golfview	Elementary	PK-6	100%	629	391	629	391	629	391	629	391	629	391
Harbor City	Elementary	PK-6	100%	605	485	605	485	605	485	605	485	605	485
Holland	Elementary	PK-6	100%	729	560	729	560	729	560	729	560	729	560
Imperial Estates	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Indianapolis	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Jupiter	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Leckner	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Longleaf	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Mandarin	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Medallion	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Medallion Intermediate	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Meadowdale Primary	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Mia	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Mina	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Oak Park	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Ocean Breeze	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Palm Bay	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Pinewood	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Port Malabar	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Quest	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Riverside	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Roosevelt	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Sabal	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Saturn	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Sea Park	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Shelwood	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
South Lake	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Sunrise	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Sunrise	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Surfside	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Tropical	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Turner	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
University Park	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Westside	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Williams	Elementary	PK-6	100%	751	680	751	680	751	680	751	680	751	680
Elementary Totals				41,892	33,522	41,938	33,021	42,134	33,825	43,070	33,222	43,444	34,668

Middle School Concurrency Service Areas																		
Central	Middle	7-8	90%	1,525	1,121	74%	1,525	1,186	78%	1,525	1,264	83%	1,525	1,256	82%	1,525	1,170	77%
Delaura	Middle	7-8	90%	941	801	85%	941	870	92%	941	940	99%	1,000	984	99%	1,000	982	95%
Hoover	Middle	7-8	90%	659	533	81%	659	479	73%	659	487	74%	659	485	74%	659	482	73%
Jefferson	Middle	7-8	90%	654	548	84%	654	540	83%	654	582	89%	713	706	95%	713	684	94%
Johnson	Middle	7-8	90%	854	629	74%	854	644	75%	854	639	75%	854	617	72%	854	589	69%
Johnson	Middle	7-8	90%	1,000	803	80%	1,000	788	79%	1,000	770	77%	1,000	769	77%	1,000	769	76%
Kennedy	Middle	7-8	90%	813	682	84%	813	651	80%	813	722	89%	854	816	95%	854	806	94%
Madison	Middle	7-8	90%	743	460	62%	743	518	70%	743	531	71%	743	438	59%	743	569	80%
McLair	Middle	7-8	90%	611	396	65%	611	419	68%	611	438	72%	611	441	72%	611	468	77%
Southwest	Middle	7-8	90%	1,177	842	72%	1,177	881	75%	1,177	860	74%	1,177	860	74%	1,177	863	74%
Stone	Middle	7-8	90%	1,013	822	81%	1,013	830	82%	1,013	859	85%	1,013	879	87%	1,013	858	85%
Middle Totals				9,990	7,627		9,990	8,094		10,669	8,652		10,127	8,569		10,167	8,233	
Junior / Senior High School Concurrency Service Areas																		
Cocoa	Jr / Sr High	PK 7-12	90%	1,782	1,599	90%	1,782	1,639	92%	1,782	1,813	98%	2,052	1,891	92%	2,052	1,967	96%
Cocoa Beach	Jr / Sr High	7-12	90%	1,466	1,004	68%	1,466	982	67%	1,466	947	65%	1,466	946	65%	1,466	941	64%
Space Coast	Jr / Sr High	7-12	90%	1,812	1,597	88%	1,812	1,596	88%	1,812	1,605	89%	1,812	1,539	85%	1,812	1,501	83%
Jr / Sr High Totals				5,060	4,208		5,060	4,282		5,330	4,865		5,330	4,376		5,330	4,409	
Senior High School Concurrency Service Areas																		
Astoria	High	9-12	95%	1,446	1,070	74%	1,446	1,073	74%	1,446	1,121	78%	1,446	1,191	82%	1,446	1,235	86%
Bayview	High	9-12	95%	2,235	1,686	75%	2,235	1,607	72%	2,235	1,583	70%	2,235	1,889	71%	2,235	1,661	74%
Eau Gallie	High	9-12	95%	2,209	1,657	75%	2,209	1,776	80%	2,209	1,805	82%	2,209	1,855	84%	2,209	1,641	74%
Heritage	High	9-12	95%	2,314	1,721	74%	2,314	1,673	73%	2,314	1,708	74%	2,314	1,757	76%	2,314	1,854	80%
Melbourne	High	9-12	95%	2,356	1,789	76%	2,356	2,293	97%	2,356	2,206	94%	2,356	2,267	96%	2,356	2,283	97%
Mentri Island	High	9-12	95%	1,915	1,569	82%	1,915	1,537	80%	1,915	1,527	80%	1,915	1,544	81%	1,915	1,550	81%
Palm Bay	High	9-12	95%	2,613	1,829	70%	2,613	1,685	64%	2,613	1,645	63%	2,613	1,621	62%	2,613	1,756	67%
Roadside	High	9-12	95%	1,689	1,337	79%	1,689	1,577	93%	1,689	1,547	92%	1,689	1,543	91%	1,689	1,552	92%
Saltville	High	9-12	95%	1,516	1,336	88%	1,516	1,330	88%	1,516	1,339	89%	1,516	1,375	91%	1,516	1,386	91%
Thruway	High	9-12	95%	1,872	1,412	75%	1,872	1,440	77%	1,872	1,427	76%	1,872	1,412	75%	1,872	1,525	81%
Viera	High	9-12	95%	2,277	1,709	75%	2,277	2,204	97%	2,277	2,237	98%	2,277	2,302	99%	2,277	2,463	99%
High Totals				22,442	17,990		22,442	18,160		22,442	18,125		22,489	18,456		22,632	19,116	
Schools of Choice (Not Concurrency Service Areas)																		
Freedom 7	Elementary	K-6	100%	475	408	86%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
Stevenson	Elementary	K-6	100%	569	495	87%	569	508	89%	569	508	89%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	550	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,072	943	88%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%
West Shore	Jr / Sr High	7-12	90%	1,264	955	76%	1,264	955	76%	1,264	955	76%	1,264	955	76%	1,264	955	76%
Schools of Choice				3,998	3,351		3,998	3,380		3,998	3,380		3,998	3,380		3,998	3,380	
Brevard Totals				83,392	66,690		83,392	67,316		84,909	68,917		85,168	68,993		85,571	69,106	

# Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2017-18 are reported from the FISH database as of October 13, 2018.
- Student Membership is reported from the Fall Final Membership Count (10/13/18).
- Davis Demographics SchoolSite Enrollment Forecasting Extension for ArcGIS 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
  - Nonrelocated 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.
- 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 Apollo Elementary, Challenger 7 Elementary, Coquina Elementary, Imperial Estates Elementary, Pineview Elementary, Quest Elementary, Saturn Elementary, Sunrise Elementary, Delaura Middle School, Jackson Middle School and Kennedy Middle (Total of 42 Classrooms).
  - High school relocatable classrooms are proposed to be added at Viera High (Total of 8 Classrooms)
- Redistricting was approved for the 2018-19 school year and the projected enrollment for 2018-19 is adjusted for those areas. Future redistricting is planned for a new central area elementary school in 2020-21.
- The following proposals for additional permanent capacity are included in this analysis:
  - A 12 classroom addition at Cocoa Jr/Sr High School is assumed to add 300 student stations starting in 2019-20
  - A new central area elementary is assumed to add 870 student stations starting in 2020-21. Student enrollment projections were adjusted for the 2020-21 school year.



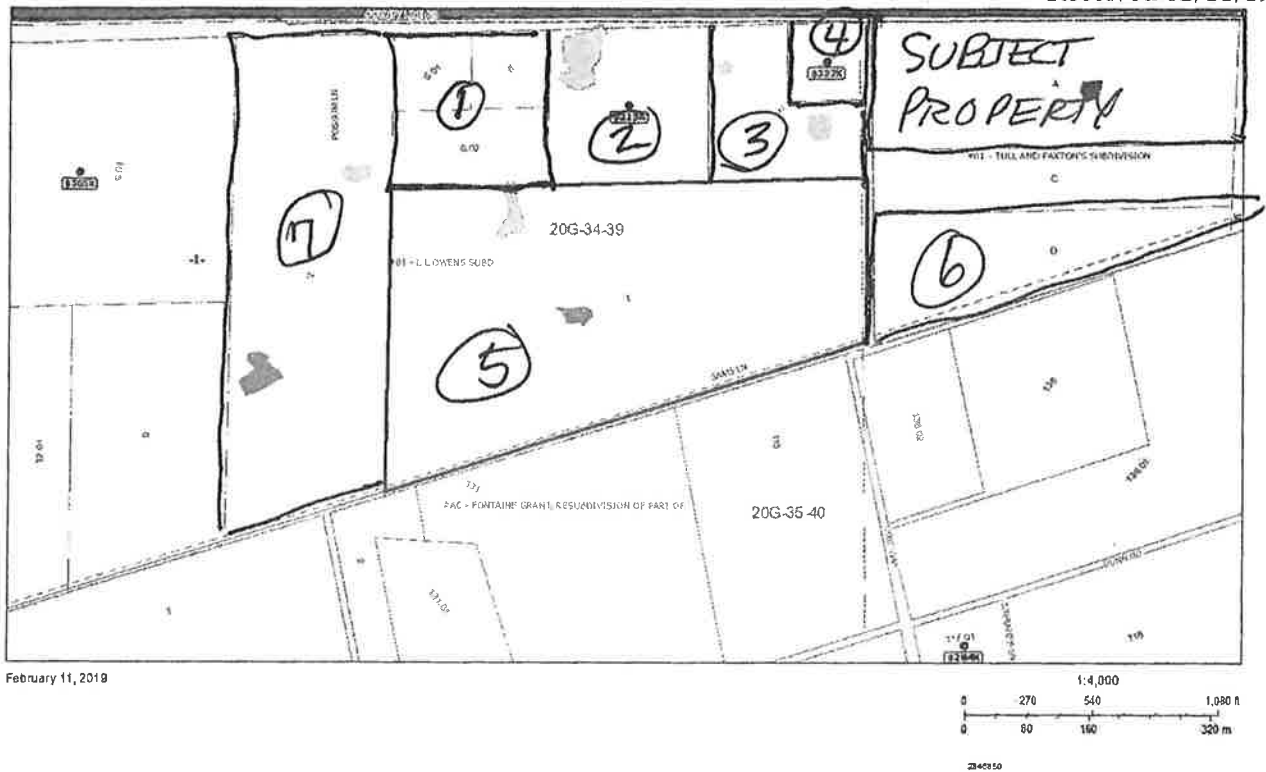
Objections

18PZ00153 & 18PZ00154

Thomas

Received 02/11/19

Brevard County Property Appraiser



- ① Timothy and Susan Barnes (letter)
- ② Roy and Brandie Harrell (letter)
- ③ Ken and Sheri Plante (letter)
- ④ Thomas and Kristi Floyd (letter)
- ⑤ David Laney and Cheryl Barnes (in person)
- ⑥ Andrew Graham
- ⑦ Jim and Nancy Stephenson (in person)

To the members of the Planning and Zoning commission and the Board of Brevard County Commissioners:

I am writing this in reference to the request for zoning change located near the intersection of County Line Ditch Bank Road and Dixie Way in northern Brevard county, also known as Scottsmeer. The request is to change the current zoning of AU with a density of 1 house per 2.5 acre to RR-1, which allows 1 house per 1 acre of land. The owner of the property would (apparently) like to build a small subdivision of approximately 20 homes right in the middle of an area of the county primarily used for agricultural pursuits, such as cattle grazing, citrus groves, horse breeding and bee keeping.

It has been demonstrated time and time again, that these 2 vastly different uses of land never coexist without difficulty, as there are different expectations of quality of life between the two entities. If this change is allowed to go through and the area is developed as planned, it's only a matter of time before the two different lifestyles will clash, with inevitable complaints of noise and smells that are part of productive agriculture being lodged by the new residents of the subdivision. Compounding this is the fact that precedent will have been set, so it will become more and more difficult to refuse any additional requests for zoning change within the same area.

We have been down this road before, approximately 14 years ago when a developer planned a large subdivision in the vicinity of what is now the Veterans Cemetery. It was determined then that due to the development boom of the past few decades, the extreme north and south ends of Brevard County were the last bastions of agriculture left within the county, and should be preserved as such. I can't see any valid reason why we should now deviate from that decision. If anything, it has become more imperative that we continue to preserve what little history of agriculture still exists here.

I ask that you refuse this request for the zoning change, so those that have chose to live and work within an agricultural community may continue to do so peacefully. Thank you for your consideration.

Timothy and Susan Barnes

4720 Sugartown St.

Port St John, FL 32927

Landowners and Leaseholders of 10 acres on County Line Ditch Road, Scottsmeer

February 11<sup>th</sup> 2019

To Whom it may concern,  
We are opposed to the proposed rezoning of  
18PZ00153 and 18PZ00154 up for Commission  
Meeting on March 7<sup>th</sup> 2019.

We respectfully ask for NO zoning change  
on this parcel Not because we are Anti-  
growth but because we are enthusiastic  
Supporters of preserving our Rural Environment.

We moved out here for the wide open  
space and less crowding. Allowing the  
Zoning change will Allow for more traffic  
and crowding. Life out here is Quiet and  
Slower paced we would like to preserve  
that!

Thank you

Brandie Harrell  
Roy Harrell

located at 3781 County Line Ditch Rd  
Mims FC 32754.

Kenneth and Sheri Plante  
6710 Dixie Way  
Mims, FL  
32754

February 11, 2019

To whom it may concern:

It has come to our attention that Mr. & Mrs. Joseph Thomas (6705 Dixie Way) whom have 19+ acres directly east of our property are requesting to rezone their property into residential homesites.

This is a cause of great concern to **all** of us that live in this rural community. It directly affects our property as it is directly in front of ours. Most of us have small farms and or conservation property. We moved here for that purpose. This is the lifestyle we chose to raise our kids and grandkids. We feel that this would drastically change our beautiful country community. Most of the properties in our area are 10+ acres with beautiful horses, cows, organic gardens and abundant wildlife.

So many of us wanted to be there in person but with short notice we have our kids, animals, and distance to consider.

Thank you so much for taking the time to read this letter.

Sincerely,

   
Kenneth and Sheri Plante

Ph. (321)303-0310

February 11, 2019

To whom it may concern,

My name is Kristi Floyd I have been a residence to Mims/Scotsmoor for 10 years now. We moved here to be in the country and have a good life style for our kids, and to be brought up on our little farm that we have. The Thomas's are very very nice people, and our kids all play together however building this many houses on just 1 acre lots would ruin the whole reason that we moved where we are. I didn't move out here to look at a subdivision off my front porch. There are so many of us that are not wanting this to happen our little town is so quiet and safe and I feel building this many houses and changing the zoning would ruin our agriculture.

Please take in to consideration that most of the houses out here are on a minimum of 2 ½ acre lots. I don't want to see us loose the beautiful country that we live in.

Please hear all of us when we say we want Scotsmoor to stay Agricultural, we don't want a subdivision out here.

Thanks for your time,

Sincerely,

Kristi Floyd

321-795-5480

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 11, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Paul Body, Planner II; and Jennifer Jones, Special Projects Coordinator II.

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

### **Excerpt from complete agenda**

#### **Joseph Brandon and Nikki Thomas:**

A Small Scale Comprehensive Plan Amendment from Residential 1 and Residential 1:2.5, to all Residential 1. The property is 3.15 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims.) (18PZ00153) (District 1)

#### **Joseph Brandon and Nikki Thomas:**

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 19.75 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims) (18PZ00154) (District 1)

Joseph Thomas – Joseph Thomas, 6705 Dixie Way, Mims. The first one is the Future Land Use amendment. We have 19.75 acres, and of that, approximately 3.15 acres on the Future Land Use map is zoned Residential 1:2.5, and we're asking to change that boundary to match the property line, which would make the entire property Residential 1.

### **Public comment**

William Goff – My name is William Goff, I live on Huntington Avenue in Scotsmoor. I think everybody knows that end of Scotsmoor they're talking about is an extremely rural area. Anybody doing anything on Dixie Way is also perilously close to the Indian River, and anything that might be done to impact density in that area because of groundwater issues, well issues, which we all have to have up there, I don't think anybody that's come here today in our group wants to see anything tighter than the existing 2.5 acre restriction. In fact, many of us don't think 2.5 acres is large enough. If this proposal would allow a higher density level than that, then I think everybody in our group who came here is wholly against it.

Daryl Burke – My name is Daryl Burke, I live at 3445 Sunset Avenue, Scotsmoor. I have to agree that some of my concerns are the same as Bill's. The water quality is already marginal at best, depending on how frequently the fields are irrigated. People keep moving up there, and we don't seem to have the infrastructure to support a huge population of people. My concern is if it's 19 acres, RR-1, that's 19 homes, 19 wells, 19 septic tanks. If there's an additional 100 acres beside it, what's going to keep that 100 acres from being done the same way? I think the current zoning up there is 2.5 acres, the

surrounding properties have 150 feet of road frontage that's County maintained. I just don't think that's the right thing to do for the residents that live up there.

Henry Minneboo – Ron, can you help me a little bit? You certainly have some knowledge.

Ron Bartcher – Yes, I looked at that and I don't have a concern with it, and the reason I don't is that what we're doing is dealing with a 3-acre piece out of the 19 acres. If we leave it alone the way it is, they have 16-plus acres to develop.

Henry Minneboo – That has to come back.

Ron Bartcher – When I look at it I see they're asking for 19 houses instead of 16 houses. It's insignificant. I have done some research on the septic tank issue; they're roughly 3,700 feet west of the river, and one of the things the septic tank study showed was that houses that are close to the river within 50 yards, or actually within just over 200 yards, were significant contributors to the pollution in the river; 200 yards is 600 feet, and these people are 3,700 feet. There may be a problem with water; that, I won't dispute, but I don't see it as a septic tank issue.

Henry Minneboo – They're just taking 3.15 acres off of the 19.

Ron Bartcher – Right, that's really what we're addressing, the 3.15 acres.

Cheryl Barnes – I thought we were addressing the 19 acres, so I'm confused.

Erin Sterk – The Comprehensive Plan Amendment, most of the property retains the Residential 1 Future Land Use designation, and the 3.15 acres has the Residential 1:2.5. They are seeking to rezone the entire 19.75 acres, but the Future Land Use Amendment is just on 3.15 acres.

Cheryl Barnes - So, it's not zoned AU (Agricultural Residential) now?

Erin Sterk – It is zoned AU, so we're talking about two different things they have to decide today.

Cheryl Barnes – My name is Cheryl Barnes and I reside at 3800 Sam's Lane, Scotsmoor. Our property is approximately 130 feet from this rezoning request. We purchased this property, approximately 50 acres, in January 2001. It was, and is, surrounded by citrus groves, pasture land, and homes on a minimum of 2.5 acres. Our goal was to purchase some land that we could eventually place into a conservation easement, and in December 2005, we were able to place 40 acres into an easement with Brevard County Environmentally Endangered Lands. I mention our easement because I'd like read you a small section from our easement documentation report, which was prepared for EELs (Environmentally Endangered Lands) by The Nature Conservancy. I'm hoping that along with the map that I'll give you that it will give you a better feel for this northeastern corner of Brevard County. "Laney-Barnes land is located approximately one-tenth of a mile south of a portion of the Merritt Island National Refuge, and three-tenths of a mile north of another portion of the refuge. The property is also within four-tenths of a mile from land that is included within the boundaries of the Indian River Lagoon Blueway Florida Forever Project, which was placed on the State of Florida's land acquisition list in 1998. The Blueway project was designed to protect lands along the Indian River Mosquito Lagoon from Volusia County to Martin County, Florida. The project boundaries were also designed to include gaps in ownership within the existing boundaries of the refuge. Preservation of the buffer land surrounding the Blueway Project is vitally important to the preservation and

improvement of this ecosystem. Map 1 depicts the location of the Blueway Project, Merritt Island National Wildlife Refuge, and the subject easement tract within a network of conservation lands protected and managed by a combination of State and Federal agencies." Members of the committee, the first sentence of Administrative Policy 3 from the Brevard Comprehensive Plan reads, "Compatibility with the 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." I am asking you to consider the impact this subdivision would have on the residents of the area; a significant number of them move to Scotsmoor seeking a rural quality of life and the negative impact to the continuity of the conservation properties and initiatives in northeast Brevard and southeast Volusia County. (Ms. Barnes showed a map to the board. A copy of the map can be found in file 18PZ00154, located in the Planning and Development Department.) This is our easement, and this is the National Wildlife Refuge property, we are here and the proposed rezoning is right here, up against the refuge property. That's the Volusia County line.

Henry Minneboo – You're almost exactly at what we call the north end of the Indian River.

Cheryl Barnes – Yes.

Nancy Stephens – My name is Nancy Stephens and I live at 6600 Possum Lane, North Brevard County. Everyone was notified within 500 feet of this property. Our property is 1,500 feet, but I am closer to this property in my home than I am my mailbox. It is a very rural area. The smallest tract is 2.5 acres and that 2.5-acre piece was made that way two years ago; it was a 10-acre tract and a mother and child who divided a 10-acre lot to make that 2.5-acre tract. The main thoroughfare for this project would be Volusia County roads. They would go north and then the road coming back west of U.S. Highway 1 is a Volusia County road, and they're narrow. We use them every day and if you've got two cars passing each other, one has to yield off the road a little to let the other one pass. On the Volusia side, their requirements are 10 acres for anything; it's very rural on that side as well. Our concerns, again, we talk about the density and water retention, the natural flow of flooding, the natural runoff going towards the river, being able to support it with emergency, fire rescue, or anything. Who is supporting the additional resources? The Small Area Study included Mims and North Brevard, which was 2.5 acres. Our area is even more rural, so we don't understand how we would go less dense than we would allow in a more populated area. Not to intrude on peoples' property rights, but for the future of our land and our use, and the future of what's going to happen to our environment, it's important to us.

Henry Minneboo – Who is grading County Line Road now?

Nancy Stephens – Brevard grades it to a point.

Henry Minneboo – Then Volusia picks it up?

Nancy Stephens – Yes, sir.

Erin Sterk – It's paved, Mr. Minneboo.

Nancy Stephens – County Line Ditch Road is paved, the rest of it is all dirt. County Line Ditch Road travels east and west.

Henry Minneboo – Brevard does one part and Volusia does another part.



Nancy Stephens – Volusia decided to start paving their roads and they started from the south, which was great.

Henry Minneboo – Of the length of that road, how much is dirt now?

Nancy Stephens – County Line Ditch Road is paved from U.S. Highway 1 to Dixie Way, and that's it. Everything else is dirt.

Henry Minneboo – Thank you.

David Laney – My name is David Laney, I live at 3800 Sam's Lane, my wife and I have the conservation area that she described. Regarding the small change to the Comprehensive Plan, Florida Statute states a comprehensive plan also has to take into account the impact on the adjacent municipalities, the County as a whole, and the adjacent counties. This property is exactly on the property line of Volusia County, and no one on the Volusia County side received notice. County Line Ditch Road is not paved to a paved road standard. It was graded and they brought in used asphalt shavings and spread it out and rolled it, so it's not what you would typically perceive as far as construction, supportability, and durability. A massive rezoning request in 2005 resulted in the Small Area Study, which was submitted to the Board in 2007. Let's look at what the precedent is for previously approved zoning and redevelopment in five years. (Mr. Laney displayed a large map to the board that was not given to staff.) There is some zoning of one per 10 acres, and others as large as 25 acres. Volusia County has made efforts to establish the continuity of the conservation corridor up the Indian River Lagoon and north. If you look at the actual development that has occurred over the last 19 years since we've purchased our property and began developing it as a conservation area for the County, there has been no land in development in this area in that 19 years, nor any greater density than one house per 2.5 acres. Those houses on Dixie Way are all on 2.5 acres or greater, there is no existing active development within the last three to five years at the density that's being requested. If this rezoning were approved, that would establish precedent. Florida Statute states that the legislature finds that non-agricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land, and may lead to the land's conversion to other urban non-agricultural uses. If this 19.75 acres is allowed 19 homes, that constitutes as a subdivision in the Florida Statutes. That's where development is not appropriate. The Small Area Plan submitted in 2007 regarding Mims and North Brevard, the community valued agricultural heritage and preserved actual working farmland and the agricultural landscape. Aside from Mims and several smaller settlements, such as Scotsmoor, most of Brevard County north and west of Titusville has been and is still rural. It is important to recall and acknowledge that the area as farming, and is a significant aspect of community character today.

Rochelle Lawandales – Do you live on Sam's Hammock?

David Laney – Absolutely.

Rochelle Lawandales – For that to become a conservation area, did you just apply?

David Laney – No, the Brevard County EELs (Environmentally Endangered Lands) program at that time did not address or allow for contributing a donated easement. Everything associated with EELs back then, we had to buy the easement; that's what they expected and that's what they intended. We didn't ask the County to buy it, we donated it. We went to The Nature Conservancy, we had project studies and evaluations, and we developed a 30-page project of what we would do to that property.

Because of the water and lack of drainage, the eastern portion of the property was wet. We rearranged all the drainage on the property; we had three ponds dug to keep water off; then we removed over 3,600 palm trees and planted oak, pine, and other indigenous plants.

Rochelle Lawandales – How many acres is it?

David Laney – It's 50 acres.

Ron McLellan – You mentioned County Ditch Line Road being millings and not proper asphalt.

David Laney – That's correct. It's similar to what Brevard County is doing on Highway 46, west of I-95. It's another problem from the standpoint of the ingress and egress to this property. Dixie Way, running from County Line Ditch Road north, that two miles is all dirt road. It's reasonable to assume that the increased traffic would be on a substandard dirt road.

Ron McLellan – Is County Line Ditch Road a Brevard County road?

David Laney – No, it's Volusia.

Ron McLellan – The residents on the south side of County Ditch Line Road have no pull at all.

David Laney – The residents on the south side of County line Ditch Road are Brevard County.

Ron McLellan – So, you have nothing to do with that road?

David Laney – Correct. And Volusia County doesn't have any input as to what their view would be of the increased traffic on County Line Ditch Road, or on Dixie Way going north from County Line Ditch Road.

Ron McLellan – Volusia County doesn't care what goes on on the south side.

David Laney – I can't say they don't care. An increase in density on land adjacent to their conservation reserves, and the wildlife corridors on their conservation properties, they might have some input on that.

Ron McLellan – My point is if you put more homes in there and you expect Volusia County to fix that road, they're not going to mess with it.

David Laney – I agree. I can't specifically state that they would not fix it, but they have no obligation.

Rose McGinnis – My name is Rose McGinnis, I'm President of the Scotsmoor Community Association. I'm here to let you know that mid-last week is when we were told that the zoning was going to be changed. I live in Scotsmoor, obviously, so I have an axe to grind with that, but I would like you to know that I let the neighborhood know. The property is located at the outskirts of our community, so you wouldn't see those signs easily, so I didn't have a lot of time to let the community know that this may be an issue. I'm sure if more people would have known you would have had probably as many people here as you had for the previous item. That area, if you drive down there, is farms and horses, and there's quite a few trucks already going up and down there from Brevard Lumber. I don't know what their intent is, I guess it's to go to an acre at some point for some of their property, but that's a precedent, and there's a lot of land out there that would no longer be rural. I

have been getting phone calls, and this has been a week of knowing that this was going to change. They seem like fine people, they emailed me and I had a conversation with them through email, but Scotsmoor is rural, and we don't have traffic issues. I think that many of the people living there are concerned that that is not a direction they would like us to take on. That's my personal issue, but if they would like to come to the Association at our next meeting and let the community know what their intentions are, maybe that's an avenue to at least let the community know their intention. Obviously, we don't have a say-so, that's your say-so, but the offer is open to them to let the community know what their intention is. My personal side is I would like to see it stay at 2.5 acres. Drive out there, there's dirt roads everywhere, and imagine an influx of homes from 2.5 acres down to an acre, the amount of population that would put on that infrastructure, I can't see it.

Henry Minneboo – We didn't have any confusion on the advertising, did we? I mean, standard advertising?

Erin Sterk – We did the normal 500-foot radius notice. Also, I'd like to address some of the concerns of the public. Our staff coordinated with the Planning and Zoning staff (from Volusia County) on what their Future Land Use designations and zoning classifications would allow for, and we did elaborate on what those density allowances are within the staff report, so we didn't just report on the surrounding properties that are in Brevard alone. We also spoke with the Transportation Department (Volusia County) on the condition of that road. We looked at it from a preliminary concurrency analysis standpoint, which we traditionally don't talk about pavement quality at this level, so we talked with their transportation engineers about what their trip counts were, because we wouldn't have count data for Volusia County roads. They confirmed a range for a local road of that size, but they had not conducted counts on that particular road. They did say that they did not feel that the number of trips generated by this proposed subdivision would have an impact that would trip the level of service standard for that roadway, so we didn't report that in your comments. We did not specifically ask whether or not the pavement condition would support the trips on it. I've not had to ask that question before at this level, so I'm just not sure if that's something this board chooses to have us go back and re-evaluate, we certainly can do that, but it wasn't something that they brought up as one of their concerns from their staff.

Henry Minneboo – This is a rather unique situation. I can tell another place that has the exact same issue, which is Keenansville, the County owns roads down there that they haven't seen in a long time, either. Sir, do you want to come up and address everything?

Joseph Thomas – First of all, when I was first up here I was just addressing the request for the land use, so I can't say much beyond that, but the understanding is that's just a Future Land Use so it's consecutive with the property boundaries. Basically, that's all that request is for. The second one, which is the rezoning, yes, we live at the property and we plan on living at the property. Right now, we actually have a mobile home on the property, but we're looking at building ourselves a new home on the property and staying there, so it's going to be our personal development, too. It's in a unique location because of where it's located with County Line Ditch Road and it being labeled as a County maintained asphalt road, which by coordinates allows us to attach it and it meets that criteria. We are planning on paving Dixie Way to County Line Ditch Road, it will be required of us to develop our property. Yes, the property is 19.75 acres, but as far as storm drainage retention and roads, it states in the comments that it's only an addition of nine single-family homes over what the existing zoning is now, which is a 50% increase. Also, on the traffic numbers, it was very minimal the actual impact it would have on the existing numbers on U.S. Highway 1; I think it was less than one-tenth of a

percent. Our property is unique because most of the properties in the area do have issues as far as wetlands, lowlands that are in the floodplain; ours happens to be high enough that we're out of them; we do have a tiny bit of wetlands on the back half, but other than that the property is very clean to develop. Addressing one of the biggest concerns in the area, speaking with Rose through emails, is our neighbor has a 100-acre orange grove and he surrounds us on two of the four sides of our property, and I have a letter from him that says he doesn't have an issue with our development, and supports it. If you look at the existing zoning, less than 20% of that is zoned Residential 1, and the other is Residential 1:2.5, and the back portions are five acres, following the analysis they did in Mims, which breaks off from the Lagoon the 5-acre to 2.5 acre, to 1 acre barrier as you approach U.S. Highway 1. When we researched this we looked at all the different prospects of what we could do with the property and we chose to follow this route because it seemed to be clean and pretty much falls in line with what the zoning is and the requirements. I think beyond that, that's about it.

Henry Minneboo – How many people there are living on one acre?

Joseph Thomas – I think the closest one-acre property is 3,600 feet. It addresses it in the comments. Most of the one acre and even smaller parcels are actually in the little hub area of Scotsmoor, which is a couple of miles away, and then it goes out from that. This is unique because we are at the end of the road and we could start paving Dixie Way, which some people want and some people don't, but it kind of starts with a clean place to start; we're not out in the middle of nowhere and we can make a clean development. And it's not 19 homes, I think we're asking for a maximum of 16, and it just depends on the storm drainage. We did a preliminary map with 16 lots, and that's the maximum we could do. I have a copy of that map if you'd like it.

Rochelle Lawandales – No, thank you. They can do a PUD (Planned Unit Development), can't they?

Erin Sterk – They can do a PUD (Planned Unit Development), but they would still have to be consistent with whatever Future Land Use designation the property has.

Rochelle Lawandales – On the 3.5 acres, if it remained Residential 1:2.5, it would have to meet that criteria, whereas the rest can meet the Residential 1 criteria.

Erin Sterk – They can do that with PUD or not.

Rochelle Lawandales – Do you still have the Open Space Subdivision?

Erin Sterk – Yes.

Rochelle Lawandales – Have you evaluated that at all?

Joseph Thomas – Yes, the reason why we're looking at it, and by the way, RR-1 (Rural Residential) is considered a rural residential, meaning that's why we went for the rural residential and the one acre, because a lot of people we know moving to the area, you can't have commercial use, but you can have private horses, animals, barns, and by going with a PUD you're opening up area space, but you're going to smaller individual lots, so they kind of lose that ability to have their own little ranches. That's how we're trying to push this, and that's how we're looking at it for our property, is we have our own little ranch there that we can utilize and keep that rural theme going.

Rochelle Lawandales – Are you amenable to meeting with your neighbors?

Joseph Thomas – I'm fine with that. I did speak to the Laney's, and I was trying to get back with them and I kept missing them, but I know what peoples' opinions are. We did speak to the gentleman who owns the grove, and talked to the neighbor next to him, Andy, and he feels the same as him, and also the people across from us. The people around us, except for the Laney's, don't have an issue with it moving forward, it's mainly people outside of that area, so everybody but the Laney's in the 500-foot radius are okay with it.

Brian Hodgers – Is it 15 or 16 units? On this, it says 15 units. I just wanted to get that confirmed.

Joseph Thomas – We're considering one unit our existing, so it will be an additional 15 to what we have. The 16<sup>th</sup> is us.

Brian Hodgers – That puts you at roughly a little over 1.2 acres.

Joseph Thomas – I've got to divide it, and what would happen is some of them would be over, and the ones in the back we are going to do a little larger, at 1.5 to 2 acres.

Brian Hodgers – For staff, if it's over an acre, say 1.2 acres, is that going to be acceptable?

Erin Sterk – Right now, they have AU (Agricultural Residential) zoning, so if you're talking about just coming in and doing something administratively and just going to subdivide, then they cannot do that today, they need the zoning regardless whether or not you approve the Future Land Use designation. They could stagger their development pattern. If the Future Land Use were not to be approved and the zoning were to be approved, they could stagger it where there is larger lots in the back on the Residential 1:2.5 portion, so there's a lot of options available to them. And of course, the Open Space Subdivision as well, and that could get them down to a one-acre lot size at the current zoning.

Brian Hodgers – Regarding the comments about the septic tanks, being 3,700 feet from the Lagoon, would they be required to use the new advanced, more expensive, septic tanks?

Erin Sterk – No, they're well outside that boundary.

Henry Minneboo – Ron, are you comfortable?

Ron Bartcher – I gave Rose a call because I felt pretty certain that she would not know about it, and most of the people in Scotsmoor would not know about what was going on with this.

Henry Minneboo – You raised the flag.

Ron Bartcher – I raised the flag, and that's the reason we have all these people here. I didn't see a significant problem with it, but I wanted them to have their input, because they live there. We cited the Mims Small Area Study, which actually stopped just south of Scotsmoor, and at the time we did that study there were several of us that were encouraging the people in Scotsmoor to do the same thing for the north end of the County. Unfortunately, that wasn't done. I would still encourage them to try that approach, because this is the only place that development is going to happen in Brevard County; everything else is spoken for. What we're seeing now is just the tip of the iceberg.

Erin Sterk – If I could add to that, not that the Mims Small Area Study particularly governs this property, but those folks who participated in that recommended a density reduction everywhere east

of U.S. Highway 1, so the recommendation that came out of that study was that everything go to Residential 1:2.5 east of U.S. Highway 1, and the County Commission upheld the one unit per acre density allowance pretty much to the boundary that it is here, and it pretty much goes north-south, it's a very arbitrary boundary, but that is the one unit density that the Commission upheld at that time.

Henry Minneboo – What year was that?

Erin Sterk – 2007. I would assume they probably did density reductions in 2008 just after that, but they did not take the recommendation to reduce density all the way over to U.S. Highway 1.

Henry Minneboo – Have you looked at 2.5?

Joseph Thomas – Yes, initially we looked at 2.5, but just because of criteria to develop the property, what you have to do with feasibility and cost-wise, that's why we moved to the direction of the one acres. We also want to create something as nice as the rural area is; sometimes there's a lot of weird lots and we have a hodge-podge mix of properties up there, and the strange this is that with the current zoning we can go along those lines and create some weird scenarios with the property, but we feel this is a nicer and cleaner way. All the homes would be set off of Dixie Way, so as far as an impact going up and down the road, it's not going to be a huge visual impact from what it is today. It's a field, but no matter what, two homes will go there in the front and that's what it would look like at the 2.5 acres or one acre. To make it feasible and utilize our property and our investment, that's the reason we're looking at the one acre.

Henry Minneboo – You don't have a uniqueness with having a hodge-podge up there, there's other places in the County.

Joseph Thomas – I know.

Henry Minneboo – What's the pleasure of the board?

Ben Glover – I'll make a motion to approve the request to change the Future Land Use to Residential 1.

Rochelle Lawandales – I'll second that. I think there's some value in having the property being under a consistent land use designation.

Dane Theodore – As you know, I'm the School Board representative and I'm going to address my comments to the school issue here, and then give my personal opinions. I think that the land use change is entirely appropriate, making that property consistent. I think that the rezoning, going from an allowed six to a proposed 16 is relatively insignificant, relative to some of the other rezonings that we're seeing throughout the County, as we're seeing on North Merritt Island. As they come one right after the other, I do want to address the issue of the schools. Pinewood is a very small school; it is projected to be 100 students over capacity within the next five years, so while the four new students projected based on this increase in development for this particular application isn't significant per se, the fact that Pinewood is so small, the way the School Board solves that is with either portables or rezoning. I'm going to vote yes for this item only because legislation requires a School Board to consider adjacent schools, contiguous schools, which means that Pinewood is going to send students from that area to Mims; Mims can handle the capacity, and therefore I'm obligated to vote yes, and I'm obligated not to vote no for it because theoretically it has enough capacity in the adjacent school. I

just want to have the board aware of that, much like Merritt Island, as we continue to improve more and more developments in areas where the schools are going to be stressed, the problem is only going to continue, but again, because there is capacity in the adjacent school district, I am going to vote for this, both applications for comp plan and rezoning.

Henry Minneboo called for a vote on the motion as stated, and it passed 6:2, with Minneboo and McLellan voting nay.

Rochelle Lawandales – Mr. Chairman, the zoning to me is a much different situation. I am concerned about several things. One, I think there may be something in between AU (Agricultural Residential) and RR-1 (Rural Residential), whether it's Agricultural Residential, or the SR (Suburban Residential), or one of the estate categories. Have you explored any of that?

Joseph Thomas – Yes, we actually had several meetings with staff trying to figure it out. Yes, there are other zonings, but it comes down to the same density. We were initially looking at the estate zonings, but the animal rights aren't as liberal as the RR-1 zoning, but they all fall under the Residential 1 land use designation.

Henry Minneboo – What's the pleasure of the board?

Ben Glover – I'll make a motion to approve the request to rezone to RR-1.

Brian Hodgers – I'll second.

Henry Minneboo called for a vote on the motion as stated, and the vote failed 4:4. Glover, Hodgers, Bartcher, and Theodore voted in favor. Minneboo, Lawandales, McLellan, and Filiberto voted nay.

Rochelle Lawandales – Maybe the best thing to do is table this and allow you to do a little more planning and consideration, and meet with the neighbors to see if there's something in between the 2.5-acre lot and a one acre lot on average, especially if you look at open space and buffering, and show everybody how you're going to handle the infrastructure, show how you're going to deal with stormwater. I think those are some unresolved things that would probably help some of us on the board, as well as some of the neighbors. Are you comfortable with that?

Joseph Thomas – Yes. Would we be tabled to the next meeting?

Henry Minneboo – That's an option, or you have the right to bring it to the Board of County Commissioners.

Joseph Thomas – I would feel more comfortable meeting with the community. I don't want to go forward with them feeling like I didn't approach them.

Rochelle Lawandales – I'm going to make that in the form of a motion.

Henry Minneboo – You're acceptable to that?

Joseph Thomas – Yes, it would just be tabled to the next meeting?

Erin Sterk – It would be March 11<sup>th</sup>. That would move you to the April 4<sup>th</sup> Commission meeting.

Joseph Thomas – It would just set us back one month?

Rochelle Lawandales – Would the March 25<sup>th</sup> date give you more time? You'd still make the April County Commission date.

Joseph Thomas – We could do the 25<sup>th</sup> but still meet the April Commission date?

Erin Sterk – That's right.

Joseph Thomas – Is there a plus or minus?

Erin Sterk – It just depends, we send out materials two weeks in advance. From this moment we have two weeks, so if that's not enough time to allow you to do.....some people are working on plans as a result of the meeting. If you are just trying to get that meeting held within that two weeks, you could meet the March 11<sup>th</sup> date. It's certainly up to you. We just need you to tell us what happened in your meeting with the neighbors more than two weeks in advance, that way we're not walking items onto the board.

Joseph Thomas – We'll try to have the meeting as early as possible.

Rochelle Lawandales – Move to table to March 11<sup>th</sup>.

Brian Hodgers – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.