



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.15.

7/11/2024

Subject:

Scott Martin requests a change of zoning classification from BU-1 and RU-2-15 to all RU-2-15. (24Z00015) (Tax Account 2520270) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) and RU-2-15 (Medium-Density Multiple-Family Residential) to all RU-2-15 (Medium-Density Multiple-Family Residential).

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from BU-1 (General Retail Commercial) and RU-2-15 (Medium-Density Multiple-Family Residential) to all RU-2-15 (Medium-Density Multiple-Family Residential).

The applicant is proposing to demolish the existing retail structure and develop a 3-story, 3-unit multi-family structure.

To the north, the area is developed with multi-family uses zoned RU-2-15. To the south, the area is developed with single-family zoned RU-2-15 and RU-1-13, respectively. To the east, across Highway A1A, is a multi-family condominium zoned RU-2-15. To the west is a single-family home zoned RU-2-15.

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

On June 10, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

24Z00015

Scott A. Martin

BU-1 and RU-2-15 to All RU-2-15

Tax Account Number: 2520270
Parcel I.D.: 25-37-26-50-A-7
Location: 2370 S. Atlantic Ave., Cocoa Beach, FL 32931. (District 2)
Acreage: 0.2 acres

Planning and Zoning Board: 06/10/2024
Board of County Commissioners: 07/11/2024

Consistency with Land Use Regulations

- Current RU-2-15 and BU-1 zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 and RU-2-15	All RU-2-15
Potential*	BU-1 (4,356 sq. ft.) and RU-2-15 (1 unit)	3 unit apartment building
Can be Considered under the Future Land Use Map	YES CC and NC	YES CC and NC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is proposing to demolish the existing retail structure and develop a 3 story, 3 unit multi-family structure. Based upon Brevard County Property Appraiser records, the existing structure appears to have been constructed in 1963 and is a one-story 4 unit retail building. The BU-1 portion was last administratively zoned under zoning action # **Z-4116** in September, 1976. A prior zoning changed the zoning from RU-3 to BU-1 under a Special Use Permit (SUP) for a restaurant on February 10, 1966; performed under zoning action **Z-1863**. Other older zoning actions include **Z-934** for a SUP for Office building on March 7, 1963. **Z-615** for rezoning from BU-1 to RU-3, December 7, 1961, and **Z-376** from RU-3 to BU-1 on July 7, 1960. The residential portion of the property shares the following zoning history: **Z-1863**, **Z-615** and **Z-376**.

This property is located at the NW corner of 24th Street and S. Atlantic Avenue Cocoa Beach. Its BU-1 zoning abuts S. Atlantic Avenue while the RU-2-15 zoned portion lies to the rear (western portion).

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-family use	RU-2-15	RES 15
South	Single-family residential use	RU-2-15 and RU-1-7	Neighborhood Commercial
East	Multi-family condominium	RU-2-15	RES 15
West	Single-family residential use	RU-2-15	Neighborhood Commercial

To the north, the area is developed with multi-family uses.

To the south, the area is developed with single-family uses under multi-family zoning.

To the east across Highway A1A is a multi-family condominium.

To the west, is developed as single-family home.

Future Land Use

The subject property is currently designated with two FLUM designations. Those designations are Neighborhood Commercial and Community Commercial designations. The current RU-2-15 zoning is consistent with the Neighborhood Commercial FLUM designation. The BU-1 portion is consistent with the Community Commercial FLUM designation. The proposed zoning request to "All" RU-2-15 is consistent with both of these existing FLUM designations.

FLUE Policy 2-10. Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations Policy 2.10.

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

The owner proposes to replace an existing commercial development with a multi-family development. The zoning request abuts other multi-family zoning and removes prior commercial use from the street intersection. Multi-family zoning can be used as a transition from the highway impacts to abutting multi-family uses to the west of this site.

B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

With parcel location within the Neighborhood Commercial FLU designation residential density could be rated up to 30 units per acre. The applicant wishes to utilize a zoning consistent with RU-2-15 for a residential density of 15 units per acre. The zoning pattern is consistent with other abutting residential lots.

The applicant's request can be considered consistent with the existing Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

Compatibility 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;

Redevelopment will need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

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

1. historical land use patterns;

The surrounding area has been developed with both single-family and multi-family uses. Commercial development has been limited to the Highway A1A corridor.

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

No external development noted.

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

One zoning action has been approved within one-half mile:

- **21Z00050, approved by the Board on April 7, 2022, was a request to rezone from RU-2-15 to BU-1 on 0.67 acres located approximately 370 feet north of the subject property on the west side of S. Orlando Avenue.**

There is one pending zoning action within one-half mile of the subject property.

- **Pending Actions: 23Z00058 and accompanying Small Scale Amendment 23SS00018, have been on hold since December 19, 2023. This property is located approximately 100 feet west of the subject property. The zoning request was to change from RU-2-15 to RU-2-30 with a FLUM change from RES 15 to Neighborhood Commercial. Request pending since area is within the Coastal High Hazard Area which limits any increase to residential density.**

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

No material violation of relevant policies of the Comprehensive Plan has been identified.

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

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

Criteria:

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

The character of the area is residential with commercial uses along the Hwy A1A corridor.

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.

This block of properties between Crescent Beach Drive and 24th Street is all zoned RU-2-15. The rezoning of this property from BU-1 to RU-2-15 is consistent and compatible with the existing development trend within this block.

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

The request if approved would actually remove an existing commercial use and replace it with a 3-unit multi-family 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.

As a corner lot, this property has undertaken several past zoning changes to come to this juncture.

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR A1A, between Patrick Main Gate to south end of one-way pairs (S. Orlando Avenue and S. Atlantic Avenue), which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 44.39% of capacity daily. The maximum development potential from the proposed rezoning reduces the percentage of MAV utilization by 0.44%. The corridor is anticipated to continue to operate at 43.95% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site is below minimum thresholds for reporting purposes.

The subject property is served by potable water provided by the City of Cocoa. The subject property is on City of Cocoa Beach sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species

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

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

For Board Consideration

The Board should consider whether the request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item No. 24Z00015

Applicant: Scott Martin (Owner: Scott Martin)

Zoning Request: BU-1 and RU-2-15 to all RU-2-15

Note: To demo existing structure and build 3-story multi-family residential

Zoning Hearing: 06/10/2024; **BCC Hearing:** 07/11/2024

Tax ID No.: 2520270

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

The entire property contains Canaveral-Palm Beach-Urban land complex, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. **The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

The eastern portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

LOCATION MAP

MARTIN, SCOTT A

24Z00015



1:6,000 or 1 inch = 500 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: 5/15/2024

- Buffer
- Subject Property

24Z00015



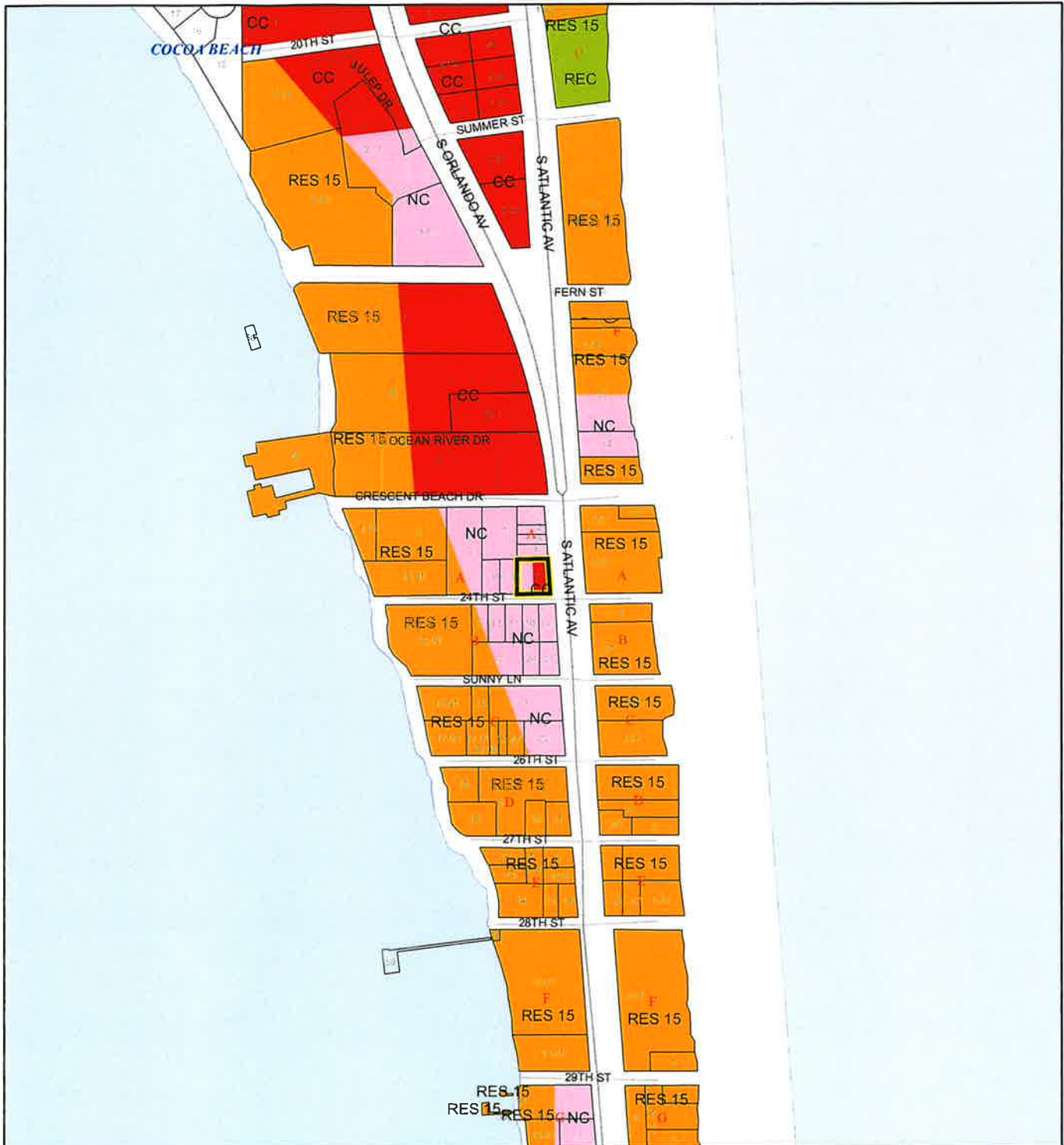
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Zoning

FUTURE LAND USE MAP

MARTIN, SCOTTA

24Z00015



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

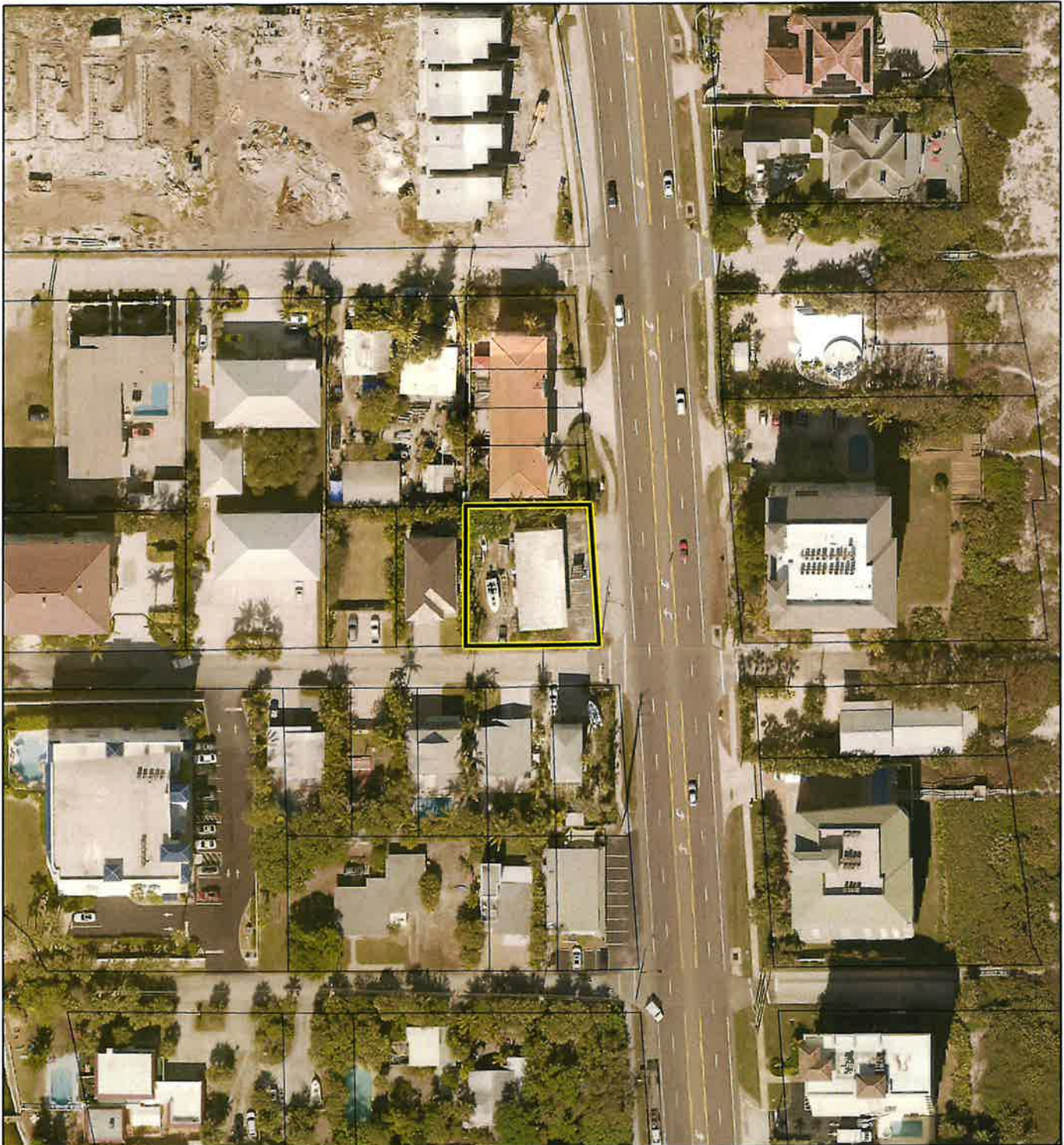
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/2/2024

AERIAL MAP

MARTIN, SCOTT A

24Z00015




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

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: 4/2/2024

 Subject Property

 Parcels

NWI WETLANDS MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

National Wetlands Inventory (NWI)

Estuarine and Marine Deepwater

Estuarine and Marine Wetland

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Lake

Other

Riverine

Subject Property

Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MARTIN, SCOTTA

24Z00015



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

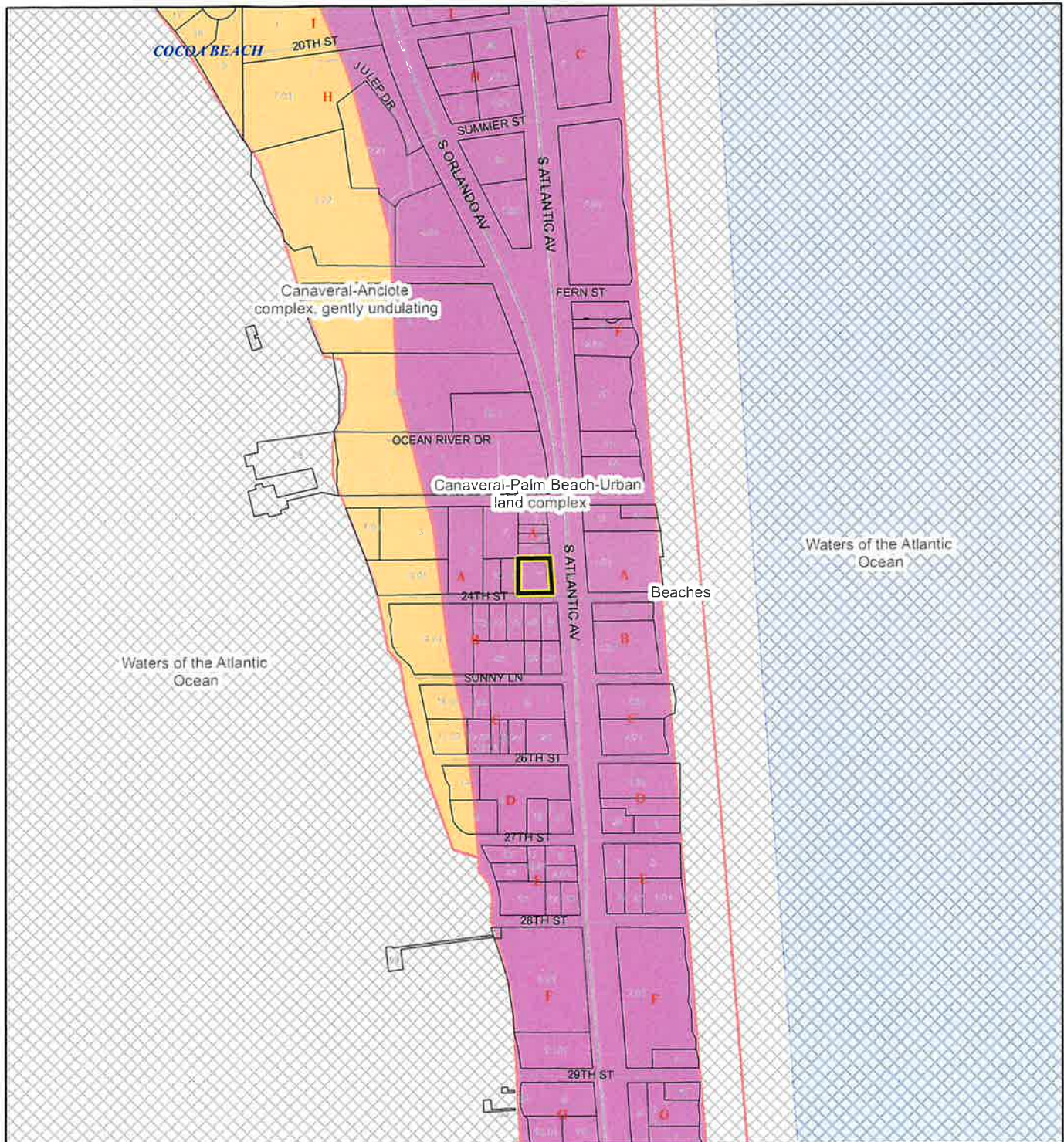
Subject Property

Parcels

USDA SCSSS SOILS MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

USDA SCSSS Soils

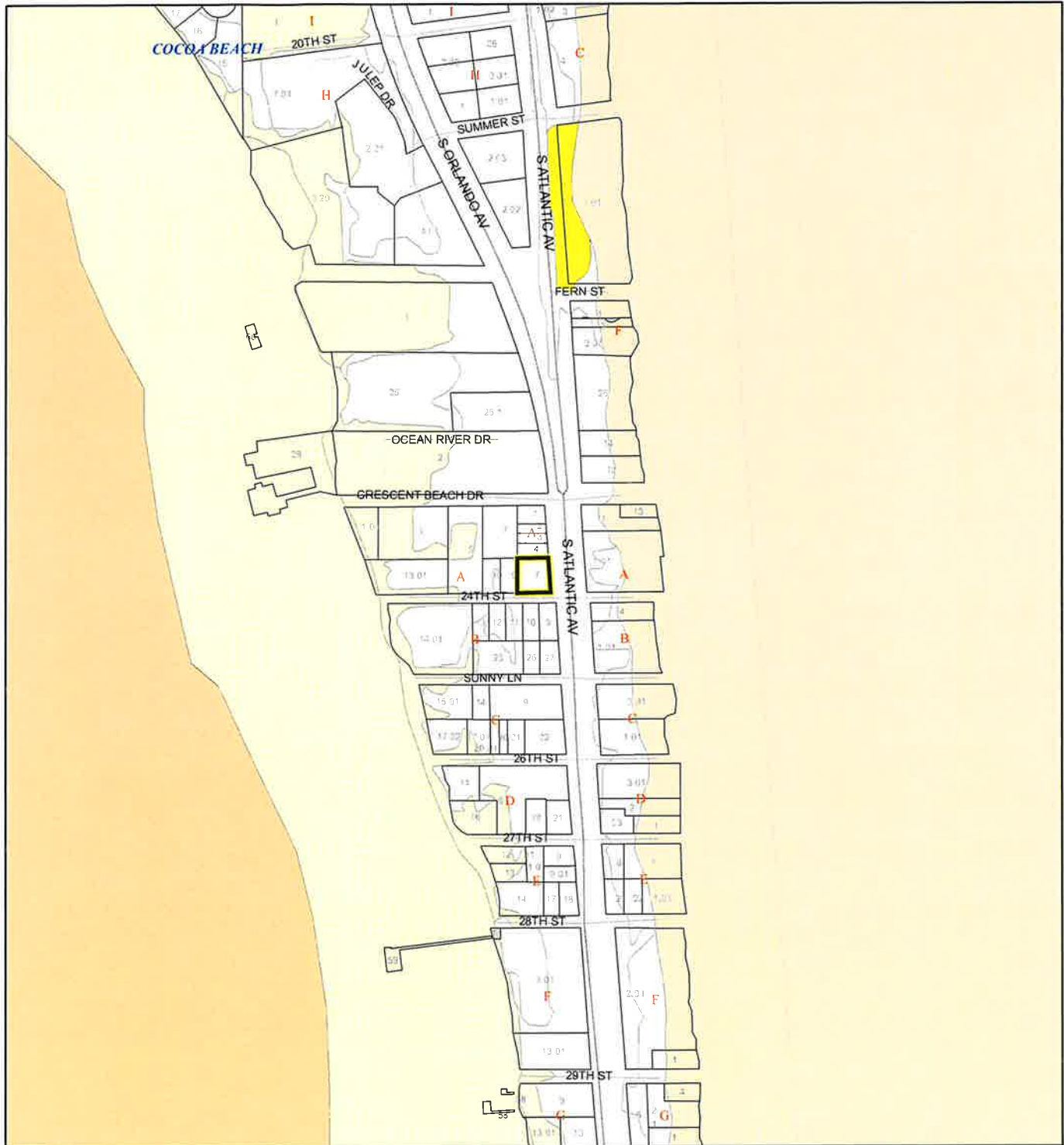
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

MARTIN, SCOTTA

24Z00015



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

MARTIN, SCOTTA

24Z00015



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

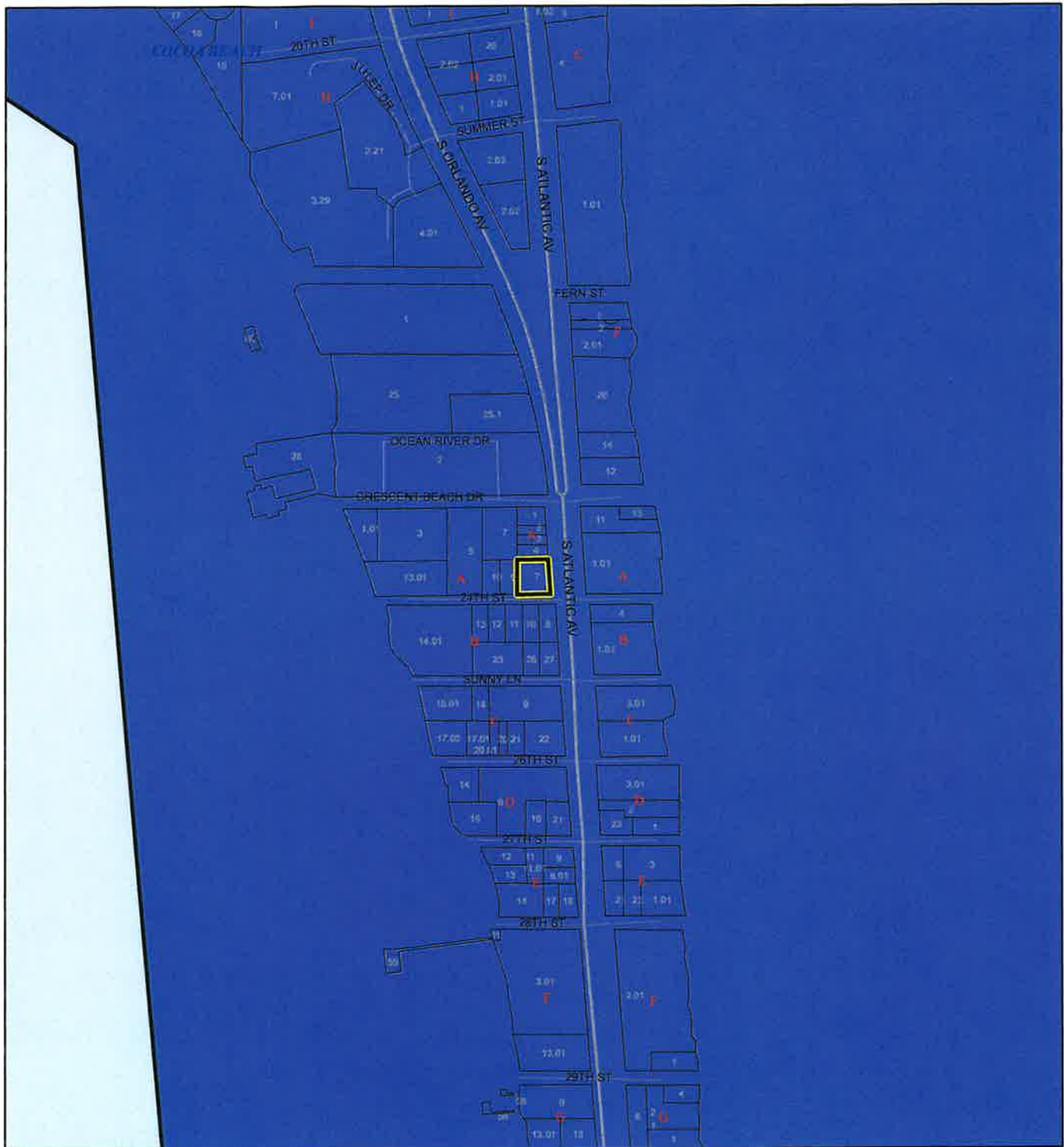
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

 Subject Property

 Parcels



Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

 Subject Property

 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/2/2024

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

RADIUS MAP

MARTIN, SCOTT A

24Z00015



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 4/2/2024

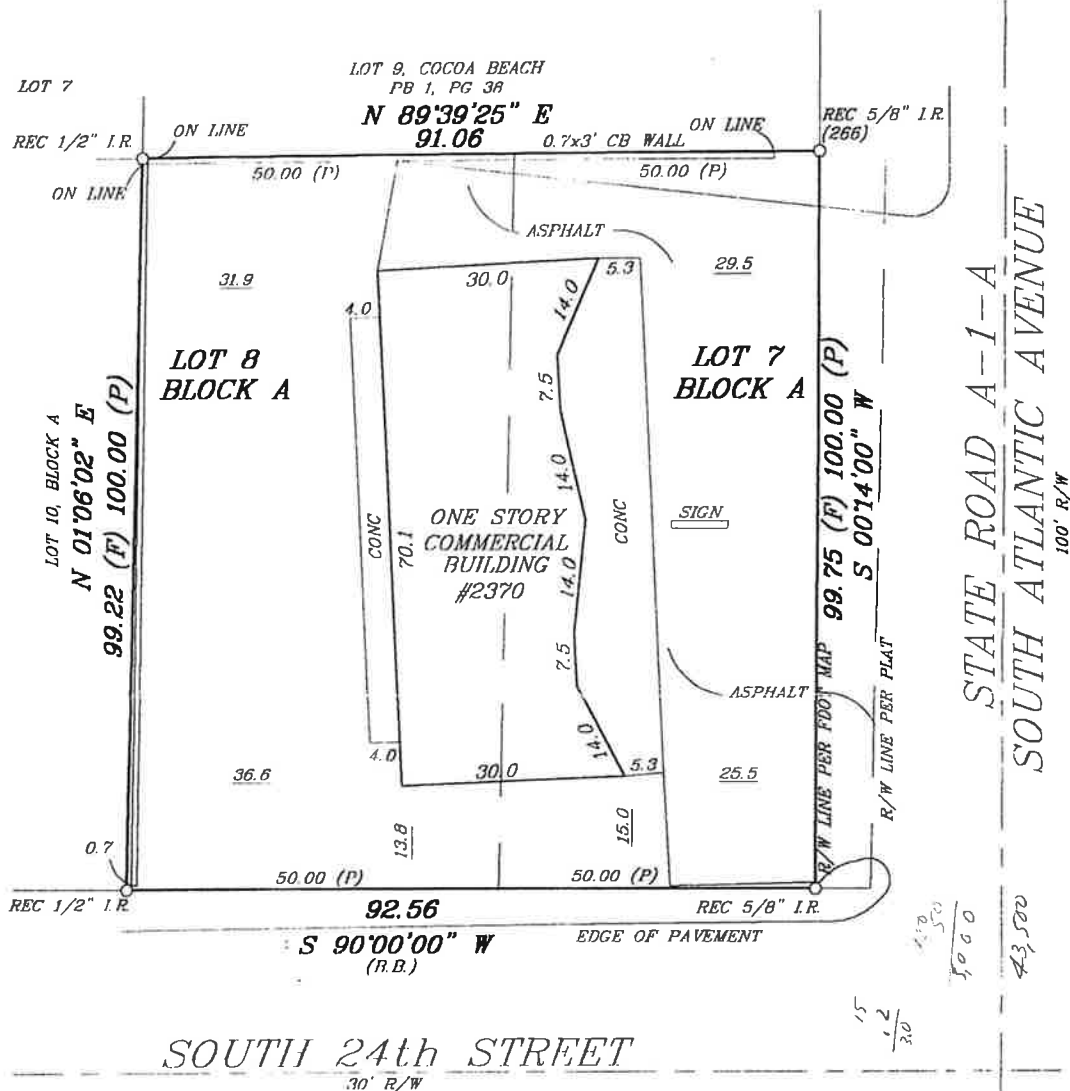
- Buffer
- Subject Property
- Notify Property
- Parcels

PLAT OF LAND SURVEY FOR and/or CERTIFIED TO:
SCOTT A MARTIN,
LEVIE FUNDING INC., STEPHEN F. BROOME, PA,
ATTORNEYS' TITLE INSURANCE FUND.

DESCRIPTION AS FOLLOWS:

LOTS 7 & 8, BLOCK A, PLAT OF CRESENT BEACH, AS RECORDED IN PLAT BOOK 1,
PAGE 38, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
LESS AND EXCEPT R/W FOR STATE ROAD A-1-A.

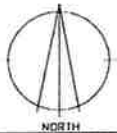
R/W BASED ON FLORIDA
DEPARTMENT OF TRANSPORTATION
MAP- SECTION No 7060-150



GRUSENMEYER-SCOTT & WALKER, INC.-LAND SURVEYORS

LEGEND

P = PLAT
F = FIELD
I.P. = IRON PIPE
I.R. = IRON ROD
C.M. = CONCRETE MONUMENT
SET I.R. = SET I.R.
REC. = RECOVERED
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
CL. = CENTERLINE
NAD = NAIL & DISC
R/W = RIGHT-OF-WAY
E.S.M. = EASEMENT
DRAIN. = DRAINAGE
UTIL. = UTILITY
C.I. FC. = CHAIN LINK FENCE
C/B = CONCRETE BLOCK
P.C. = POINT OF CURVATURE
P.T. = POINT OF TANGENCY
D. = DESCRIPTION
B.B. = BASE BEARING (SEE #8)
A/C = AIR CONDITIONER
P.U. & D.E. = PUBLIC UTILITIES & DRAINAGE ESMY
R. = RADIAL
L. = LENGTH
C.A. = CENTRAL ANGLE
C.B. = CHORD BEARING
P.O.L. = POINT ON LINE
TYP. = TYPICAL
P.C. = POINT OF REVERSE CURVATURE
P.C.C. = POINT OF COMPOUND CURVATURE
RAD. = RADIAL
N.B. = NON-RADIAL
W.P. = WITNESS POINT
C. = ENCLOSURE



BREVARD COUNTY OFFICE
4085 S. U.S. 1
ROCKLEDGE, FL. 32955
321-636-1055
321-636-1404 (FAX)

NOTES

1. THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472-027, FLORIDA STATUTES.
2. UNLESS EMBOSSED WITH SURVEYOR'S SEAL, THIS SURVEY IS NOT VALID AND IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
3. THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THE SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR EASEMENTS THAT AFFECT THIS PROPERTY.
4. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
5. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY.
6. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
7. ELEVATIONS, IF SHOWN, ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929, UNLESS OTHERWISE NOTED.
8. BEARINGS BASED ON THE NORTH R/W LINE S 24th STREET S 90°00'00" W

CERTIFIED BY: *[Signature]* R.L.S. NO. 5362
JOHN W. WALKER, R.L.S. NO. 5262 TOW X. GRUSENMEYER, R.L.S. NO. 4714
JAMES W. SCOTT, R.L.S. NO. 4801

THIS BUILDING/PROPERTY DOES NOT LIE WITHIN THE ESTABLISHED
SPECIAL FLOOD HAZARD AREA PER "FIRM" IT LIES IN ZONE: "X"
PANEL 120000C 0313R MAP DATE: 4-3-89

SCALE 1" = 20'

FIELD DATE: _____ ORDER NO. 12467
BOUNDARY 2-17-00
RECERT 2-22-00

DRAWN BY: JDUB

CHECKED BY:

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 10, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Ian Golden (D1 Alternate); Robert Sullivan (D2); Brian Hodggers (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Planning and Development Director; Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Trina Gilliam, Senior Planner; and Kristen Champion, Special Projects Coordinator.

Mark Wadsworth stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

Excerpt of complete agenda.

Scott Martin requests a change of zoning classification from BU-1 (General Retail Commercial) and RU-2-15 (Medium-Density Multiple-Family Residential) to all RU-2-15 (Medium-Density Multiple-Family Residential). The property is 0.2 acres, located on the west side of S. Atlantic Ave., at the northwest corner of 24th St. and S. Atlantic Ave. (2370 S. Atlantic Ave., Cocoa Beach) (24Z00015) (Tax Account 2520270) (District 2)

Jeffrey Ball read the application into the record.

Scott Martin, 335 Jack Drive, Cocoa Beach, has owned both parcels for about 25 years and has decided that he'd like to build something for himself on it now. One side is zoned BU-1 and the other is RU-2-15 and he'd like it all as RU-2-15 to be able to a new place for himself with two additional units. Mr. Martin added that all the properties around him are zoned RU-2-15 or something similar.

Mark Wadsworth asked the audience if anyone was here to speak for or against this item.

No public comment.

No Board comment.

Motion to approve rezoning from BU-1 and RU-2-15 to all RU-2-15 by Bruce Moia, seconded by Brian Hodggers. The vote was unanimous.