



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

5/5/2022

Subject:

Tyler M. and Cristina N. Boucher request a change of zoning classification from AU to RR-1. (22Z00009) (Tax Account 2316242) (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 AU (Agricultural Residential) to RR-1 (Rural Residential).

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from AU to RR-1 in order to split their property into two parcels. The RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet.

The character of the area lying north of N. Tropical Trail is a mix of large lot residential zoning classifications on lots which range from 2.45-acres to 29-acre areas in size. This parcel has frontage on two streets and the applicants request to divide their 2.51-acre property into two lots meeting the proposed 1.0-acre minimum lot size allowed by the RR-1 zoning request.

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

On April 14, 2022, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

On April 18, 2022, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00009

On motion by Commissioner Pritchett, seconded by Commissioner Tobia, the following resolution was adopted by a unanimous vote:

WHEREAS, Tyler M. and Cristina N. Boucher have requested a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Tax parcel 6, as recorded in ORB 8422, Pages 2605 - 2606, of the Public Records of Brevard County, Florida. **Section 22, Township 23, Range 36.** (2.51 acres) Located at the northwest corner of N. Tropical Trail and Littleton Lane. (6245 N. Tropical Trail, Merritt Island); and

WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be approved; and

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

WHEREAS, the Board, after considering said application and North Merritt Island Dependent Special District Board's, and the Planning & Zoning Board's recommendations, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RR-1, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of May 5, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on May 5, 2022.

ATTEST:


RACHEL M. SADOFF, CLERK

(SEAL)

NMI Hearing – April 14, 2022
P&Z Hearing - April 18, 2022

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00009

Tyler M. and Cristina N. Boucher

AU (Agricultural Residential) to RR-1 (Rural Residential)

Tax Account Number: 2316242
Parcel I.D.s: 23-36-22-00-6
Location: 6245 N. Tropical Trail Merritt Island, FL (District 2)
Acreage: 2.51 acres

NMI Hearing Date: 4/14/2022
Planning & Zoning Board: 4/18/2022
Board of County Commissioners: 5/05/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RR-1
Potential*	1 SF lot	2 SF lots
Can be Considered under the Future Land Use Map	YES RES 1	YES RES 1

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

Background and Purpose of Request

The applicants are seeking a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) in order to split their property into two parcels. The property's original legal description describes the property as Parcel #6 & Parcel #34.

The original zoning on the property was AU. Zoning Resolution **DNZ-11164** adopted on December 1, 2005, denied a similar request to rezone for the purpose of splitting the lot, citing the application at that time was inappropriate. That application submittal was proposed by a previous owner to also change the property's zoning from AU to RR-1.

Land Use

The subject property is currently designated Residential 1 (RES 1). Both the AU and RR-1 zoning classifications are consistent with the Residential 1 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

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

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

Criteria:

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

The applicant proposes the development of a second single-family home (two lots). It is not anticipated to significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- 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;

There are four (4) FLU designation (RES 2, RES 1, RES 1:2.5 and Public Conservation) within 500-feet of this site. The latest FLU amendment was approved under 17S.01 which changed the FLU from RES 1:2.5 to RES 2 on May 4, 2017. That parcel is located on the south side of N. Tropical Trail in a SW direction from this request (225-feet to the west). An earlier FLU change occurred in 2009-1.9 for a parcel located east of this site which also lies on the south side of N. Tropical Trail and is 715-feet to the east of this request. The North Merritt Island Small Area Study (SAS) was completed in 2018.

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

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

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

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

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

None identified.

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

The character of the area lying north of N. Tropical Trail is a mix of large lot residential zoning classifications on lots which range from 2.45-acres to 29-acre areas in size. This parcel has frontage on two streets and the applicants request to divide their 2.51-acre property into two lots meeting the proposed 1.0-acre minimum lot size allowed by the RR-1 zoning request and FLU designation of RES 1.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 1
South	SF residence	AU & SR	RES 1:2.5
East	SF residence	EU	RES 1
West	SF residence	RR-1	RES 1

The RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principle residence within RR-1 zoning.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals and plants nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

The SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

The EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is N Tropical Trail, between W. Crisafulli Road to N. Courtenay Parkway, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 12.14% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 12.2% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel has access to public water from the City of Cocoa. Currently no centralized sewer is provided to the lot. The site will need to utilize a septic system. The closest sewer line is on N. Courtenay Parkway.

Environmental Constraints

- Aquifer Recharge Soils
- Floodplain
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

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

For Board Consideration

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

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

Item #22Z00009

Applicant: Tyler Boucher

Zoning Request: AU to RR-1

Note: Applicant wants to split lot.

NMI Hearing Date: 4/14/22; **P&Z Hearing Date:** 4/18/22; **BCC Hearing Date:** 5/5/22

Tax ID No: 2316242

- 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
- Floodplain
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

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 subject parcel contains mapped aquifer recharge soils (Pomello sand and Anclote sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of

the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

Two small areas of the property (northwest and southwest) are mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

Coastal High Hazard Area

Two small areas of the property (northwest and southwest corners) are located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is located within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer 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

Information available to NRM indicates that federally and/or state protected species may be present on the property. The subject property has mapped Florida Scrub Jay polygon onsite as shown on the Scrub Jay Occupancy Map. 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.

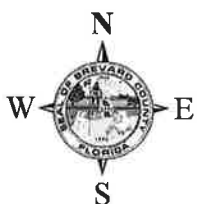
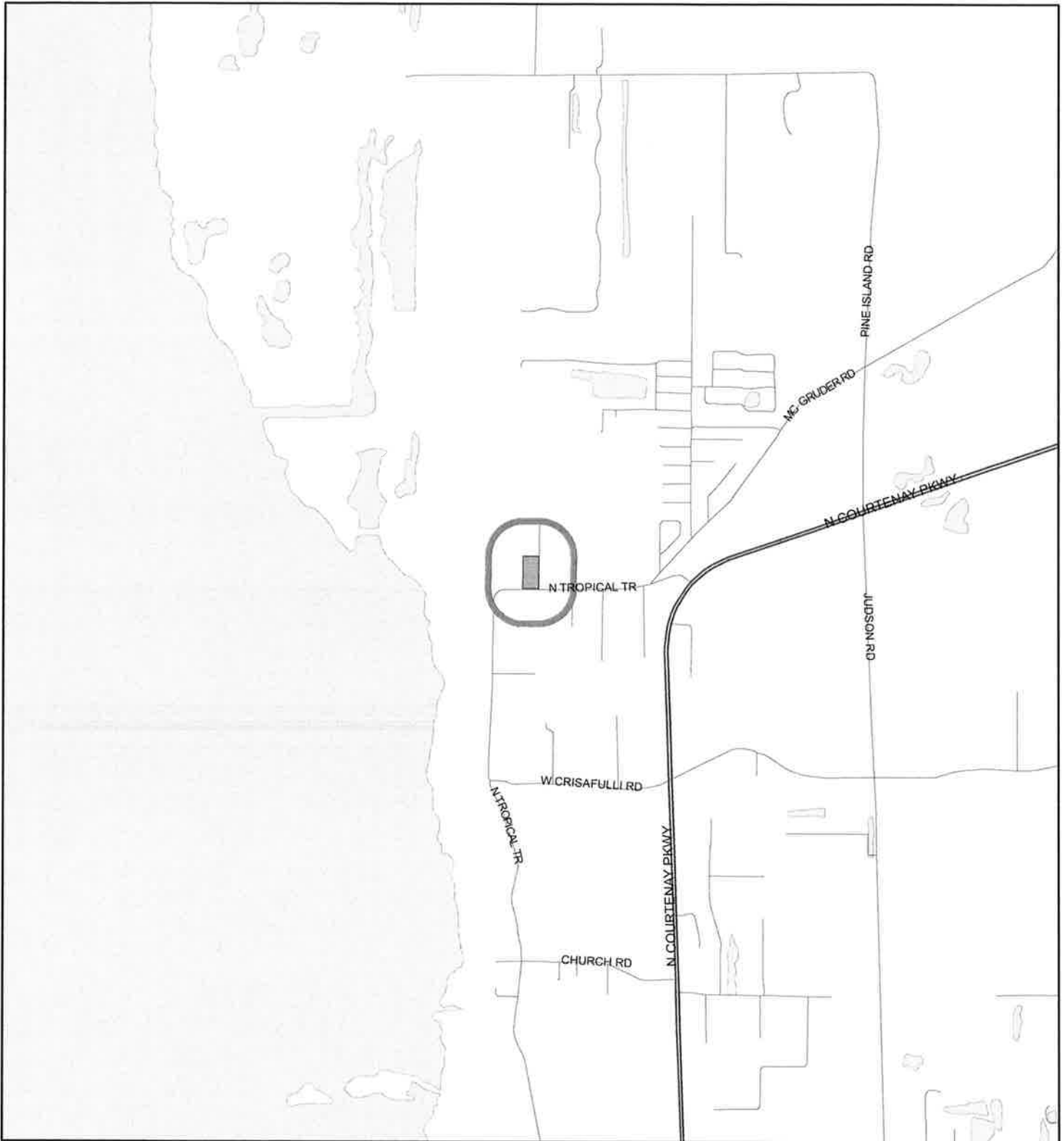
Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Specimen Trees. The

applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. The discovery of unpermitted land clearing activities may result in enforcement action. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

BOUCHER, TYLER M. AND CRISTINA N.
22Z00009



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

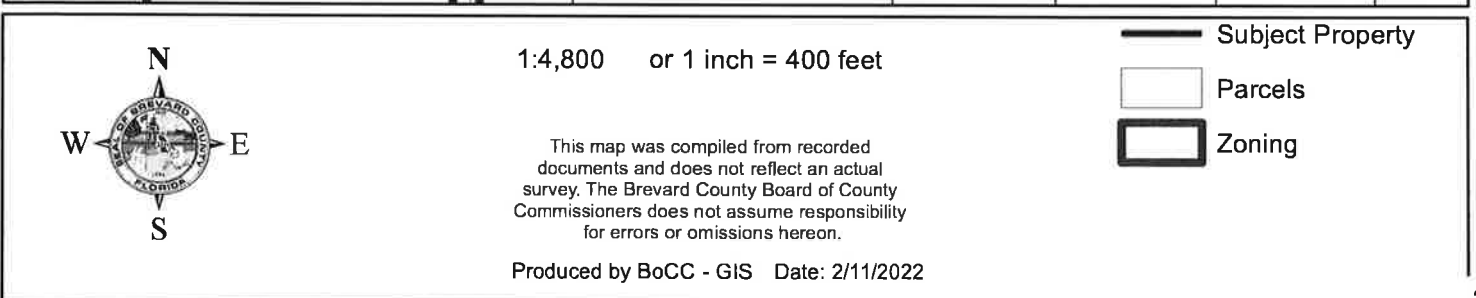
Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 2/11/2022

— Buffer
■ Subject Property

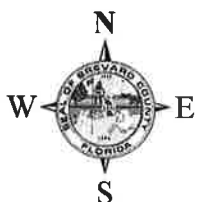
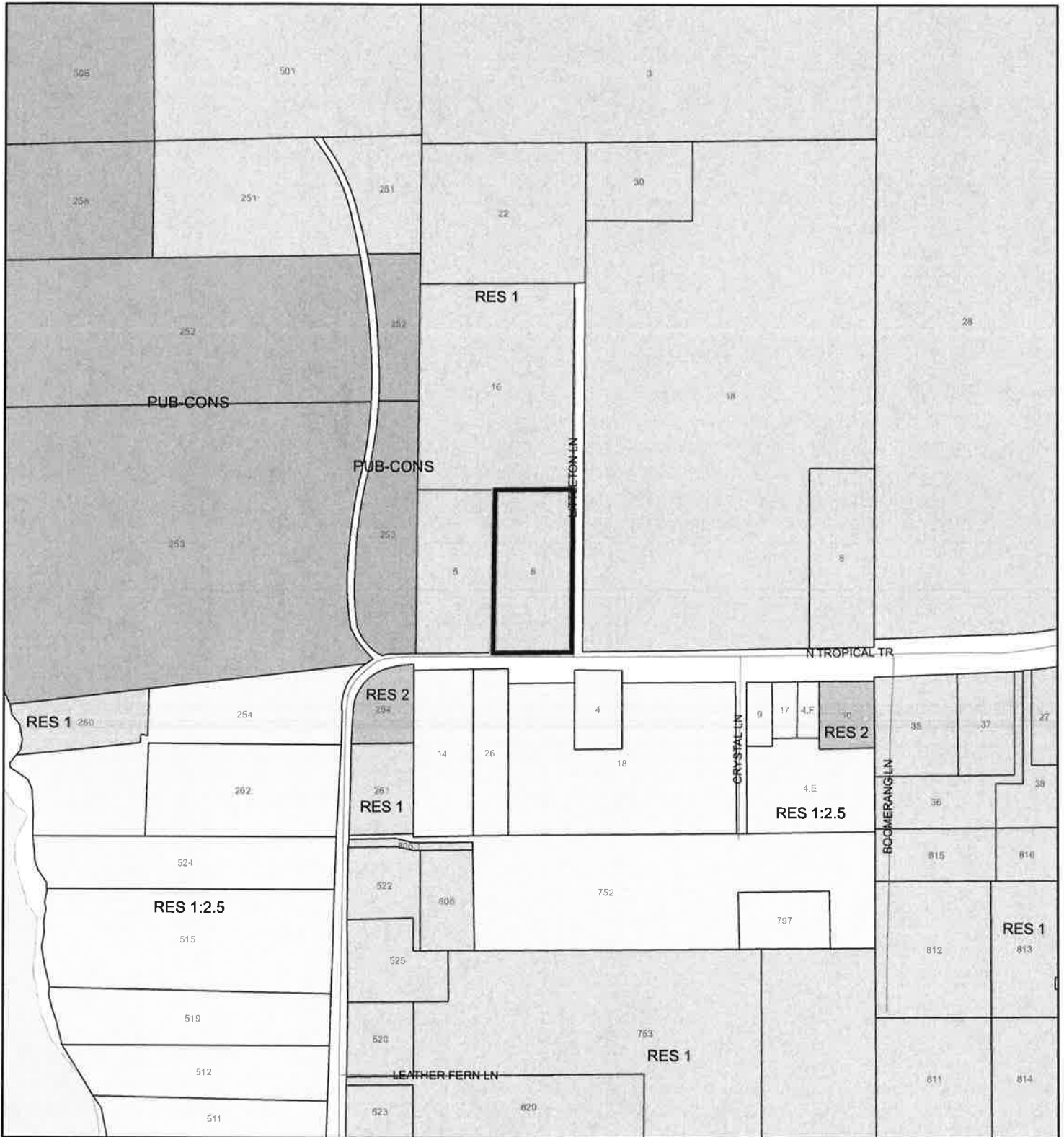
BOUCHER, TYLER M. AND CRISTINA N.
22Z00009



FUTURE LAND USE MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

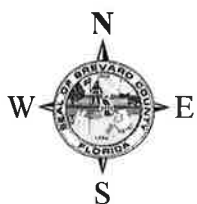
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/11/2022

AERIAL MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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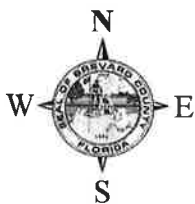
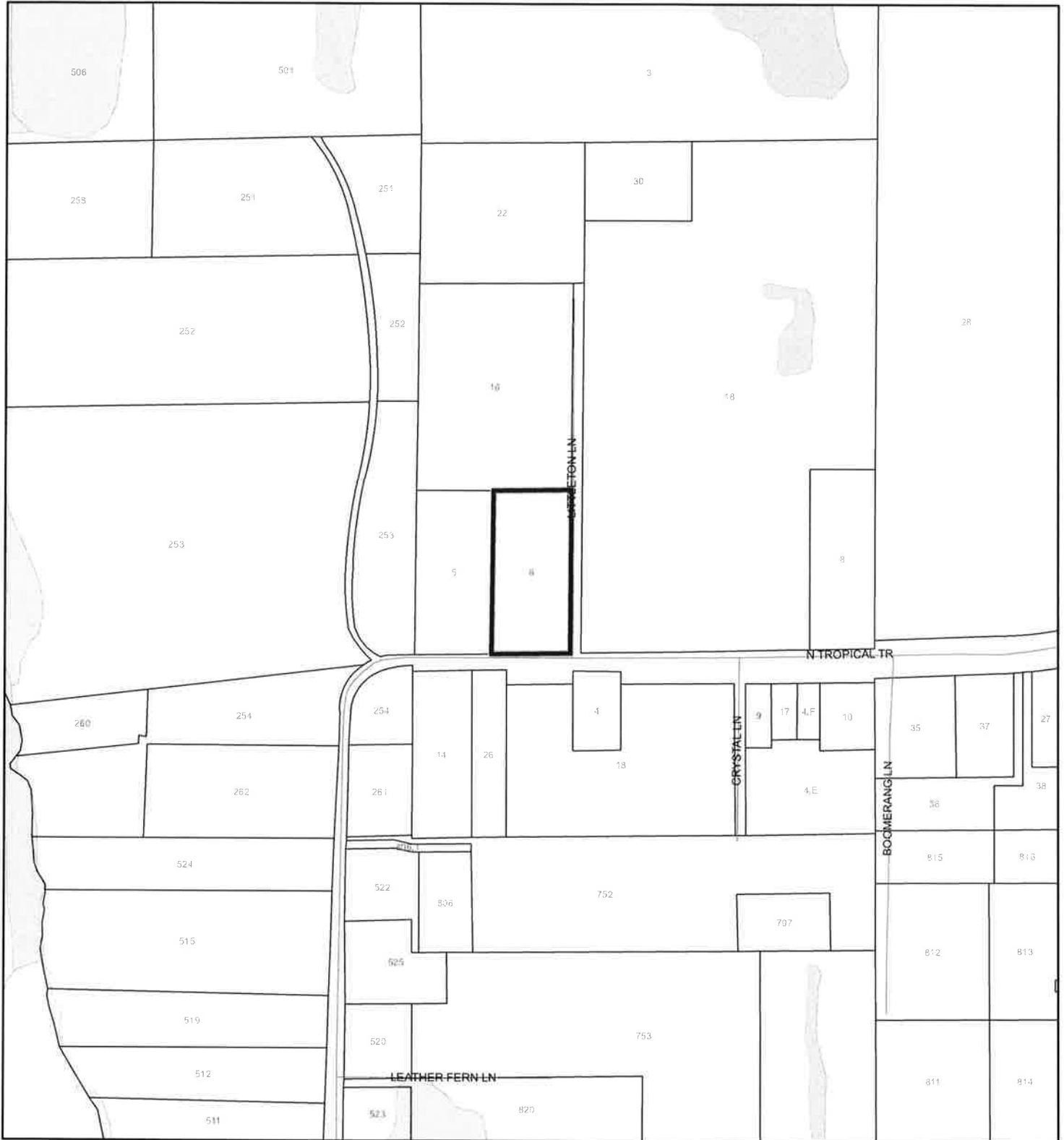
 Subject Property

 Parcels

NWI WETLANDS MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

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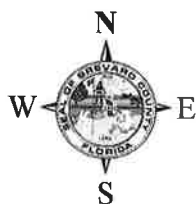
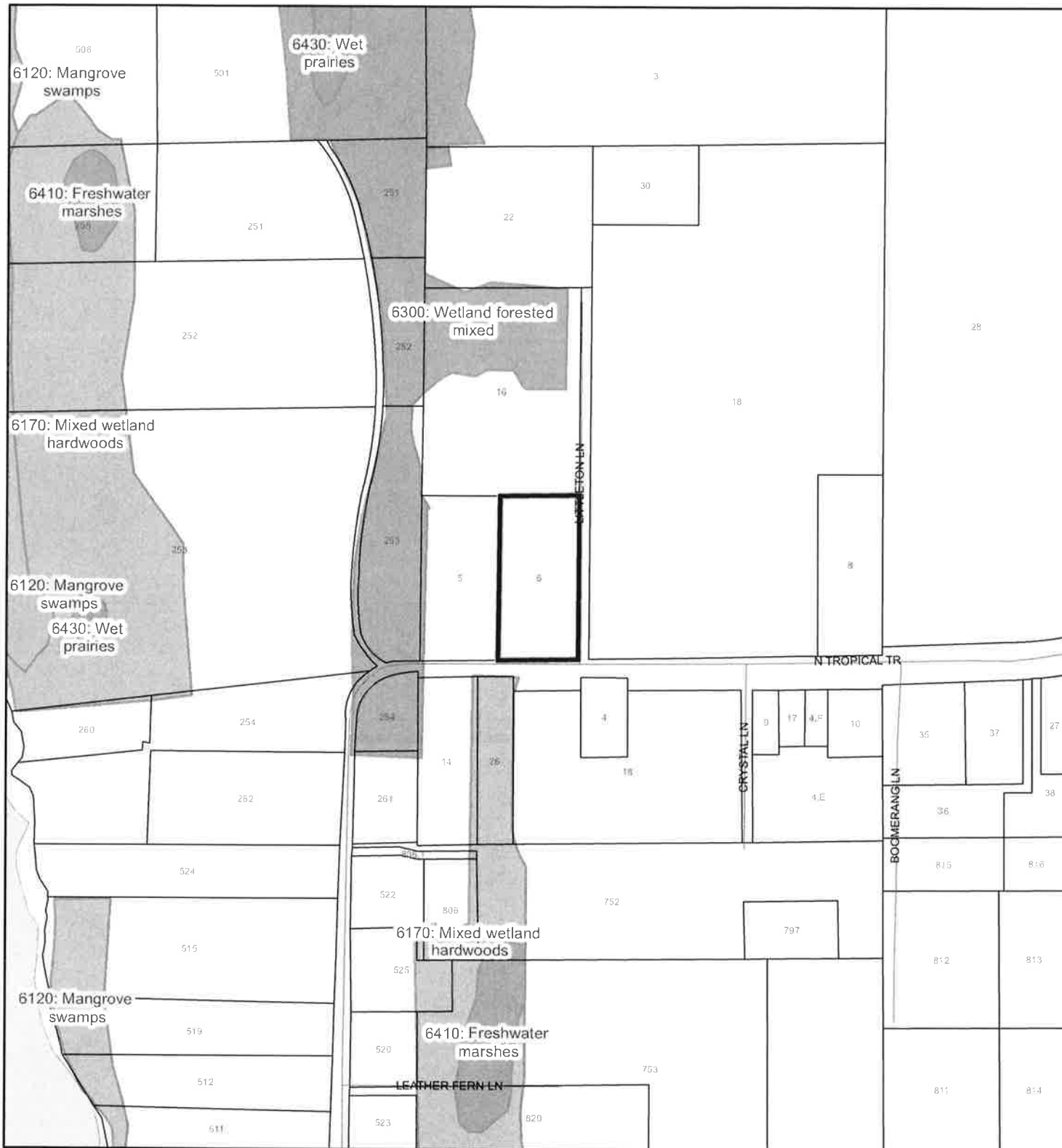
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

SJRWMD FLUCCS WETLANDS

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

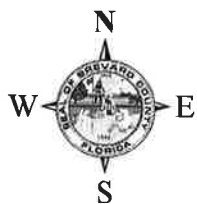
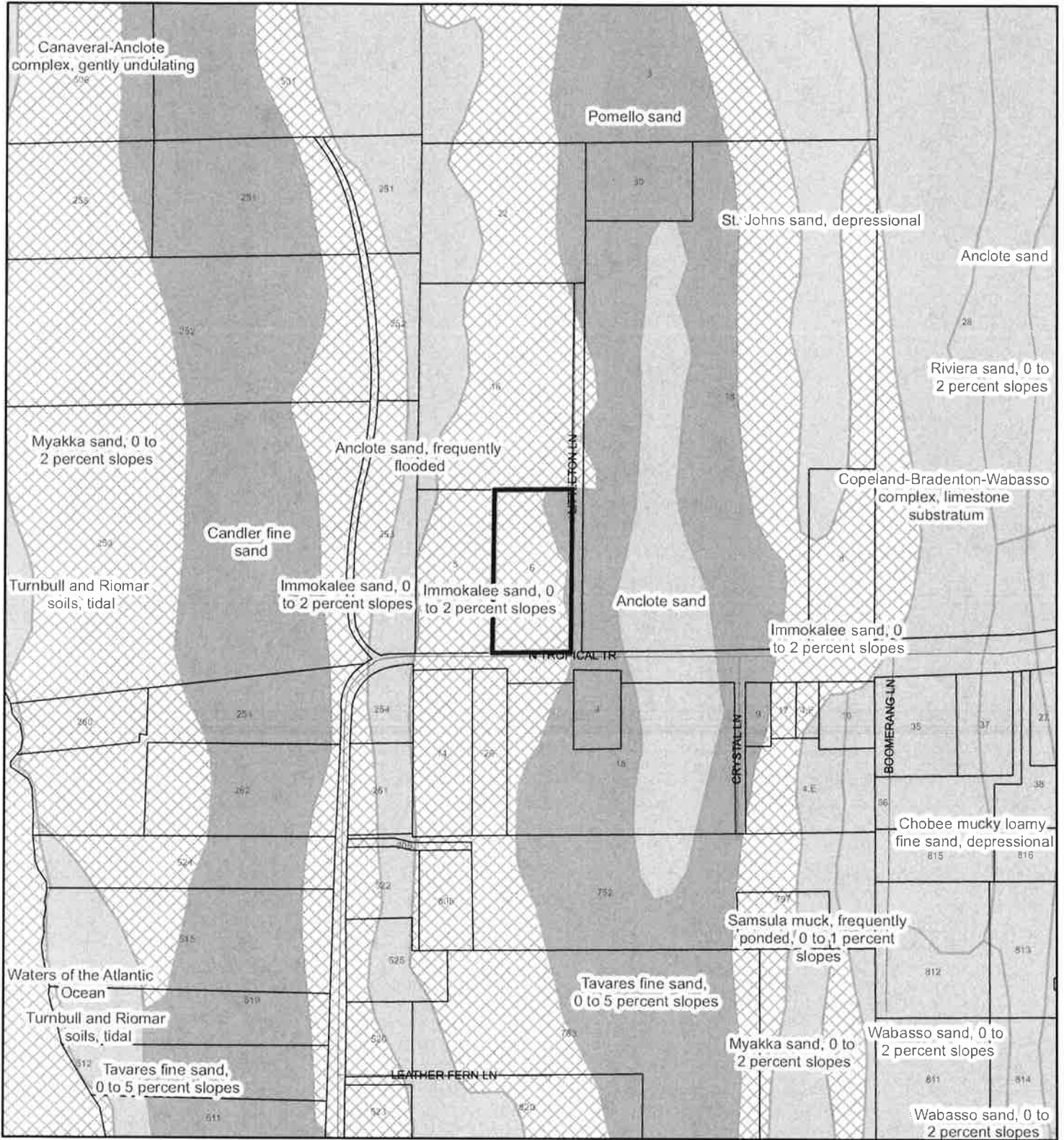
Subject Property

Parcels

USDA SCSSS SOILS MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

USDA SCSSS Soils

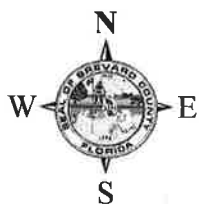
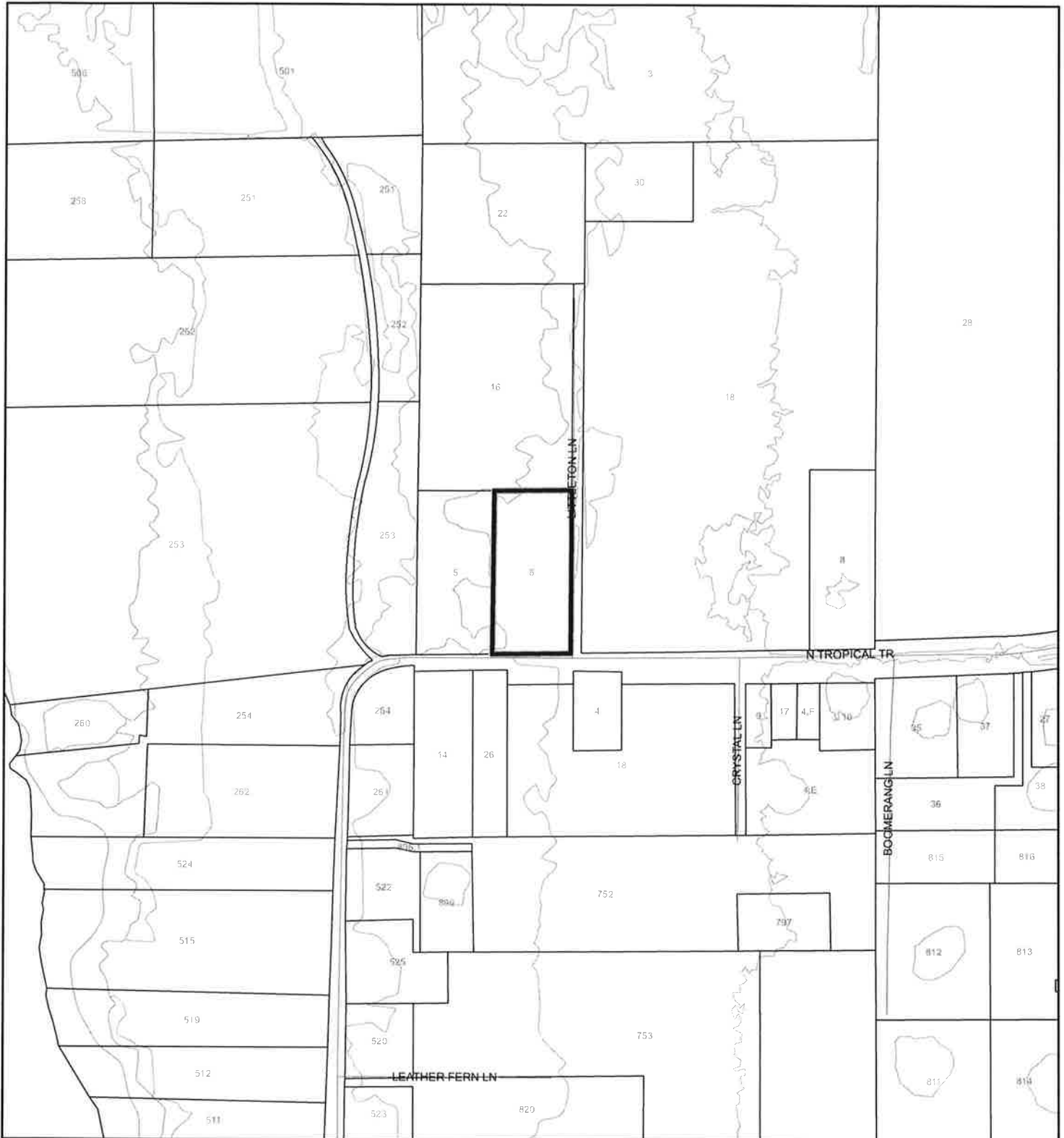
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

BOUCHER, TYLER M. AND CRISTINAN.

22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

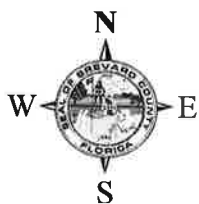
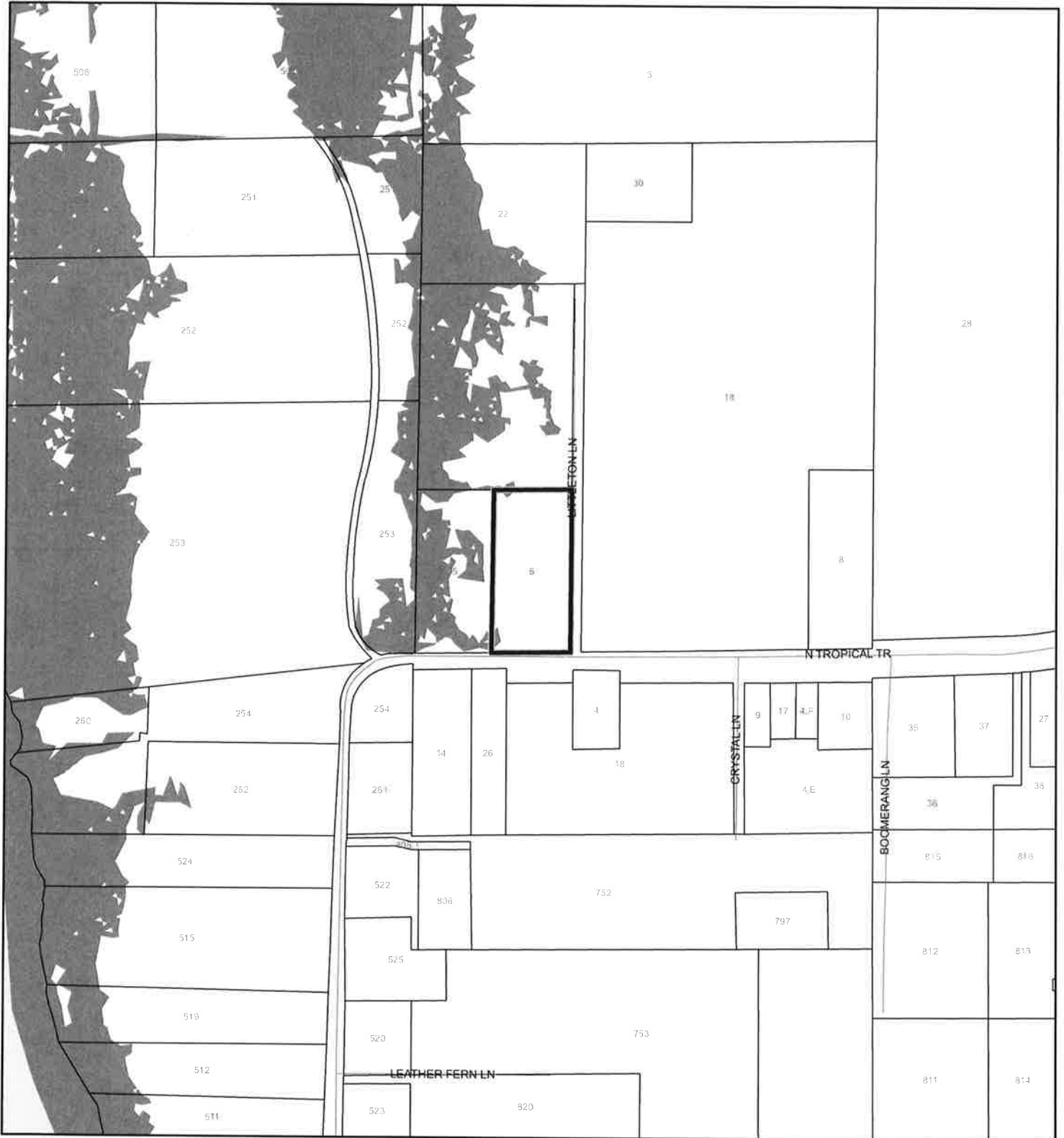
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



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Produced by BoCC - GIS Date: 2/11/2022

 Subject Property

 Parcels

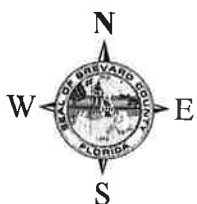
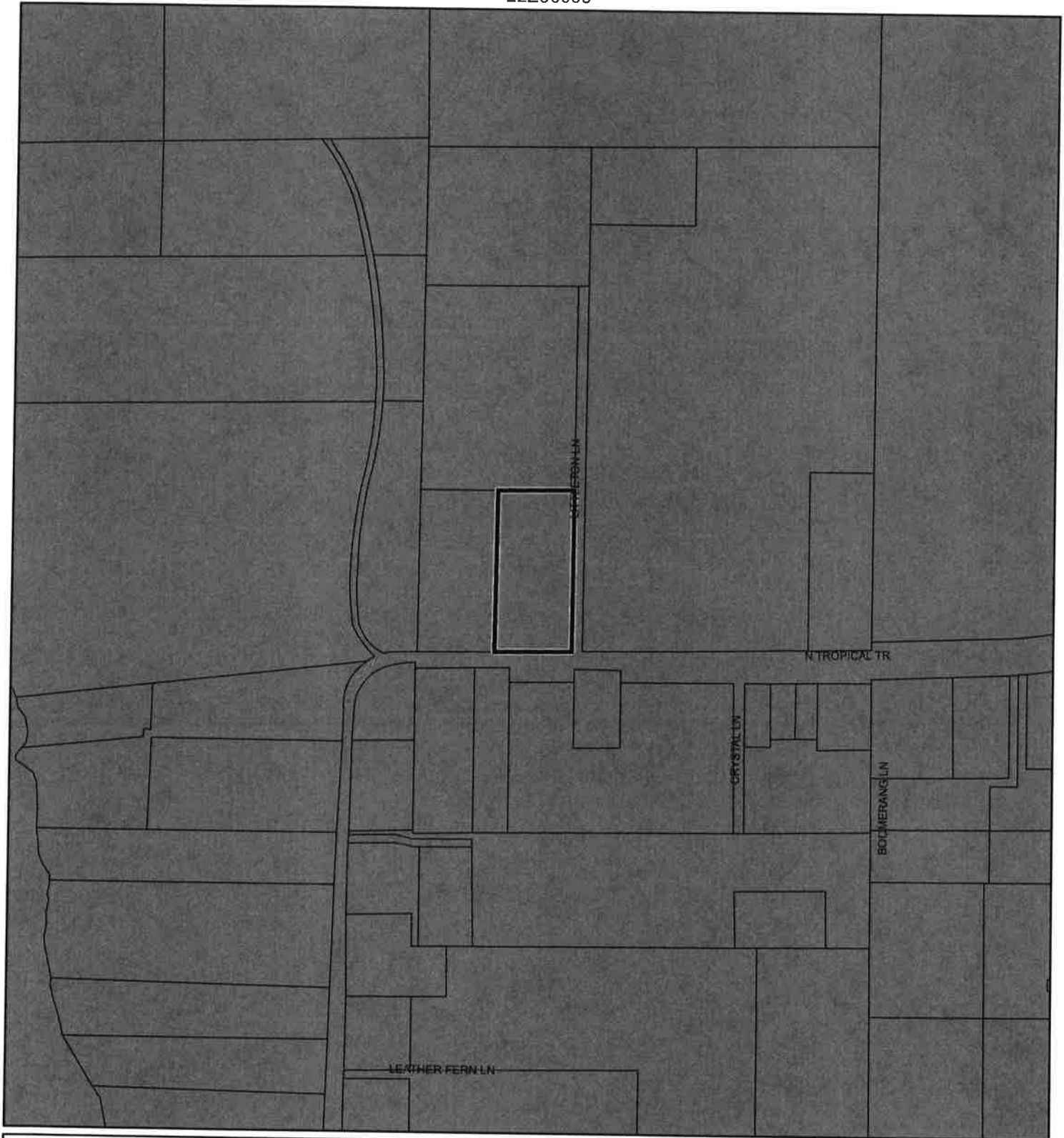
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

 Subject Property

 Parcels

Septic Overlay

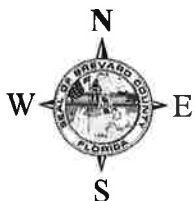
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

BOUCHER, TYLER M. AND CRISTINA N.
22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

 Subject Property

 Parcels

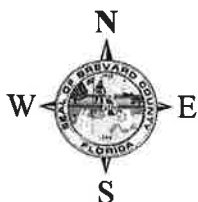
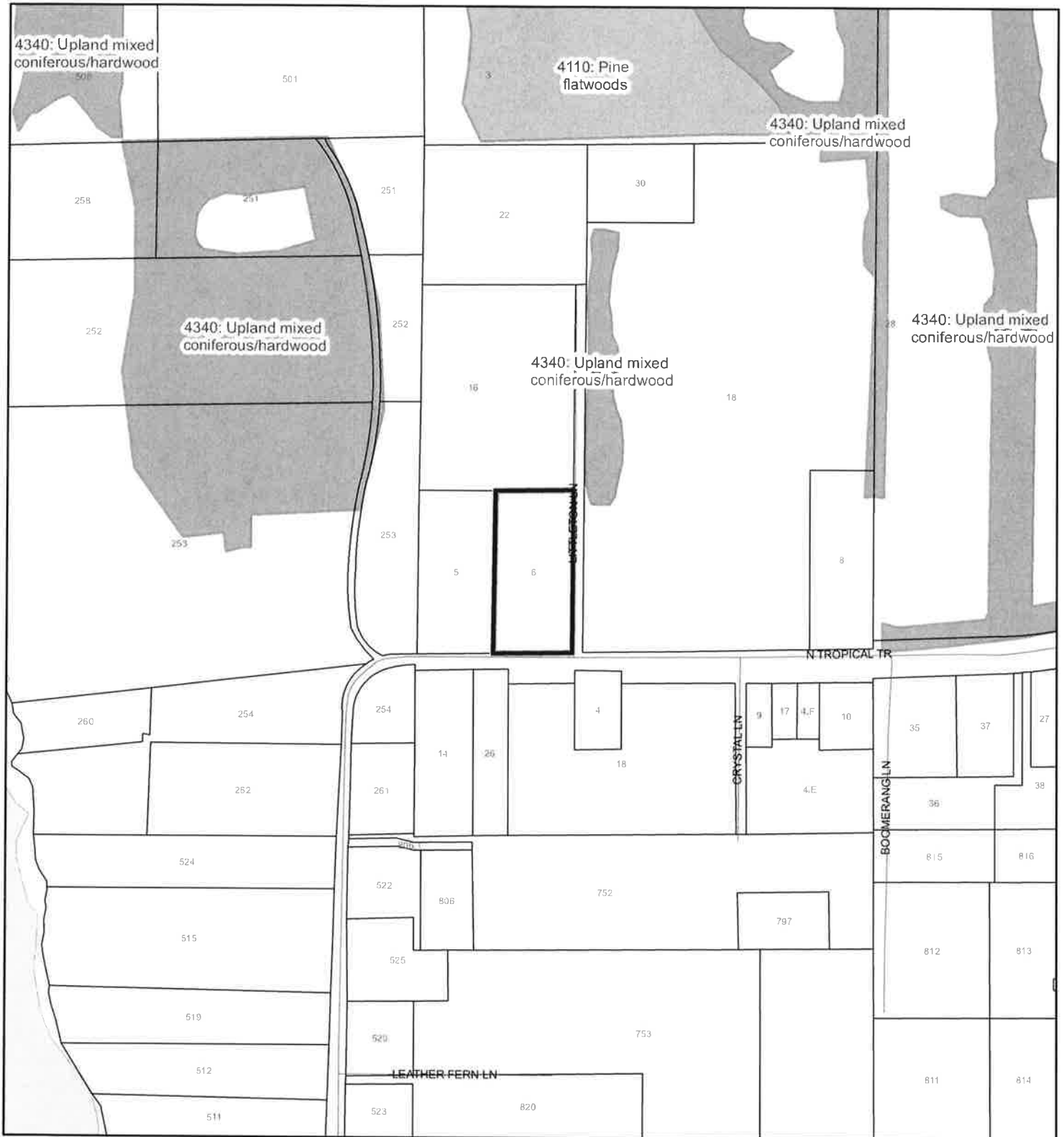


Eagle Nests
FWS 2010

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BOUCHER, TYLER M. AND CRISTINA N.

22Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/11/2022

SJRWMD FLUCCS Upland Forests

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

 Subject Property  Parcels

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, April 14, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Jack Ratterman, Vice Chair; Jim Carbonneau; Catherine Testa; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

Approval of February 10, 2022, Minutes

Motion by Jack Ratterman, seconded by Chris Cook, to approve the minutes from February 10, 2022. The motion passed unanimously.

(22Z00009) TYLER M. AND CRISTINA N. BOUCHER request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on 2.51 acres Located at the northwest corner of N. Tropical Trail and Littleton Lane. (6245 N. Tropical Trail, Merritt Island) (Tax Account 2316242) (District 2)

Jeffrey Ball - The request before you is to change the zoning classification from AU to RR-1. The RR-1 zoning classification requires a one-acre lot size and 125 feet of width. This property was included in the 2008 Small Area Study where the recommendation was to revert back to one unit per 2.5 acres. The Board did not direct staff to make that change, so the land use remains RES 1, which is one unit per acre.

Tyler Boucher - My name is Tyler Boucher, 6245 N. Tropical Trail, Merritt Island. I purchased the property in 2010, it was just me and my six-year old son at the time. It has been a great house, but now I'm married and have two more children and the house has become a little too small. I didn't know anything about the zoning at the time, I just thought I'd get house plans done, and then I found out it was zoned AU, which is one home per 2.5 acres and the property is 2.51 acres. I'm proposing to rezone to RR-1 so the current house can be on one acre and I can have another 1.51 acres to build a new house.

Jack Ratterman - Do you have a plan on where you're going to put the other house?

Tyler Boucher - I can't change the south side of my house, which is the front yard that faces Tropical Trail, I can't change that footage, so from the corner of Littleton Lane to N. Tropical Trail there is a stop sign and I believe I have to go 180 feet from that corner, back to the north, down Littleton Lane, to make it an acre. There is a row of small trees directly behind my porch behind my house and that would be roughly the property line where I would section it off. The new house would face Littleton Lane.

Kim Smith - My name is Kim Smith, I'm here to speak on behalf of the North Merritt Island Homeowners Association. The North Merritt Island Homeowners Association had no objections to the request.

Chris Cook - Along N. Tropical Trail, a lot of those properties extend to the middle of the street, as far as rights-of-way, does that affect this at all? I think it's because they tried to get a sidewalk and a bike

trail along N. Tropical and they couldn't do that because of all of the rights-of-way because people owned out into the middle of the street.

Jeffrey Ball - From what I see on the zoning map it does look like there is some properties along the south that get close to the centerline of the road, but that issue doesn't have anything to do with this applicant's request.

Chris Cook - Why can't he just build another house on his property and not rezone?

Jeffrey Ball - Because the current zoning of AU has a minimum lot size of 2.5 acres for one home. The land use is RES 1, which is a one-acre lot minimum. It is really a downzoning because AU allows for pretty intensive agricultural uses as far as commercial, such as selling fruits and vegetables and having farm animals; RR-1 zoning is primarily residential and allows horses ancillary to a single-family home.

Motion by Jack Ratterman, seconded by Ted Balke, to recommend approval of the requested change of zoning classification from AU to RR-1.

Catherine Testa - I would like to recuse myself from voting, because Tyler has been maintaining my lawn since 2011.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously, with Catherine Testa abstaining.

Upon consensus, the meeting adjourned at 6:15 p.m.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 18, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (Alt. D4); Bruce Moia (D5); David Bassford (Alt. D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Tyler M. and Cristina N. Boucher

A change of zoning classification from AU (Agricultural Residential) to RR-1(Rural Residential). The property is 2.51 acres, located at the northwest corner of N. Tropical Trail and Littleton Lane. (6245 N. Tropical Trail, Merritt Island) (Tax Account 2316242) (District 2)

Tyler Boucher, 6245 N. Tropical Trail, Merritt Island, stated his family has outgrown the current house and he would like to split the property in order to build a larger home.

Public Comment:

Wes Meadlock, 6650 Littleton Lane, Merritt Island, stated he does not have a problem with the applicant splitting his property to build a house and he supports the request.

Mr. Hopengarten asked why the request denied in the past.

George Ritchie stated the previous application attempt was basically the same thing, and at the time the North Merritt Island Small Area Study was in progress and there was a concern with determining if AU parcels and RES 1 should be increased to RR-1 or higher densities, so it was a way to cap the development on North Merritt Island.

Motion by Henry Minneboo, seconded by Liz Alward, to recommend approval of a change of zoning classification from AU to RR-1. The motion passed unanimously.