



AGENDA REPORT
May 24, 2018

SUBJECT:

Public Hearing, Re: Schacht Family Holding Company, LLC (Hassan Kamal) requests a change of Zoning classification from PUD to BU-2. The property is 2.34 +/- acres, located on the south side of Viera Blvd., approx. 250 ft. west of Murrell Rd. (18PZ00031) (District 4)

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 the request for a change of Zoning classification from PUD to BU-2.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is seeking a change of Zoning classification from PUD (Planned Unit Development) to BU-2 (Retail, Warehousing and Wholesale Commercial) for the purpose of developing a multi-story mini-warehouse facility. Under the current PUD Zoning classification, this tract can use BU-1 commercial zoning uses, which includes mini-warehouses as a Permitted Use with Conditions, pursuant to Section 62-1837.5. Although this use can be performed under the existing zoning, the conditions stated in Section 62-1837.5 subsection (b) limit the building height to the height of the lowest principle structure on any adjacent parcel.

Under the BU-2 Zoning classification, mini-warehouses remain a Permitted Use with Conditions, but only one specific condition regarding location relevant to the Merritt Island Redevelopment Area is applicable. The height limitation associated with this use within the BU-1 zoning would no longer apply, if the zoning were changed to BU-2. The applicant also had an opportunity to amend the PUD Zoning by revising the Preliminary Development Plan to allow for BU-2 uses to be conducted at this location, but determined that this was a more costly/length process than directly seeking the BU-2 Zoning classification.

The requested BU-2 zoning is consistent with the DRI Future Land Use designation

The Board may wish to consider whether the requested Retail, Warehousing and Wholesale Commercial (BU-2) Zoning classification is consistent and compatible with the

surrounding area.

As this request proposes to rezone from PUD to BU-2, the Board may wish to consider whether design standards should be proposed in order to maintain continuity/compatibility with the adjacent PUD zoned area or to protect the Viera interchange visual character.

On May 7, 2018, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP limited to the BU-2 use of self-storage mini-warehouses.

Staff contact: Erin Sterk, Interim Planning & Zoning Manager, erin.sterk@brevardfl.us

ATTACHMENTS:

Description

- ▣ **Staff Report 18PZ00031**
- ▣ **Maps**
- ▣ **Photos**
- ▣ **Fully-executed BDP**

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this ____ day of _____, 2018 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and SCHACHT FAMILY HOLDING COMPANY, LLC, a Florida Limited Liability Company (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as a 3-story, climate controlled self storage facility, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. The use of the Property by Developer/Owner shall be limited to the BU-2 use of self-storage mini warehouses, while retaining, without limitation, all uses, rights, provisions, and activities allowed under the BU-1 zoning classification.

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on _____ . In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

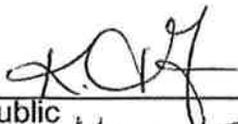
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

DISTRICT OF COLUMBIA

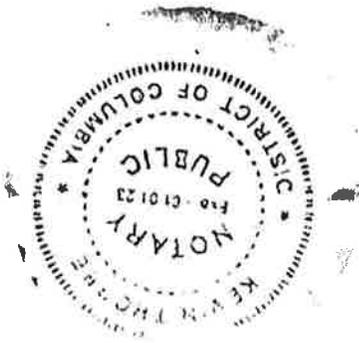
The foregoing instrument was acknowledged before me this 4 day of May, 2018, by Diana Lea Schacht, Member-Manager of the Schacht Family Holding Company, LLC, who is personally known to me or who has produced DC Drivers License as identification.

My commission expires 1/1/2023
SEAL
Commission No.: N/A



Notary Public Kevin Thorpe

(Name typed, printed or stamped)



DESCRIPTION OF LOT 2

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A PORTION OF LOT 1, VIERA NORTH PUD - PARCEL P, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46, PAGE 99, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 34, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF LOT 1 OF SAID VIERA NORTH PUD - PARCEL P, SAID POINT BEING ON THE EASTERLY RIGHT-OF-WAY OF STAR RUSH DRIVE (AN 80' WIDE PUBLIC RIGHT-OF-WAY) AS RECORDED IN PLAT BOOK 46, PAGE 100, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE ALONG THE BOUNDARY OF SAID LOT 1 THE FOLLOWING SIX (6) COURSES AND DISTANCES; (1) THENCE N47°22'18"E, A DISTANCE OF 63.11 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; (2) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST, AND HAVING A RADIUS OF 580.00 FEET, A CENTRAL ANGLE OF 28°30'10", A CHORD BEARING OF N33°07'13"E, AND A CHORD LENGTH OF 285.57 FEET), A DISTANCE OF 288.53 FEET TO THE END OF SAID CURVE; (3) THENCE N18°52'08"E, A DISTANCE OF 154.48 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; (4) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 91°29'23", A CHORD BEARING OF N64°36'49"E, AND A CHORD LENGTH OF 35.81 FEET), A DISTANCE OF 39.92 FEET TO A POINT OF COMPOUND CURVATURE (SAID POINT ALSO BEING A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF VIERA BOULEVARD A 150' WIDE PUBLIC RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORD BOOK 3225, PAGE 4244, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA); (5) THENCE ALONG THE ARC OF SAID CURVE AND SAID SOUTH RIGHT-OF-WAY LINE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHWEST, AND HAVING A RADIUS OF 2525.00 FEET, A CENTRAL ANGLE OF 00°55'43", A CHORD BEARING OF S69°10'37"E, AND A CHORD LENGTH OF 40.92 FEET), A DISTANCE OF 40.92 FEET TO A POINT OF REVERSE CURVATURE; (6) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 2675.00 FEET, A CENTRAL ANGLE OF 11°16'45", A CHORD BEARING OF S74°21'09"E, AND A CHORD LENGTH OF 525.75 FEET), A DISTANCE OF 526.60 FEET TO THE POINT OF BEGINNING: THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 2675.00 FEET, A CENTRAL ANGLE OF 6°08'39", A CHORD BEARING OF S83°03'51"E, AND A CHORD LENGTH OF 286.72 FEET), A DISTANCE OF 286.86 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTH (SAID POINT BEING THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 7019, PAGE 57, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA); THENCE ALONG SAID NON-TANGENT S02°28'09"W, A DISTANCE OF 299.87 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1; THENCE ALONG THE SOUTH BOUNDARY LINE OF SAID LOT 1 THE FOLLOWING FOUR (4) COURSES AND DISTANCES; (1) THENCE N63°39'53"W, A DISTANCE OF 23.42 FEET; (2) THENCE S36°23'51"W, A DISTANCE OF 107.04 FEET; (3) THENCE N67°44'18"W, A DISTANCE OF 8.36 FEET; (4) THENCE N61°20'15"W, A DISTANCE OF 261.16 FEET; THENCE N10°00'29"E, A DISTANCE OF 285.91 FEET TO THE POINT OF BEGINNING, CONTAINING 2.34 ACRES, MORE OR LESS.

EXHIBIT "A"

AFFIDAVIT OF NO MORTGAGE

DIANA LEA SCHACHT

~~Karen Denise Steinbrueck~~, Member-Manager of Schacht Family Holding

Company, LLC, after being duly sworn, deposes and says:

- 1. I am the owner of the real property as more particularly described in Exhibit "A" attached hereto
- 2. There are no mortgages on the Property

Dated MAY 4 , 2018.

Schacht Family Holding Company, LLC

By: *D Schacht*
Diana Lea Schacht
Member-Manager

DISTRICT OF COLUMBIA

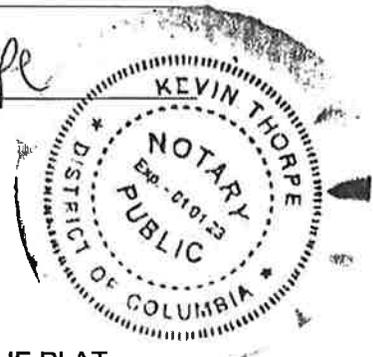
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My commission expires 1/1/2023

SEAL

Commission No.: N/A

Kevin Thorpe
Notary Public
Kevin Thorpe
(Name typed, printed or stamped)



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EXHIBIT "A"

REZONING REVIEW WORKSHEET

18PZ00031

Commission District # 4

Hearing Dates:

P&Z 05/07/18

BCC 05/24/18

Owner Name: SCHACHT FAMILY HOLDING COMPANY, LLC

Request: PUD to BU-2 with a BDP

Subject Property:

Parcel ID# 25-36-34-SG-00-1

Tax Acct.# 2532570

Location: South side of Viera Blvd., approx. 250 ft. west of Murrell Rd.

Address: No assigned address. In the Viera area.

Acreage: 2.34 +/- acres

Consistency with Land Use Regulations

- YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PUD	BU-2
Potential*	20,386 square feet	28,541 square feet
Can be Considered under FLU MAP	YES DRI	YES DRI

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

	ADT	PM PEAK		
Trips from Existing Zoning	2,084	193	Segment Number	369A
Trips from Proposed Zoning	71	7	Segment Name	Viera Blvd Stadium - Murrell
Maximum Acceptable Volume (MAV)	39,800	3,582	Acceptable LOS	D
Current Volume	18,317	1,649	Directional Split	0.51
Volume With Proposed Development	18,388	1,655	ITE CODE	
Current Volume / MAV	46.02%	46.02%	850/151	
Volume / MAV with Proposal	46.20%	46.20%		
Current LOS	C	C		
OS With Propos.	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicant is seeking a change of Zoning classification from Planned Unit Development (PUD) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of developing a multi-story mini-warehouse facility. Under the current PUD Zoning classification, this tract can use BU-1 commercial zoning uses, which includes mini-warehouses as a Permitted Use with Conditions, pursuant to Section **62-1837.5**. Although this use can be performed under the existing zoning, the conditions stated in Section **62-1837.5 subsection (b)** limit the building height to the height of the lowest principle structure on any adjacent parcel.

Under the BU-2 Zoning classification, mini-warehouses remain a Permitted Use with Conditions, but only one specific condition regarding location relevant to the Merritt Island Redevelopment Area is applicable. The height limitation associated with this use within the BU-1 Zoning would no longer apply, if the zoning were changed to BU-2. The applicant also had an opportunity to amend the PUD Zoning by revising the Preliminary Development Plan to allow for BU-2 uses to be conducted at this location, but determined that this was a more costly/length process than directly seeking the BU-2 Zoning classification.

Land Use Compatibility

The subject parcel retains a Development of Regional Impact (DRI) Future Land Use designation. **FLUE Policy 8.1** describes that Brevard County shall adopt a Development of Regional Impact (DRI) land use designation which depicts approved DRIs on the Future Land Use Map. Each DRI shall adhere to the conditions contained within its adopted Development Order as amended from time to time. The approved development amounts for each land use type are listed below for each DRI and may be exceeded by amending the approved Development Order only if the approved changes do not represent a Substantial Deviation pursuant to the requirements of Subparagraph (b) of Subsection (19), Chapter 380.06, Florida Statutes.

The requested BU-2 Zoning classification is consistent with the DRI Future Land Use designation. As this request proposes to rezone from PUD to BU-2, the Board may wish to consider whether design standards should be proposed in order to maintain continuity/compatibility with the adjacent PUD zoned area.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

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

Applicable Land Use Policies

The current PUD Zoning classification has been on this property since zoning action number **Z-10249**, dated May 20, 1999. The current tract use defined within the Preliminary Development Plan (PDP) is for BU-1 commercial uses. The property to the south is to be used for multi-family development and the portion to the southwest is for single-family development. The property to the east is designated for commercial BU-1 use. The property lying to the north of Viera Blvd is also zoned PUD and is allowed to develop BU-1 commercial uses.

The parent tract (Tract O, P) totals about 33.3 acres in area and extends westward to the I-95 R-O-W. This zoning action is the latest zoning file maintained in this one-mile section for base zoning changes. Zoning actions for alcoholic beverage CUPs may have occurred more recently, but didn't change the character of the area. Conditional use permit action # **13PZ-00014** was alcohol approval for units 217, 219 & 221 of the Viera East Market Centre (Florida Wine & Spirits) located at the west end of the shopping center. Board approval was granted on May 30, 2013. Another prior alcohol approval was for Long Doggers under CUP action number: **12PZ-00085** approved February 7, 2013.

Staff Comments: Page 3
(18PZ00031)
05/07/18 PZ // 05/24/18 BCC

For Board Consideration

The Board may wish to consider whether the requested Retail, Warehousing and Wholesale Commercial (BU-2) Zoning classification is consistent and compatible with the surrounding area.

The requested BU-2 Zoning classification is consistent with the DRI Future Land Use designation. As this request proposes to rezone from PUD to BU-2, the Board may wish to consider whether design standards should be proposed in order to maintain continuity/compatibility with the adjacent PUD zoned area or to protect the Viera interchange visual character.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
 Rezoning Review**

SUMMARY

Item #: 18PZ00031	Applicant: Schacht Family Holding
Zoning Request: PUD to BU-2	
P&Z Hearing Date: 05/07/18	BCC Hearing Date: 05/24/18

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

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp 25S, Rng. 36E, Sec. 34;
 Tax ID No. 2532570 (western portion)**

The subject parcel contains mapped hydric soil (Pompano sand); an indicator that wetlands may be present on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Viera Boulevard is an MQR in this vicinity. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Pompano sand also functions as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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

Staff Comments: Page 5
(18PZ00031)
05/07/18 PZ // 05/24/18 BCC

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



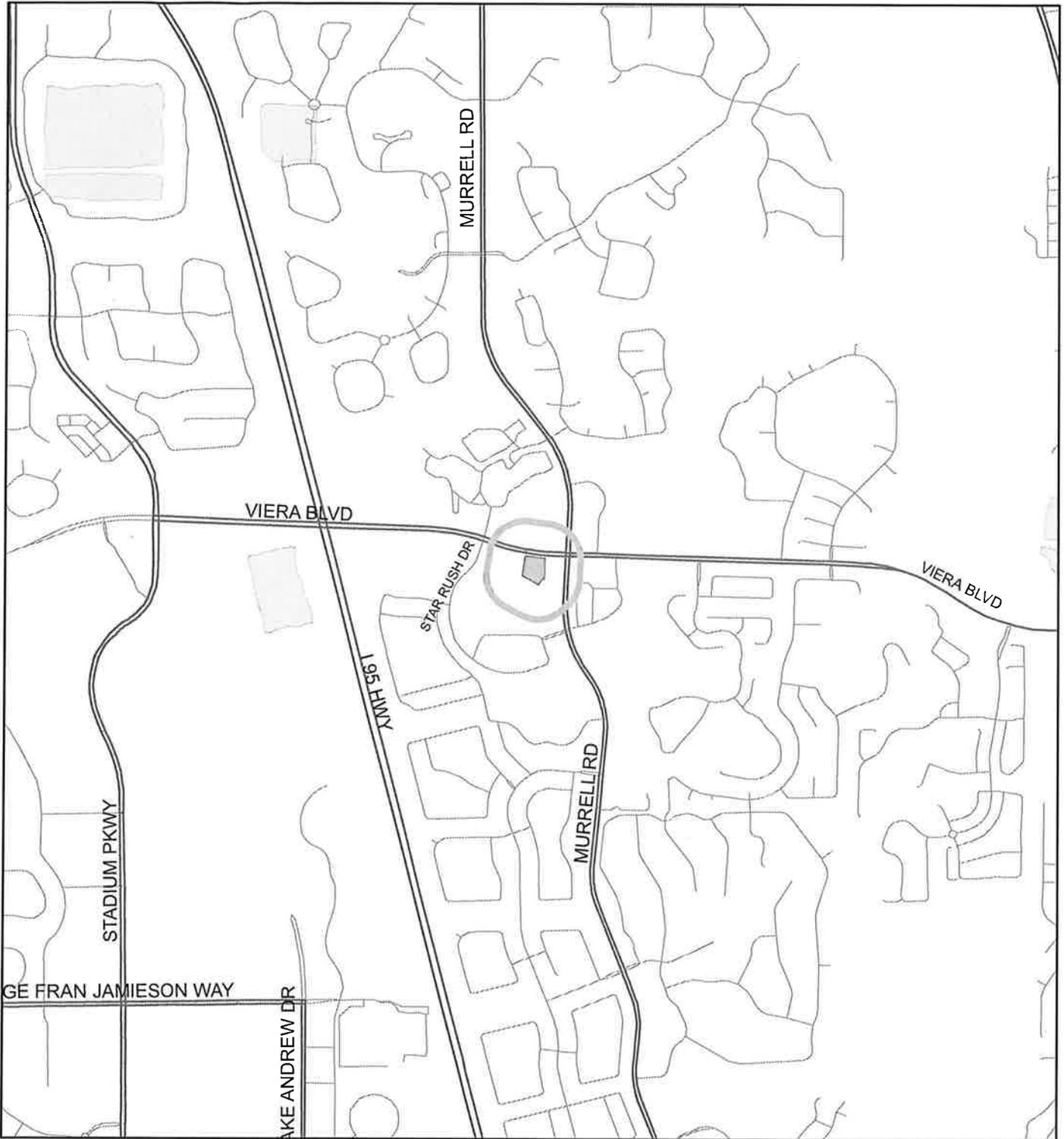
Legend

AQUIFER, HYDRIC

- None
- Hydric
- Aquifer
- Aquifer/Hydric

Soil Classification
18PZ00031

LOCATION MAP
SCHACHT FAMILY HOLDING COMPANY, LLC
18PZ00031



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

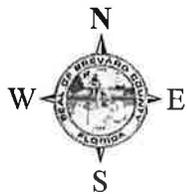
Buffer Distance: 500 feet

- Buffer
- Subject Property

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 MAP

SCHACHT FAMILY HOLDING COMPANY, LLC
18PZ00031



1:4,800 or 1 inch = 400 feet

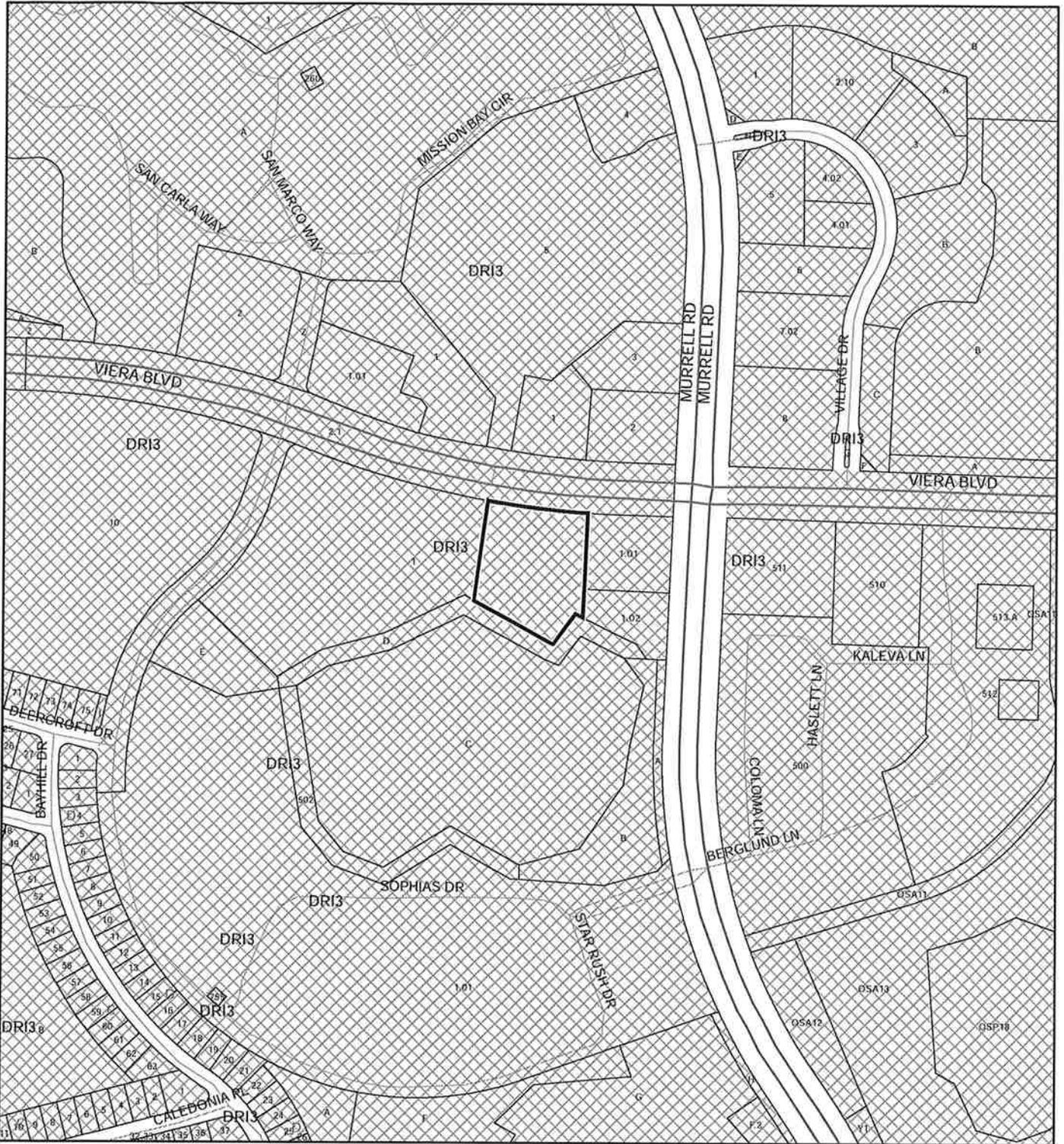
-  Subject Property
-  Parcels
-  Zoning

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FUTURE LAND USE MAP

SCHACHT FAMILY HOLDING COMPANY, LLC

18PZ0031



1:4,800 or 1 inch = 400 feet

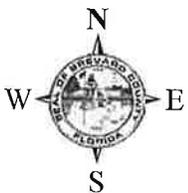
-  Subject Property
-  Parcels

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AERIAL MAP

SCHACHT FAMILY HOLDING COMPANY, LLC

18PZ00031



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2017

— 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 the Brevard County Planning and Zoning Office - GIS Section Date: 3/16/2018

View looking south from Viera Blvd



View looking southeast from Viera Blvd

