



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

4/3/2025

Subject:

The Lila Songer Trust (Thomas Songer) request a change in zoning classification from AU and RRMH-1 to RRMH-1. (24Z00070) (Tax Account 3037863 and a portion of 2002415) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) and RRMH-1 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential Mobile Home).

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from AU and RRMH-1 to all RRMH-1 on a vacant lot for the placement of a mobile home. The subject property encompasses 1.13 acres of which 0.13 acres is the flag stem portion. The proposed flag lot meets the criteria outlined in Section 62-102. - Criteria for issuance of a residential building permit for lots accessing public roads through flag stems. If the proposed rezoning and FLU Amendment are approved, the applicant must apply for Administrative Approval for the flag lot per section 62-102(b).

The flag portion of the subject property was subdivided from the parent parcel, without the flag stem, on October 24, 2024, per Official Records Book (ORB) 10184, Page 2030.

The current AU lot standard for minimum lot area is 2.5 acres. The proposed RRMH-1 minimum lot area standard is 1.0 acres.

The AU zoned portion, 0.6 acres, is the original zoning for the proposed parcel. The RRMH-1 zoned portion, 0.4 acres, was rezoned from AU to RRMH-1 per zoning action Z-6699 on May 10, 1984.

A companion application, 24SS00020, if approved, would amend the FLU designation from Agricultural (AGRIC) to Residential 1 (RES 1). The requested RES 1 FLUM designation establishes low density residential development with a maximum density of up to one (1) unit per 1 acre. The subject flag parcel has access to Harrison Road, a county-maintained roadway.

North and east of the subject property, is a 7.54-acre parcel zoned AU. It is developed with a single-family

home. South of the subject property, across Harrison Road, is a 3.65-acre parcel zoned RRMH-1. It is developed with a single-family home. West of the subject property is a vacant 4.82-acre parcel zoned GU (General Use).

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

On March 17, 2025, the Planning and Zoning board heard the request and voted 7 to 3 to recommend approval.

Clerk to the Board Instructions:

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

Resolution 24Z00070

On motion by Commissioner Adkinson, seconded by Commissioner Goodson, the following resolution was adopted by a 4:1 vote:

WHEREAS, The Lila Songer Trust request a change in zoning classification from AU (Agricultural Residential) and RRMH-1 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential Mobile Home), on property described as a portion of Tax Parcel 5, as recorded in ORB 10074, Pages 1006- 1009, of the Public Records of Brevard County, Florida; and Tax Parcel 5.02, as recorded in ORB 10184, Pages 2030-2032, of the Public Records of Brevard County, Florida. Being more particularly described as follows: the north 207.50 feet of the south 416.57 feet of the west 210.00 ft. (all as measured along the tract lines) of tract 5, block 4, section 23, Indian River Park, as recorded in plat book 2, page 33, public records of Brevard County, Florida; Together with: (flag stem parcel) the east 25.00 ft. of the south 233.57 ft. of the west 235.00 ft. (all as measured along the tract lines) of tract 5, block 4, section 23, Indian River Park, as recorded in plat book 2, page 33, public records of Brevard County, Florida. **Section 23, Township 20, Range 34.** (1.13 acres) Located on the north side of Harrison Rd. and approx. 0.45 mi west of Hog Valley Rd. (No assigned address. In the Mims area); and

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU and RRMH-1 to RRMH-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 April 03, 2025.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Rob Feltner, Chair
Brevard County Commission
As approved by the Board on April 03, 2025.

ATTEST: 

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 17, 2025

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if

a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, 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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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00070

Lila Songer Trust and Thomas Songer

AU (Agricultural Residential) and RRMH-1 (Rural Residential Mobile Home) to RRMH-1

Tax Account Number's: 3037863 and a portion of 2002415.
 Parcel I.D: 20G-34-23-AI-4-5.02 and a portion of 20G-34-23-AI-4-5
 Location: North side of Harrison Road, 2,396 feet west of Hog Valley Road (District 1)
 Acreage: 1.13 acres
 Planning & Zoning Board: 03/17/2025
 Board of County Commissioners: 04/03/2025

Consistency with Land Use Regulations

- Current zoning cannot be considered under the current Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the proposed Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	AU & RRMH-1	RRMH-1
Potential*	0 Single-family home	1 Single-family home
Can be Considered under the Future Land Use Map	NO AGRIC	YES RES 1**

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

** Pending approval of companion request **24SS00020** which proposes to amend the Future Land Use (FLU) designation from Agricultural (AGRIC) to Residential 1 (RES 1).

Background and Purpose of Request

The applicant is requesting to change the zoning classification from AU (Agricultural Residential) and RRMH-1 (Rural Residential Mobile Home) to all RRMH-1 on a vacant lot for the placement of a mobile home. The subject property encompasses 1.13 acres of which 0.13 acres is the flag stem portion. The proposed flag lot meets the criteria outlined

in Section 62-102. – Criteria for issuance of a residential building permit for lots accessing public roads through flag stems. If the proposed rezoning and FLU Amendment are approved, the applicant must apply for Administrative Approval for the flag lot per section 62-102(b).

The flag portion of the subject property was subdivided from the parent parcel, without the flag stem, on October 24, 2024, per Official Records Book (ORB) 10184, Page 2030.

The current AU lot standard for minimum lot area is 2.5 acres. The proposed RRMH-1 minimum lot area standard is 1.0 acres.

The AU zoned portion, 0.6 acres, is the original zoning for the proposed parcel. The RRMH-1 zoned portion, 0.4 acres, was rezoned from AU to RRMH-1 per zoning action **Z-6699** on May 10, 1984.

A companion application, **24SS00020**, if approved, would amend the FLU designation from Agricultural (AGRIC) to Residential 1 (RES 1). The requested RES 1 FLUM designation establishes low density residential development with a maximum density of up to one (1) unit per 1 acre.

The subject flag parcel has access to Harrison Road, a county-maintained roadway.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family residence	AU	AGRIC
South	Single-family residence	RRMH-1 & AU	AGRIC
East	Single-family residence	AU	AGRIC
West	Vacant	GU	AGRIC

North and east of the subject property, is a 7.54 acre parcel zoned AU. It is developed with a single-family home.

South of the subject property, across Harrison Road, is a 3.65 acre parcel zoned RRMH-1. It is developed with a single-family home.

West of the subject property is a vacant 4.82 acre parcel zoned GU (General Use).

The current AU classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square

feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The proposed RRMH-1 classification encompasses lands devoted to single-family mobile home development of spacious character, together with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permit agricultural uses which are conducted in such a way as to minimize possible incompatibility to residential development. RRMH-1 permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

The GU classification is a holding category, that encompasses rural single-family residential development or unimproved lands for which there is no definite current proposal for development or land in areas lacking specific development trends on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

Future Land Use

The proposed parcel is currently designated as Agricultural (AGRIC) on the Future Land Use Map (FLUM). The current AU zoning and RRMH-1 zoning are considered inconsistent with the existing AGRIC FLUM designation. The proposed RRMH-1 zoning classification can be considered consistent with the proposed RES 1 FLUM designation.

Applicable Land Use Policies

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 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 request is not anticipated to 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;

Since the adoption of the FLUM in 1988, many properties have retained agricultural land use designations. Staff analysis indicates there has been a pattern of single family residential platted development before the adoption of the Comprehensive Plan in 1988.

This area was originally platted in 1914 as 10-acre tracts that have been further divided to mostly 1.2-acre or larger parcels prior to 1988. A number of these non-conforming lots of record in the area have been developed as residential.

This request represents a two-step increase in density if approved along with the companion FLU amendment application. The closest parcel with RES 1 FLU in the immediate area is located on the south side of Harrison Road approximately less than 0.25 miles to the west of the proposed parcel. On May 26, 2016, this 1.23 acre parcel's FLU was change from AGRIC to RES 1, per zoning action 16PZ00028 and was rezoned from Rural Residential (RR-1) to RRMH-1 on November 05, 2020, per zoning action 20Z00020.

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 development approved but not yet constructed within this area in the preceding three (3) years. However, there has been one recent zoning action:

- **23Z00052: 3,280 feet (0.62 miles) northwest of the subject property located on the east side D. Johnson Avenue, on 09/07/2023, approved rezoning from GU to RRMH-1 and the FLU was changed from AGRIC to RES 1 per Ordinance No. 23-23.**

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 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 surrounding area is agricultural with single-family homes and residential on large lots approximately one acre or greater in size. There are existing RRMH-1 zoning to the east, west, and south of the subject parcel (across Harrison Road) that were split out before the adoption of the Comprehensive Plan.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding neighborhood.

This request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- 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.

The property is located in an existing residential area. There are clearly established roads and residential lot boundaries. Part of Track 5, Block 4, Indian River Park, Plat Book 2, Page 33.

- 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 proposed use is not a commercial 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.

The area is primarily single-family residential with no commercial zoning nearby.

Analysis of Administration Policy 7

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

The applicant has provided a survey of the proposed flag lot parcel, which indicates wetland area on the westerly portion of the proposed parcel. NRM notes that a current wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

See Natural Resources Management comments.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US-1, from Burkholm Road to the Volusia County, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 09.27% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 09.30% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

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 is not within any public potable water or available sewer lines. The proposed mobile home will be serviced by well for potable water and septic.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00070

Applicant: Thomas Songer (Owner: Lila Songer Trust)

Zoning Request: AU and RRMH-1 to all RRMH-1

Note: to put mobile home on property on 1.13 ac (flag lot Z4965)

Zoning Hearing: 03/17/2025; **BCC Hearing:** 04/03/2025

Tax ID No.(s): 3037863 (1 ac) and 2002415 (0.13 ac portion of 7.54 ac for flag stem access)

- 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:

- Wetlands and Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements

Land Use Comments:

Wetlands and Hydric Soils

The subject parcel contains mapped St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (EauGallie sand; and Samsula muck, frequently ponded, 0 to 1 percent slopes); indicators that wetlands may be present on the property. A wetland delineation was depicted on a survey. The applicant proposes no wetland impact. **Note that a current wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The 1-acre parcel (tax account #3037863) was established after September 1988. Therefore, this density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6). Additionally, the creation of the “flag stem parcel” will modify the configuration of tax account #2002415,

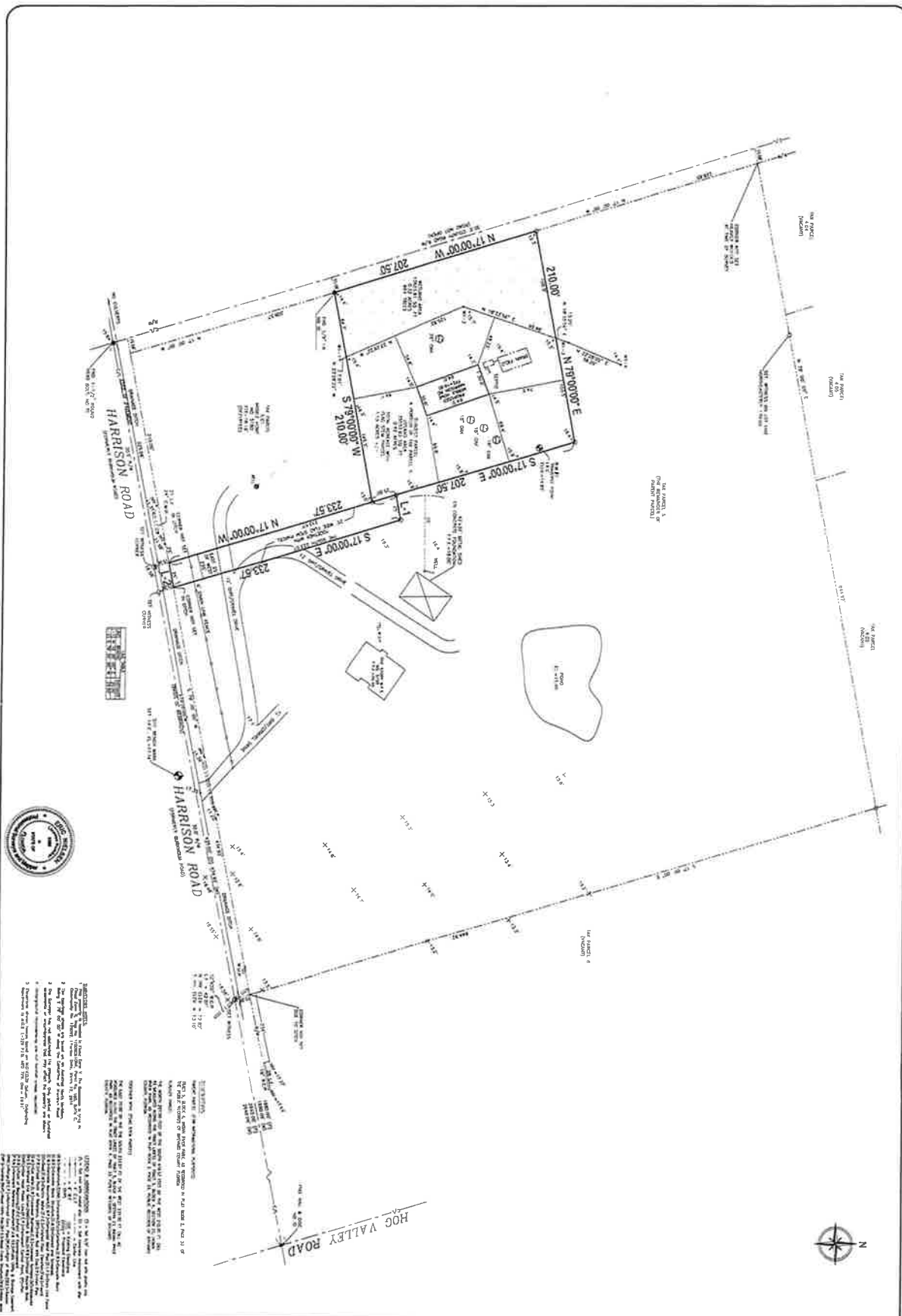
resulting in the same application of Section 62-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The floodplain appears to be Isolated, however, it is possible it is Riverine. The survey provided by the applicant depicts the proposed development outside of the floodplain. Should the applicant be unable to avoid fill in the floodplain, the parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**



NOTICE TO CONTRACTORS: This map was prepared by Eric Nielsen, a Licensed Professional Surveyor in the State of Florida, No. 12456, on the basis of a field survey conducted on 12/11/2024. The map shows the boundaries of the property and any easements or encroachments. It is intended for use as a guide in the construction of the improvements shown. The contractor is responsible for verifying the accuracy of the map and for obtaining all necessary permits and approvals. The surveyor is not responsible for any errors or omissions in the map or for any damage to the property or any other loss resulting from the use of the map.

NOTICE TO BUYERS: This map was prepared by Eric Nielsen, a Licensed Professional Surveyor in the State of Florida, No. 12456, on the basis of a field survey conducted on 12/11/2024. The map shows the boundaries of the property and any easements or encroachments. It is intended for use as a guide in the purchase of the property. The buyer is responsible for verifying the accuracy of the map and for obtaining all necessary permits and approvals. The surveyor is not responsible for any errors or omissions in the map or for any damage to the property or any other loss resulting from the use of the map.

MAP OF BOUNDARY SURVEY

PREPARED FOR: [Blank]

DATE: 12/11/2024

BY: Eric Nielsen

6150 HARRISON ROAD, WYLLA, FL 32794

PREPARED BY:

Eric Nielsen Land Surveying, Inc.

12 STONE STREET, GOCOGA, FL 32922

PHONE: (877) 643-9844 FAX: (877) 643-9874

DATE	DESCRIPTION
12-11-2024	PREPARED
12-11-2024	FIELD SURVEY
12-11-2024	FINAL PLAN

Eric Nielsen

Digitally signed by Eric Nielsen

Date: 2024.12.11 12:46:57 -0500

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PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 17, 2025**, 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 Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Logan Luse (D4); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Melissa Jackson (D5); and Greg Nicklas (D3).

Staff members present were Trina Gilliam, Interim Zoning Manager; Paul Body, Planner; Jane Hart, Environmental Specialist (Natural Resources Management); Alex Esseesse, Deputy County Attorney; and Alice Randall, Operations Support Specialist.

Excerpt of complete agenda

H.3. The Lila Songer Trust (Thomas Songer) request a Small-Scale Comprehensive Plan Amendment (24S.20), to change the Future Land Use Designation from Agric to RES 1. (24SS00020) (Tax Account 3037863 and a portion of 2002415) (District 1)

H.4. The Lila Songer Trust (Thomas Songer) request a change in zoning classification from AU and RRMH-1 to RRMH-1. (24Z00070) (Tax Account 3037863 and a portion of 2002415) (District 1)

Trina Gilliam read companion Items H.3. and H.4. into the record.

Thomas Songer spoke to the application and Tony Cook introduced himself as representing the Lila Songer Trust. He presented staff with the Authorization to Act form.

Mr. Songer stated he would like to move a mobile home adjacent to his mom's property, and live next to her.

There was no public comment.

Ruth Amato inquired if the location was in the Mims small area study.

Ms. Gilliam responded she was not quite sure if it is. She does see that it's noted in the staff comments that it is, but that's something she could get back to her on.

Ms. Amato stated she was pretty sure that it is. And when the county does these studies are they in-depth studies and how they affect the future land use.

Ms. Gilliam stated she does know that some of the Mims small area study did have some changes that were made to some of the area, but it didn't affect the entirety of the Mims area.

Ms. Amato said, "I just want to make sure I'm right, I believe this was part of the Mims small area study and this area in particular was denoted and changed for the future land use maps to change it to agricultural and for it to stay agricultural."

Ms. Gilliam commented it is currently agricultural on the future land use. However, there is a RES-1 that is located southwest of the subject property.

Ms. Amato asked if the property was that way prior to the Mims small area study when the future land use changed or before 1988, when the Comp. Plan came into effect, or was it done and changed after.

Ms. Gilliam responded it was changed in 2016.

Ms. Amato then asked if we keep changing these to RES-1, changing the future land use, the next applicant comes in and asks for the same thing. Before long we don't have anymore agricultural future land use. Is that how that works.

Ms. Gilliam stated that the majority of this area is still zoned agricultural. I wouldn't categorize this as being a development trend at this time. I do see that with one RES-1 being in the area of course it could continue as a trend. But there's nothing to say that it will.

Ms. Amato commented this isn't specifically in a flood zone area because she knows that road right next to it goes under water with every hurricane.

Ms. Gilliam responded there are some wetlands on the property noted by Natural Resources. And the survey also denotes some wetland area, about 1/3 of the property has wetlands on it.

Mr. Wadsworth asked staff if the current zoning only allows one mobile home. So, they need to change the zoning to allow the second. So that's what's happening there.

Ms. Gilliam responded with yes.

Motion to recommend denial of Item H.3. by Ruth Amato, seconded by Greg Nicklas. The motion failed 3 to 7.

Motion to recommend approval of Item H.3. by John Hopengarten, seconded by Melissa Jackson. The motion passed 7 to 3.

Motion to recommend denial of Item H.4. by Ruth Amato, seconded by Jerrad Atkins. The motion failed 3 to 7.

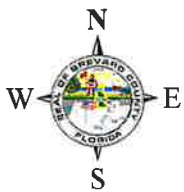
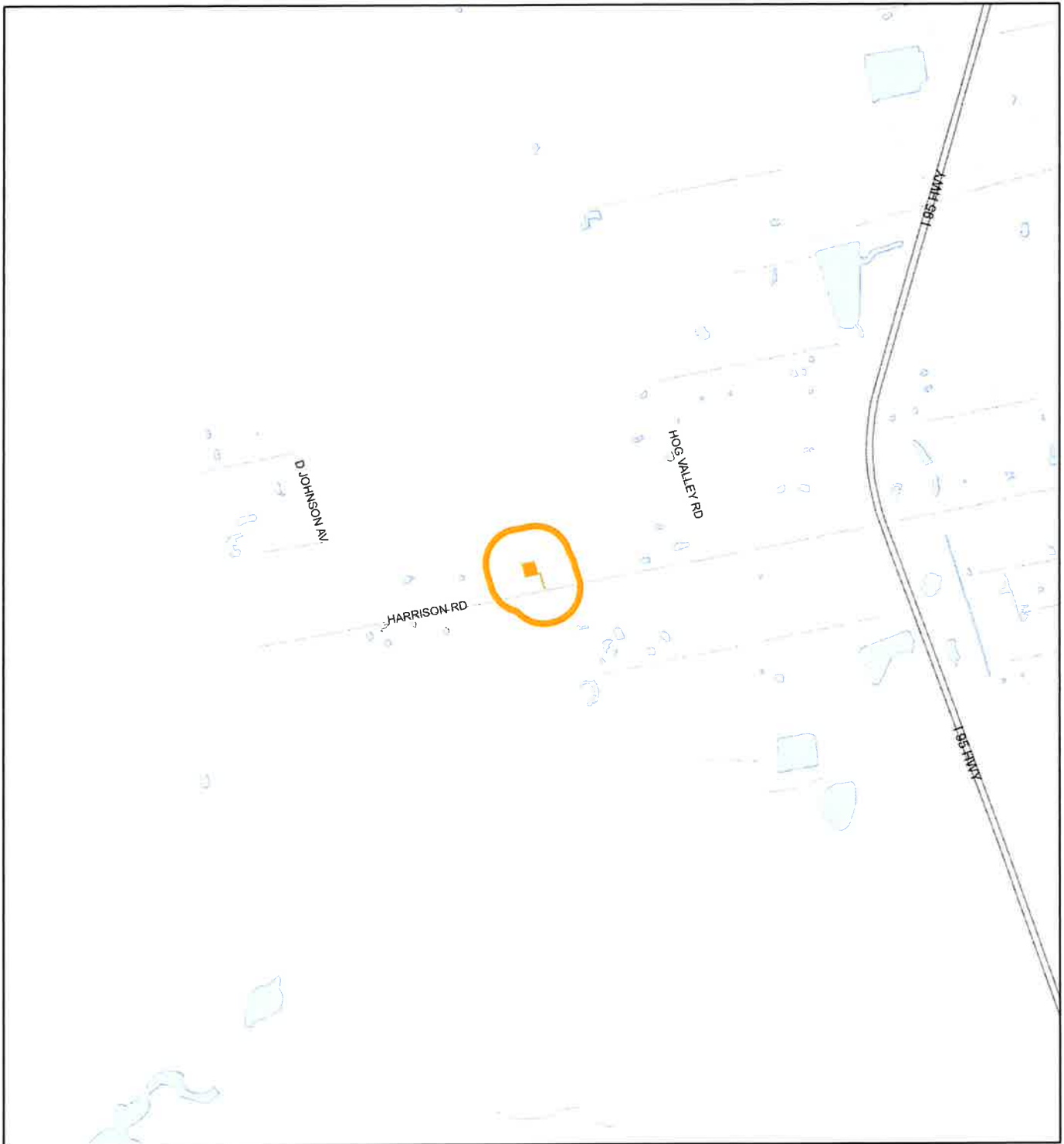
Motion to recommend approval of Item H.4. by John Hopengarten, seconded by Henry Minneboo. The motion passed 7 to 3.

The meeting was adjourned at 4:58 p.m.

LOCATION MAP

LILA SONGER TRUST

24Z00070





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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 12/13/2024

-  Buffer
-  Subject Property

ZONING MAP

LILA SONGER TRUST


24Z00070



1:4,800 or 1 inch = 400 feet

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 Subject Property

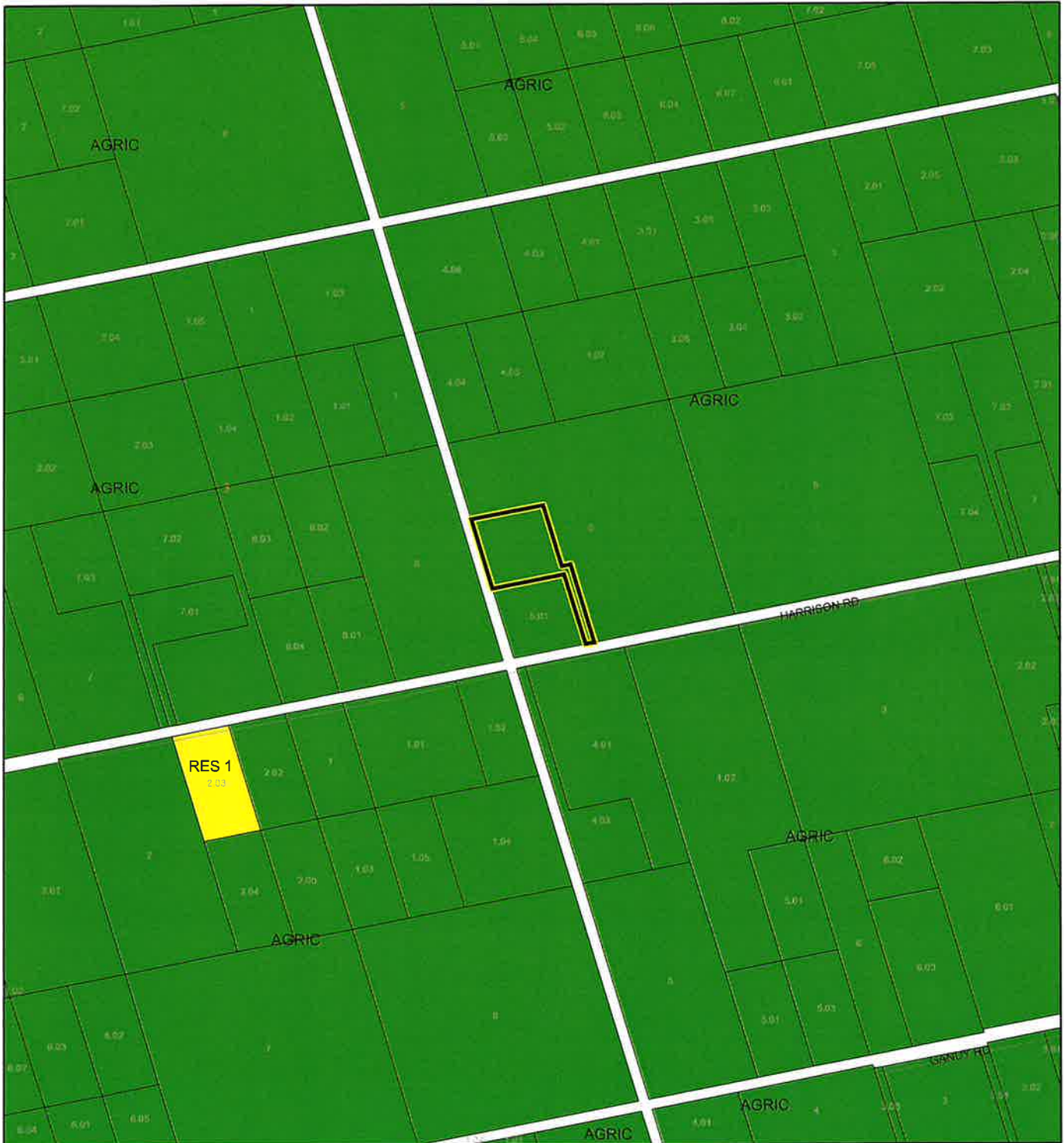
 Parcels

 Zoning



FUTURE LAND USE MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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AERIAL MAP

LILA SONGER TRUST

24Z00070



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

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Produced by BoCC - GIS Date: 12/13/2024

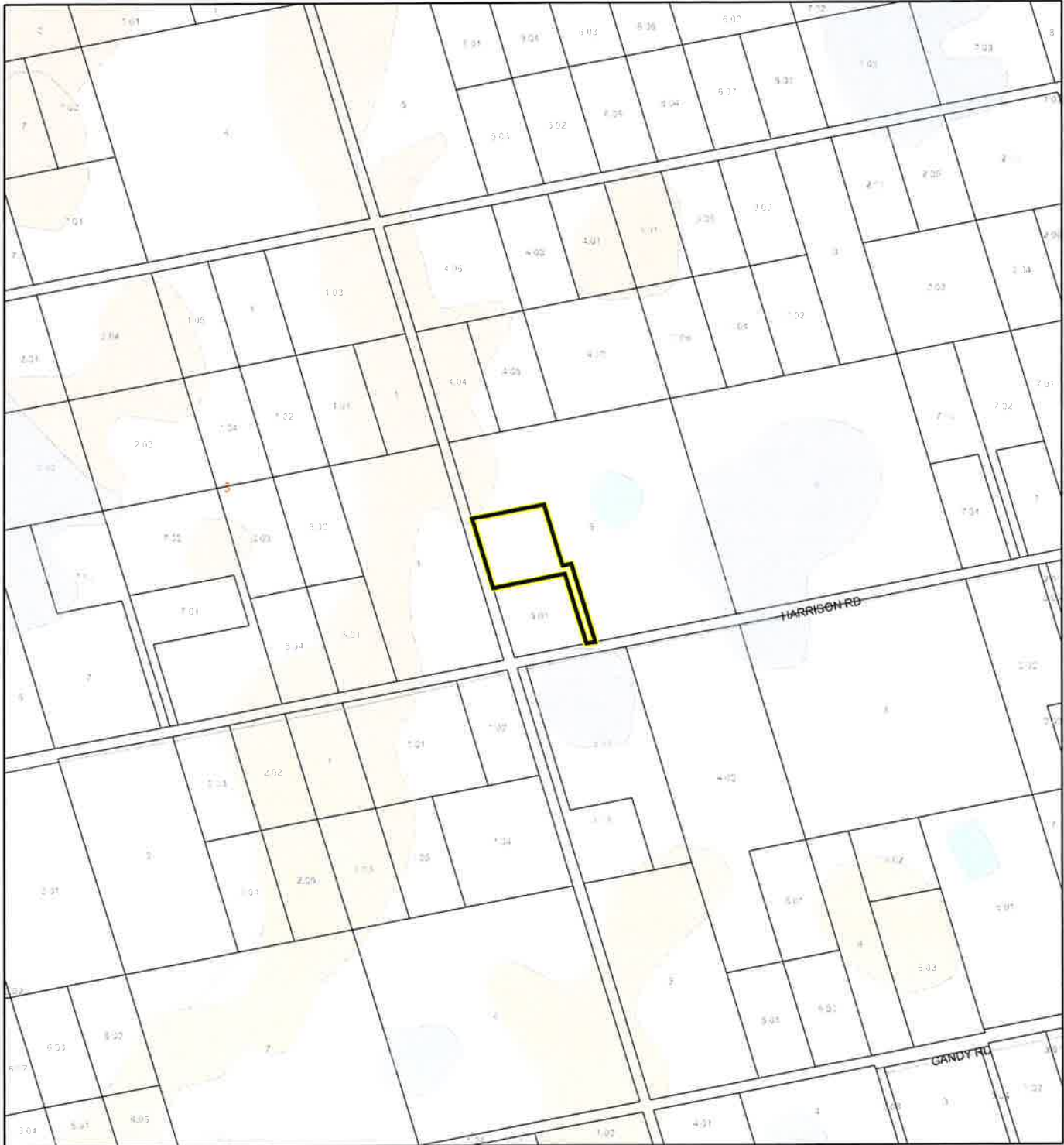
 Subject Property

 Parcels

NWI WETLANDS MAP

LILA SONGER TRUST

24Z00070





1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

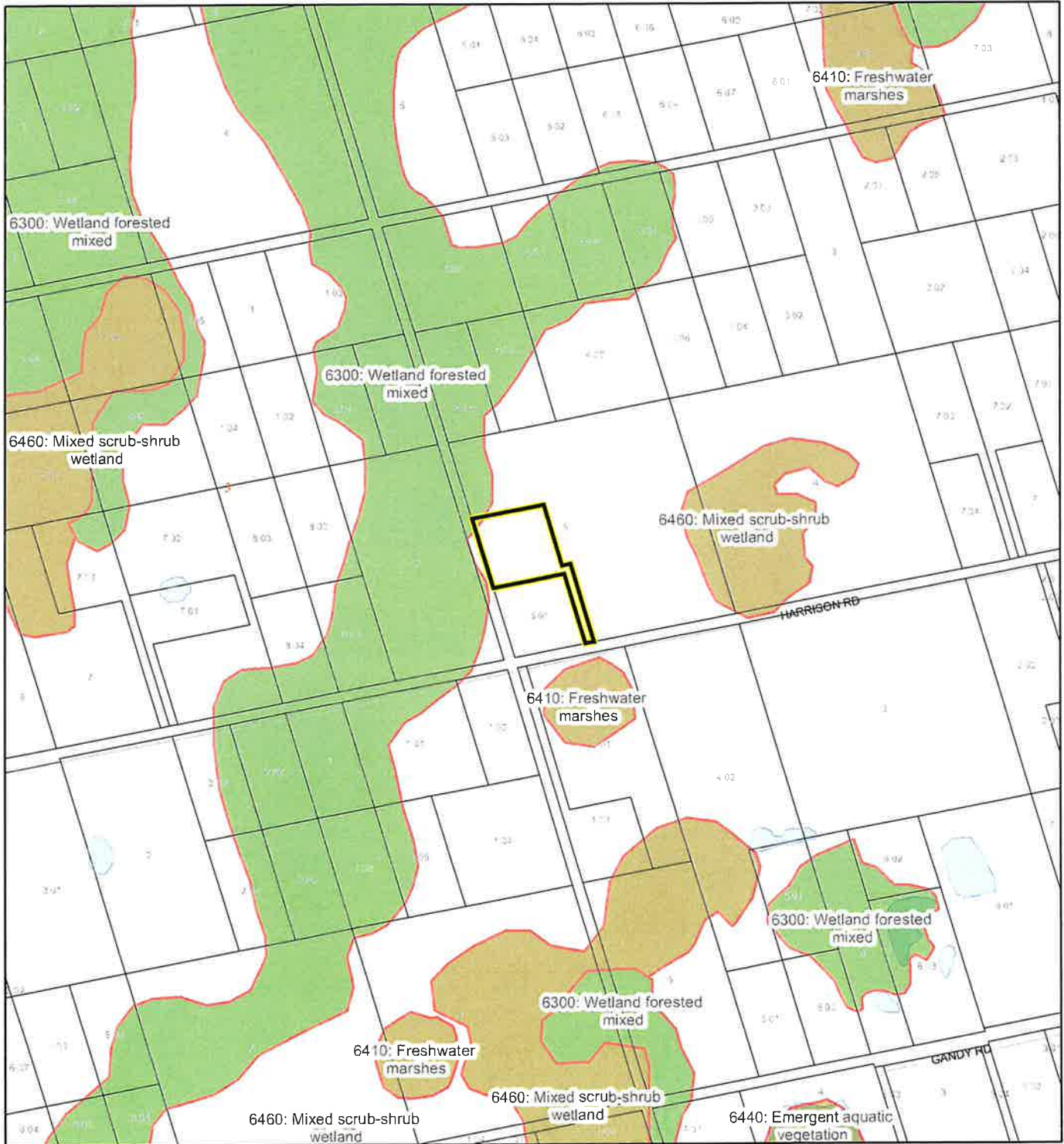
National Wetlands Inventory (NWI)

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

LILA SONGER TRUST

24Z00070



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

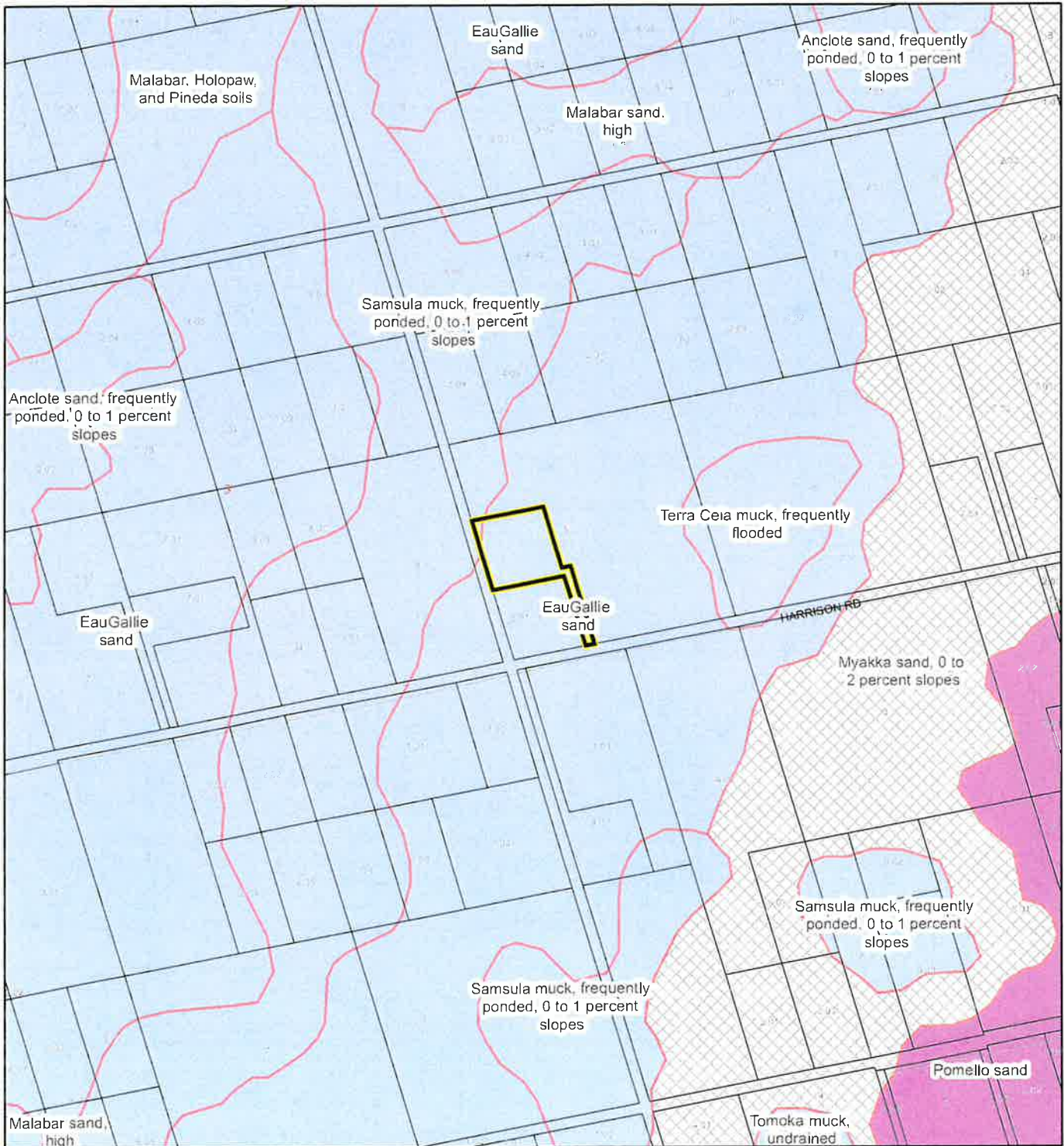
Subject Property

Parcels

USDA SCSSS SOILS MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

USDA SCSSS Soils

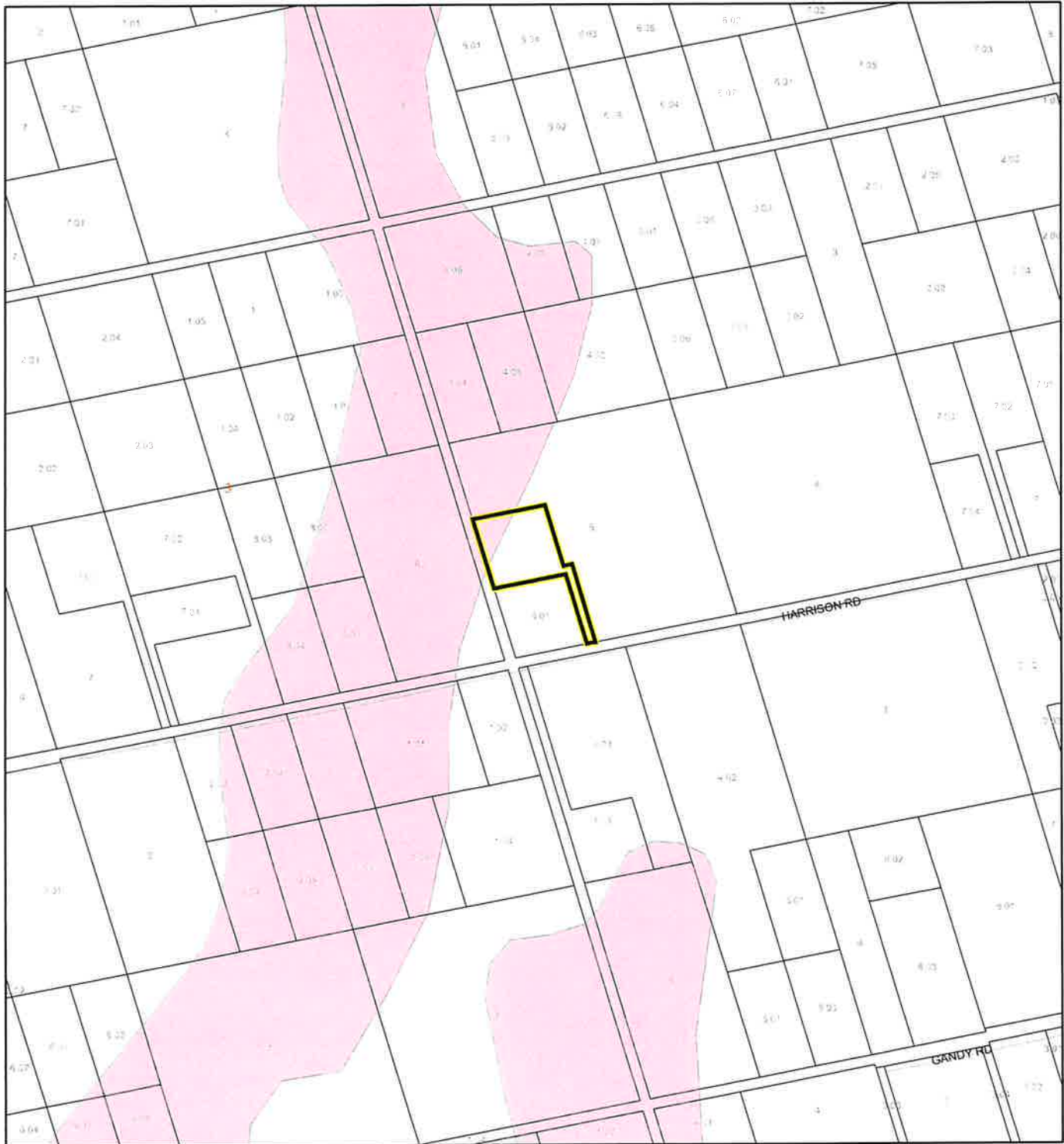
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

FEMA Flood Zones

- | | | |
|------------------|------------|---|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 12/13/2024

 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

LILA SONGER TRUST




24Z00070



1:4,800 or 1 inch = 400 feet

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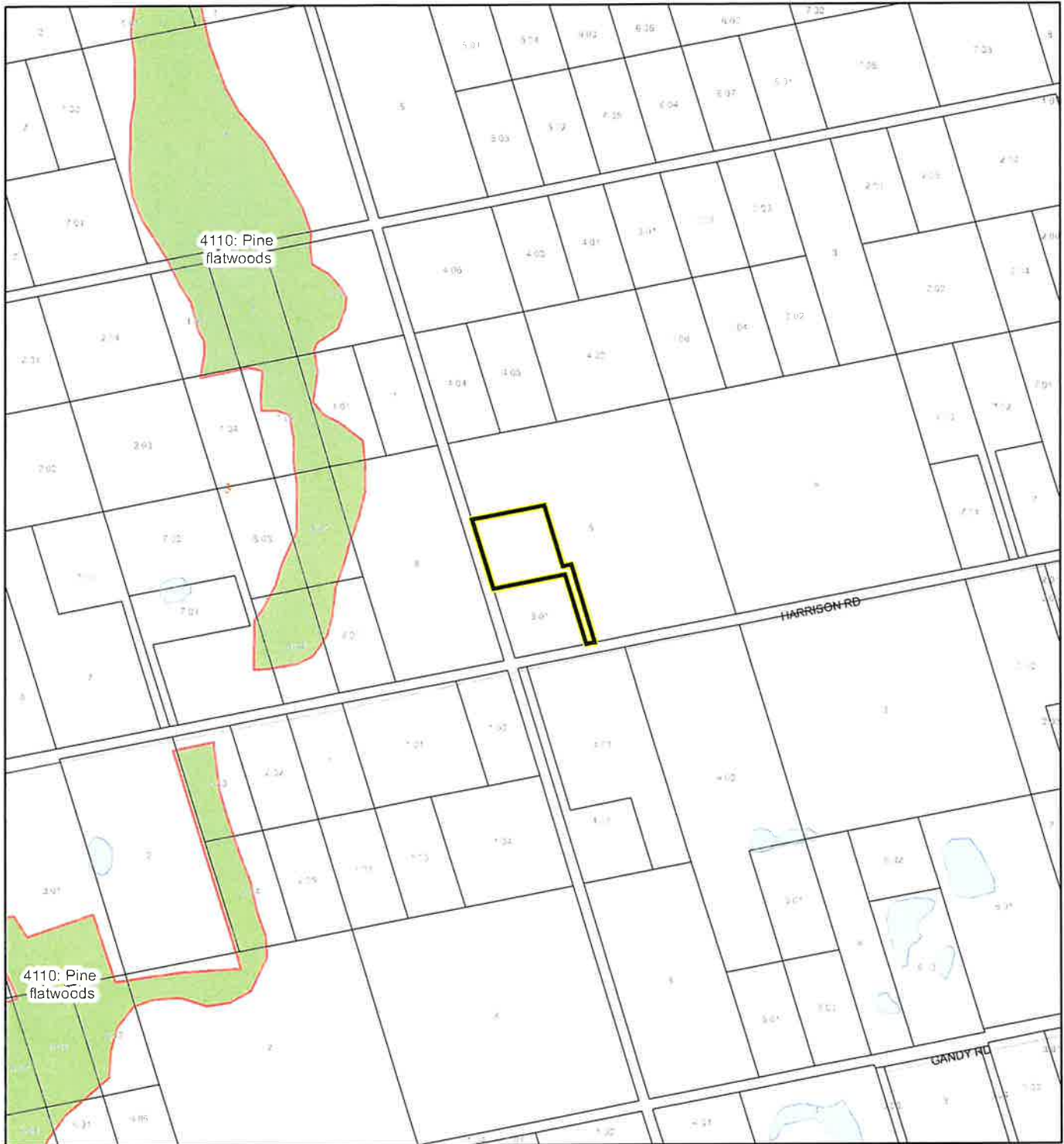
Produced by BoCC - GIS Date: 12/13/2024

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LILA SONGER TRUST

24Z00070



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2024

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

Board Meeting Date

4-3-25

Item Number: H. 8.

Motion By: KA

Second By: TG

Nay By: _____

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1		✓
Vice Chair Goodson	2	✓	
Commissioner Adkinson	3	✓	
Commissioner Altman	5	✓	
Chairman Feltner	4	✓	