



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

4/6/2023

Subject:

Chelsey L. Cobb requests a change of zoning classification from RR-1 to AU. (23Z00004) (Tax Account 2405118) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicant is requesting to rezone the property from RR-1 to AU. The applicant also proposes to use the property for a small nursery, raise chickens, and small livestock, as well as make the property more sustainable and self-sufficient. The applicant currently has a cow and bull on the property. Code Enforcement case 22CE-00499, related to a pole-barn being constructed without a permit.

The AU zoning classification permits single-family residential and agricultural uses on 2.5-acre lots, with a minimum lot width and depth of 150 feet, and a minimum living area of 750 square feet. The AU classification permits the raising/grazing of animals and plant nurseries. AU(L) prohibits the commercial aspects of the agricultural uses and would not allow a nursery.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether there are potential effects of Agritourism activities on the surrounding area.

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval to the AU(L) (Agricultural Residential, Low Intensity) zoning classification.

Clerk to the Board Instructions:

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

Resolution 23Z00004

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

WHEREAS, Chelsey L. Cobb has requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 271, as recorded in ORB 9283, Pages 2274 - 2275, of the Public Records of Brevard County, Florida. **Section 14, Township 24, Range 35.** (3.09 acres) Located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa); 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 as AU(L) (Agricultural Residential, Low-Intensity); 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 RR-1 to AU(L) 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 6, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on April 6, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 13, 2023

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

23Z00004

Chelsey L. Cobb

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

Tax Account Number: 2405118
Parcel I.D.: 24-35-14-00-271
Location: 4475 James Rd., Cocoa, FL 32926 (District 1)
Acreage: 3.09 acres

Planning & Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

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	RR-1	AU
Potential*	3 SFR	1 SF unit
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 applicant is requesting to rezone the property from RR-1 (Rural Residential) to AU (Agricultural Residential) to seek compliance with Code Enforcement case, 22CE-00499, related to a pole-barn being constructed without a permit. The applicant also proposes to use the property for a small nursery and be able to raise their children with animals, chickens, small livestock as well as make the property more sustainable and self-sufficient. The applicant currently has a cow and bull on the property.

The subject parcel was recorded into the Official Record Book 1918, page 67, in June 1978. Parcel was rezoned from GU (General Use) to RR-1 (Rural Residential) per Zoning Resolution, **Z-2219**, on February 29, 1968.

The existing single-family residence was built in 1991. The parcel size meets both RR-1 and AU minimum lot size and dimensions measuring 154-feet wide by 883-feet deep.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed AU zoning is consistent with the existing RES 1 FLU designation.

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.

The applicant's request can be considered consistent with the existing Future Land Use.

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;

There is an existing pattern of residential land uses surrounding the subject parcel. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established neighborhood. There is a mixture of AU and RR-1 zoning classifications in the general area.

The proposed use(s) would not have any different hours of operation, lighting, odor, noise levels, traffic or site activity than that which the applicant is currently conducting.

- 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.

Only a certified MAI (Master Appraisers Institute) 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 two (2) FLU designations (RES 1 and RES 3 Dir) within 500-feet of this site. There have been no FLU changes within 500-feet. Property sizes in the immediate area range from 1.0-acre to 9.62-acres. The surrounding area is developed as single-family residential homes.

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 have been three (3) zoning changes approved within 0.5-miles over the preceding three (3) years:

21Z00039 was a zoning change established April 21, 2022 from RR-1 to AU(L) (Agricultural Residential-Low Intensity) with a BDP (Binding Development Plan) to restrict agritourism.

22Z00032 was a zoning change from RR-1 to AU with a resolution date of August 31, 2022.

22Z00036 was a zoning change from RR-1 to AU with a resolution date of October 6, 2022.

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

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

1. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family home. To the north are two parcels, 1.0-acre SFR zoned RR-1 and the other, a 3.39-acre parcel with a SFR zoned AU. To the south is one (1) 8.88-acre parcel developed as a SFR with AU zoning. To the east is a SFR 3.06-acre parcel with RR-1 zoning. To the west is one (1) SFR on 3.09-acres zoned RR-1.
2. The proposed AU zoning could be considered to be consistent with RES 1 as AU has a minimum required lot area of 2.5-acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential development of spacious character.
3. The Board may consider a lower intensity zoning classification such as AU(L), with agriculture activity on a non-commercial level. It is a lower intensity sub-classification of AU. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities. Should the Board consider AU(L) zoning be a more

appropriate zoning classification in order to protect the existing residential character of the neighborhood.

4. Florida Statute 570.86 defines “agritourism activity” as “any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions.” Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land. Within a 500-foot radius there are no parcels that have an Agricultural exemption. Both of the AU zoned parcels have a Homestead First and Homestead Additional 2022 exemption.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	RR-1 & AU	RES 1
South	Single-family	AU	RES 1
East	Single-family	AU	RES 1
West	Single-family	RR-1	RES 1

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 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 permits the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

The AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use but mitigates commercial agricultural activities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cox Rd., between SR 524 to James Rd., which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 14.32% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by -0.11%. The corridor is anticipated to operate at 14.21% 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 closest City of Cocoa utilities service area for potable water is 1.4 miles away at the intersection of SR 524 and Cox Rd. The subject property is developed and has current water service. The developed subject property has City of Cocoa sewer.

Environmental Constraints

- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential of Agritourism activities adversely affect the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00004

Applicant: Chelsea Lyn Cobb

Zoning Request: RR-1 to AU

Note: Need AU zoning for existing business.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2405118

- 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:

- Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall

include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Basinger sand and Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map. This is an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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 site plan design or permit submittal.

Aquifer Recharge Soils

Basinger sand and Valkaria sand may also function as an aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Information available to NRM indicates that unpermitted land clearing activities may have occurred in the Surface Water Protection Buffer. The discovery of unpermitted land clearing activities may result in code enforcement action.

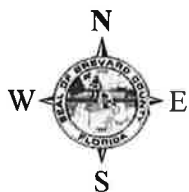
Protected Species

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.

LOCATION MAP

CHELSEY LYN COBB

23Z00004



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.

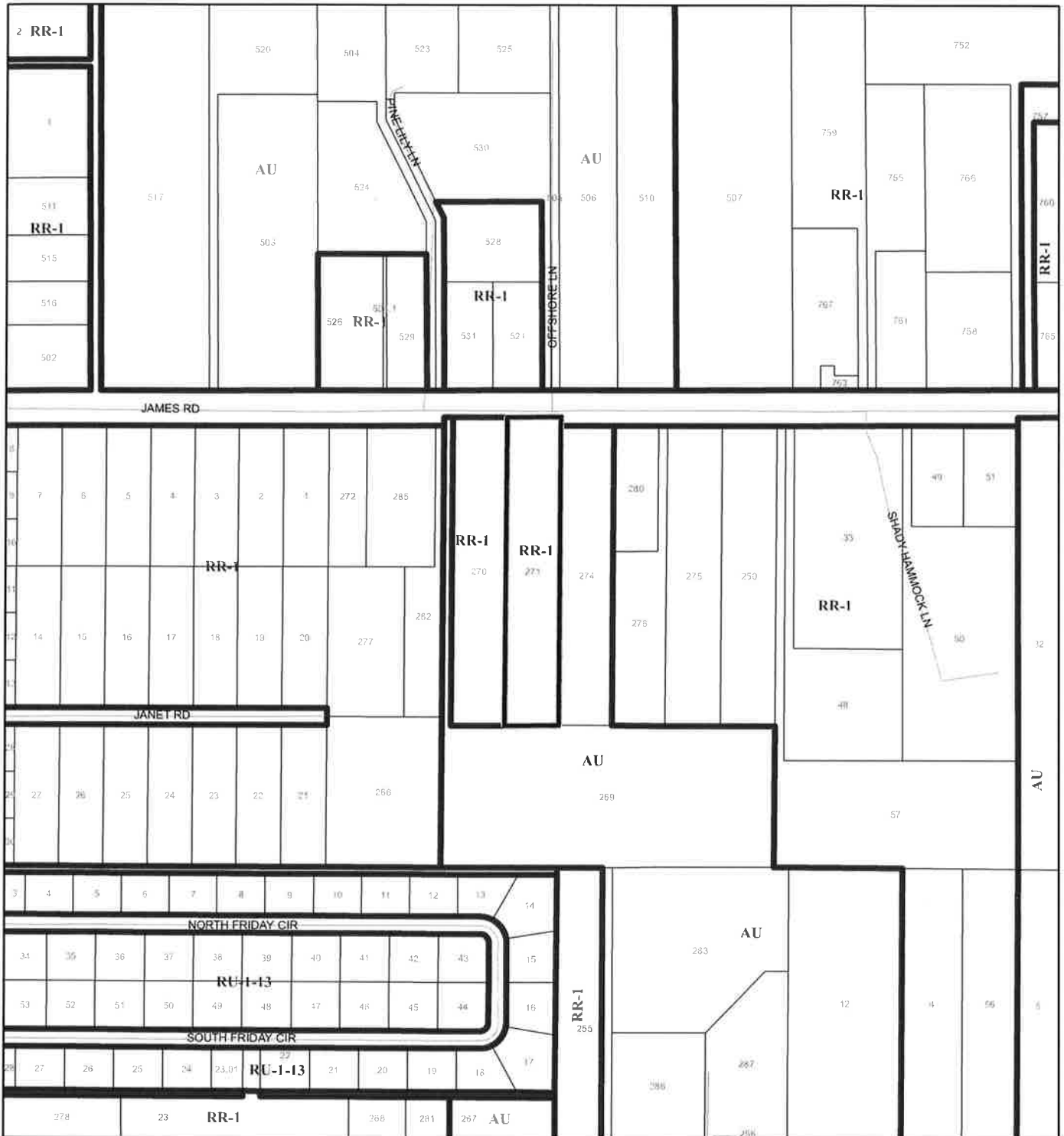
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— Buffer
■ Subject Property

ZONING MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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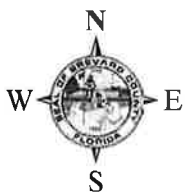
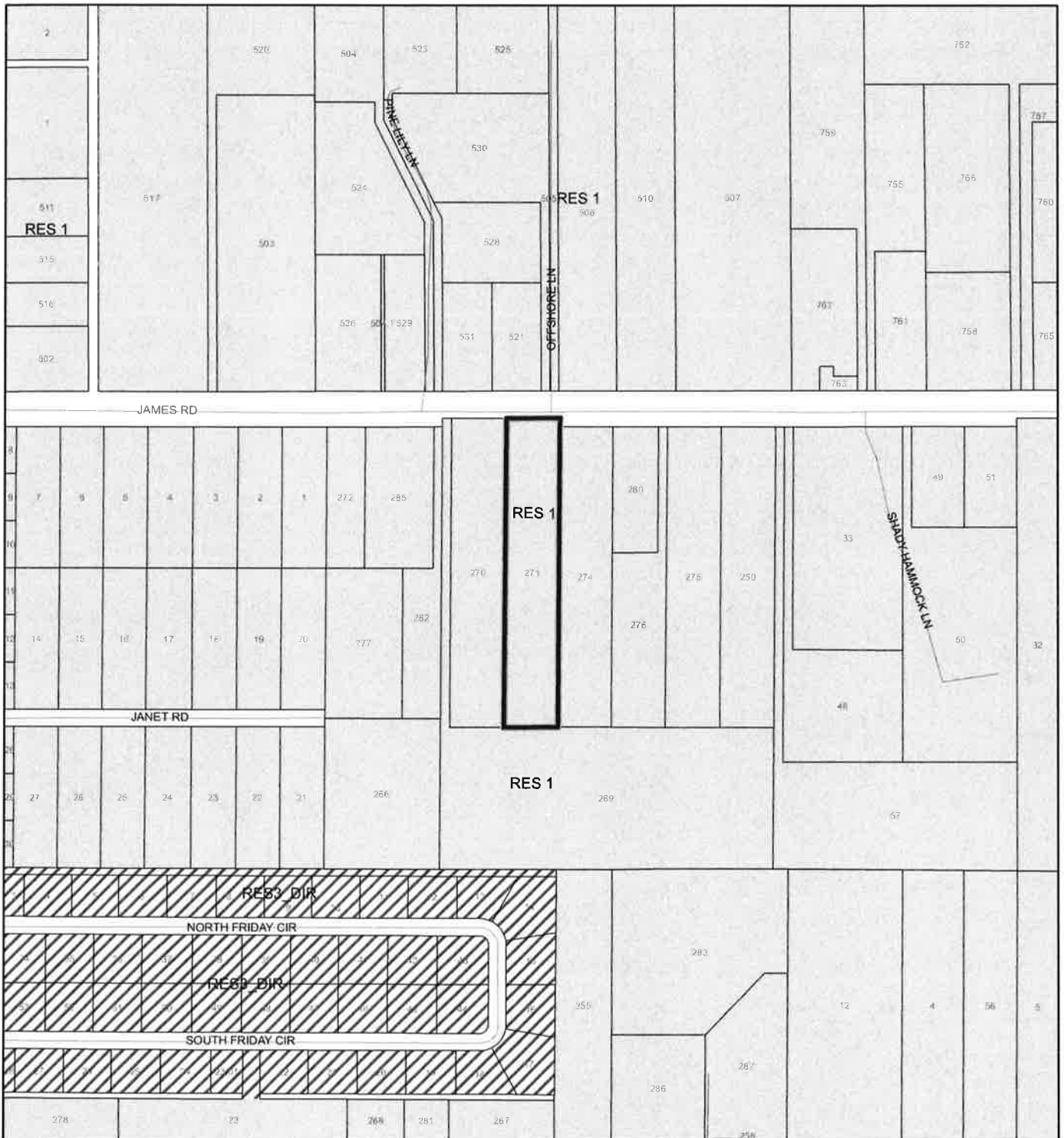
Produced by BoCC - GIS Date: 1/11/2023

- Subject Property
- Parcels
- Zoning



FUTURE LAND USE MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

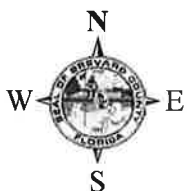
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AERIAL MAP

CHELSEY LYN COBB

23Z00004





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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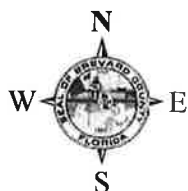
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-  Subject Property
-  Parcels

NWI WETLANDS MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

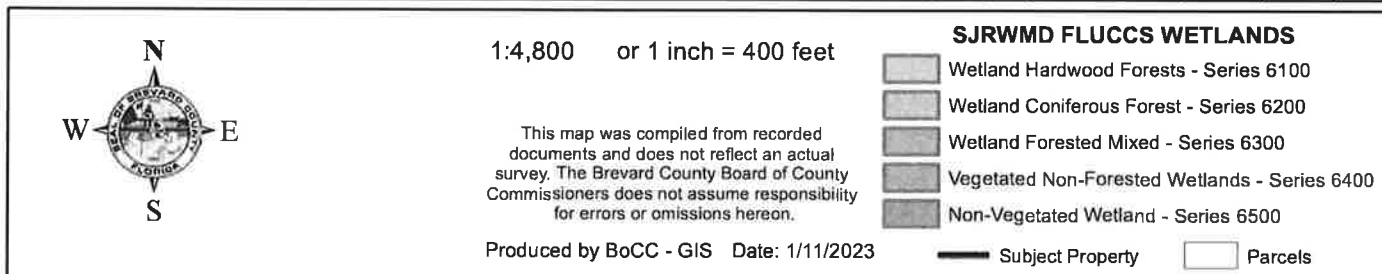
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National Wetlands Inventory (NWI)

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

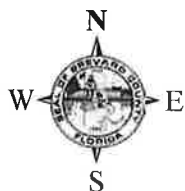
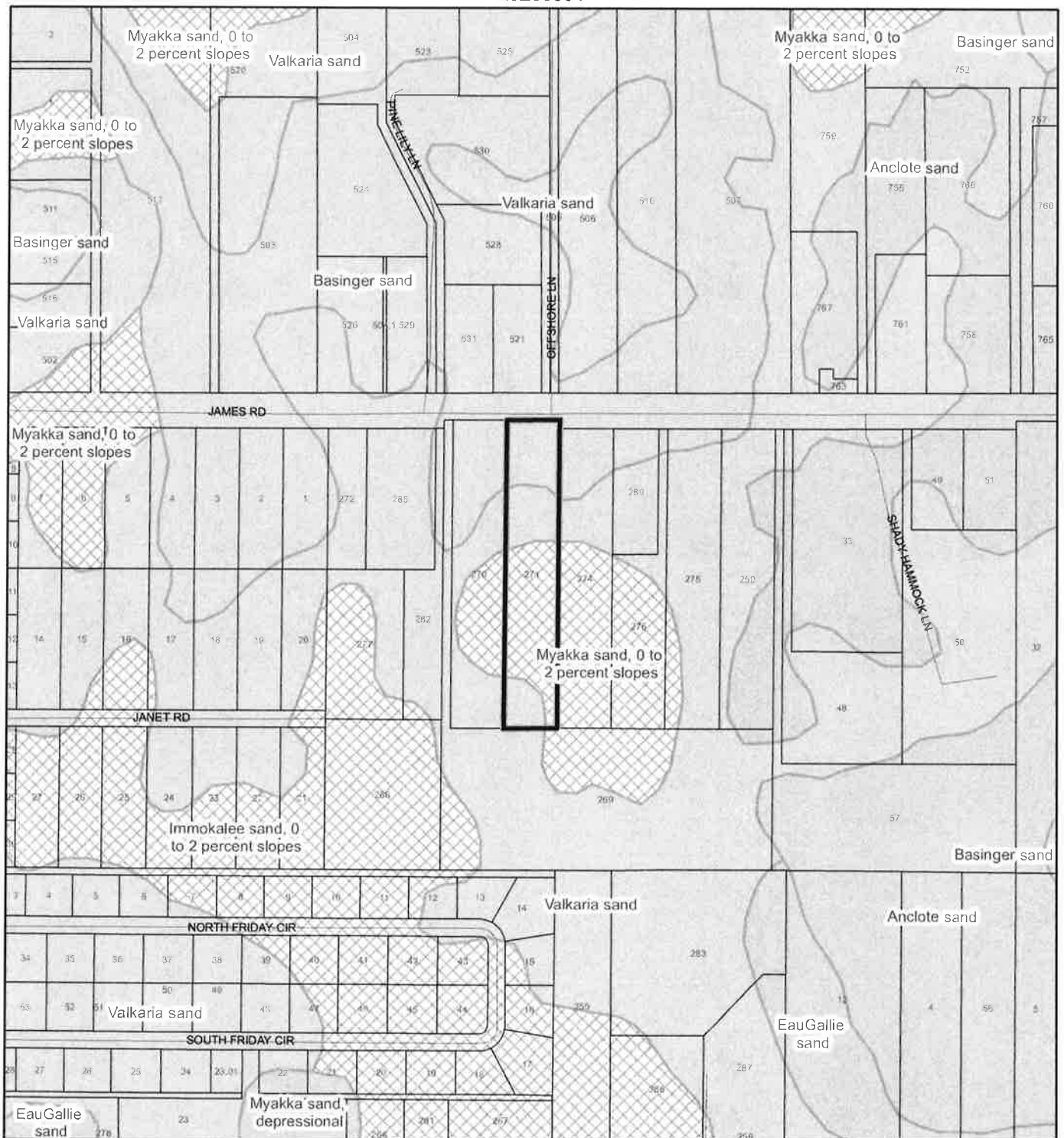
CHELSEY LYN COBB
23Z00004



USDA SCSSS SOILS MAP

CHELSEY LYN COBB

23Z00004

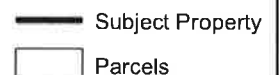
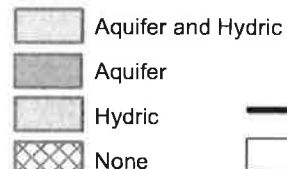


1:4,800 or 1 inch = 400 feet

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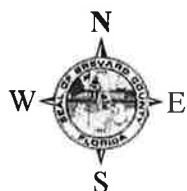
USDA SCSSS Soils



FEMA FLOOD ZONES MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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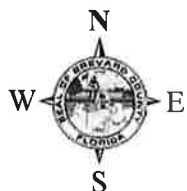
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

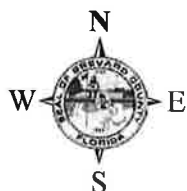
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

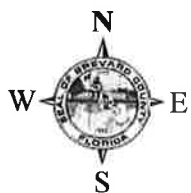
 60 Meters

 All Distances

EAGLE NESTS MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

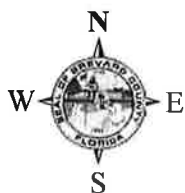


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CHELSEY LYN COBB




23Z00004



1:4,800 or 1 inch = 400 feet

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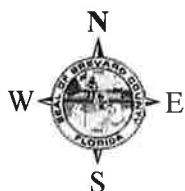
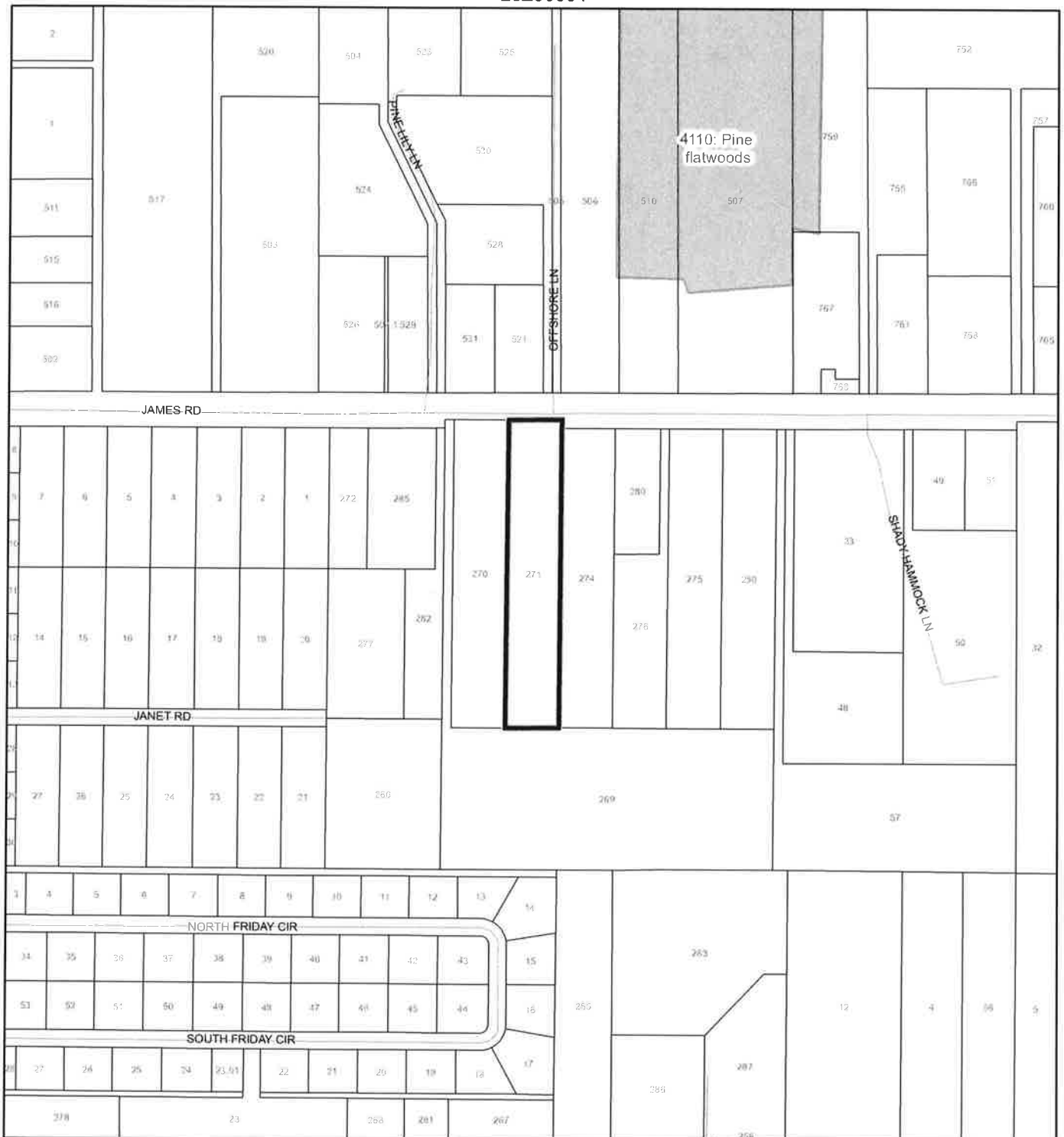
Produced by BoCC - GIS Date: 1/11/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

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

ID # 23Z00004

March 8, 2023

TO Planning & Development Dept:

I am sorry I will not be able to attend Both meetings on Monday, March 13 2023 at 3PM and on Thursday, April 6 2023 beginning at 5PM, same location. Due to my age and state of Health, my preference is not to participate in this meetings.

Also because we don't know what Ms. Cobb is planning to do with the zoning change, we respectfully request that the Zoning Commission reject this reclassification.

Thank you for your kindness & understanding.

yours Truly
Denise Moriarty

PS: Primarily, the plan is to sell this property at some future time - soon.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, 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); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Chelsey L. Cobb

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on 3.09 acres, located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa) (23Z00004) (Tax Account 2405118) (District 1)

Cameron Lightholder, 4475 James Road, Cocoa, stated the reason for the request is to come into compliance on an old code violation and also to make a more sustainable lifestyle by having farm animals and agricultural uses.

Public comment.

Carl Exline, 4375 James Road, Cocoa, stated the subject property currently has an open code enforcement case. The owners would like to have a plant nursery, chickens, and cows on the property. Usually, a garden is planted for vegetables and not an entire nursery, which is considered a business. With the constant use of dump trucks, tractors, and backhoes to move material on and off the property, the addition of a nursery is too much of a commercial venture in the RR-1-zoned surrounding area. He said as of today, there are two piles of dirt over 20 feet tall behind the house, and another pile of tree removal on the road in front of the neighbor's house east of the subject property. He stated as far as his property valuation of the surrounding homes, it's less marketable because no one would want to live next to 20-foot piles of dirt and heavy equipment. He said his concern is that changing the zoning to AU will provide an avenue for continued heavy equipment operations, pole barns, and other unpermitted structures to be built. He said his recommendation would be to change the zoning to AU(L), which is more limited but will allow the single-family home and agricultural pursuits of a personal, non-commercial nature, and allows limited farm animals.

Sandra Ake, 4525 James Road, Cocoa, asked the difference between RR-1 and AU. Jeffrey Ball replied, RR-1 zoning is a single-family zoning classification that allows agricultural uses on a personal level, and it allows for horses on a certain amount of acreage. The AU zoning classification allows for farm animals and agricultural commercial uses.

Ms. Ake stated along with the large piles of dirt on the property, there is also commercial equipment, and it is quite loud. She said she is afraid a commercial business will be conducted from the property because right now, that is what is happening.

Carie Exline, 4473 James Road, Cocoa, stated she moved to her house in 2004 on one acre, and she fell in love with the area because it is quiet and residential. The homes in the area are custom built with up to 3,000 square feet of living area. She said the subject property has a large pole barn that houses industrial equipment such as dump trucks, and no one needs such equipment for residential use. She stated she doesn't have a problem with a cow or six chickens, or a vegetable garden, but not for commercial use, and she is concerned about how many cows and chickens they will have because more farm animals will cause an odor issue. She asked if the change of zoning allow them to keep the industrial equipment.

Ron Bartcher asked the applicant if he has plans for commercial uses on the property. Mr. Lightholder replied there will not be any commercial use, nor selling of anything from the property.

Mr. Bartcher asked the reason for the piles of dirt. Mr. Lightholder replied the dirt will be used to build up the soil in the back yard, and it will be spread out to make a garden.

Mr. Bartcher asked staff if there is any reason why he could not have AU(L) zoning. Mr. Ball replied no, the only difference between AU and AU(L) is that AU(L) prohibits commercial uses.

Mr. Bartcher stated it seems AU(L) would be a better solution for the property since he does not want any commercial uses.

Mark Wadsworth asked the applicant if he would agree to AU(L). Mr. Lightholder replied he would rather have AU, but if the board is willing to approve AU(L), he would agree.

Bruce Moia asked what kind of equipment is on the property. Mr. Lightholder replied farm tractors, excavators, front loaders, and dump trucks. Mr. Moia asked if they are full size. Mr. Lightholder replied no, they are mid-size.

Debbie Thomas asked staff if AU zoning increase the number of farm animals allowed on the property. Mr. Ball replied AU and AU(L) allow for the same amount of farm animals.

Mr. Wadsworth asked the nature of the code violation. Mr. Lightholder replied it was for an unpermitted open structure.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval as AU(L) (Agricultural Residential). The motion passed unanimously.