



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

10/2/2025

Subject:

Michael S. Palo (Landon Scheer) requests a Small-Scale Comprehensive Plan Amendment (25S.13) to change the Future Land Use designation from CC and RES-15 to all CC. (25SS00007) (Tax Account 2611657, 2611658) (District 4)

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 Small-Scale Comprehensive Plan Amendment (25S.13), to change the Future Land Use Designation from CC (Community Commercial) and RES-15 (Residential 15) to all CC (Community Commercial).

Summary Explanation and Background:

The applicant requests a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map (FLUM) from Community Commercial (CC) and Residential 15 (RES 15) on a two (2) parcels 3.37-acre property to unify the zoning and FLU across the properties. The requested BU-2 zoning classification may be considered consistent with the proposed CC FLU designation.

The proposed FLU designation can be considered an intensification and encroachment into the residential area. The applicant wishes to mitigate negative impacts by offering a Binding Development Plan in conjunction with the rezoning action. The CC FLU designation embodies activities which are intended to serve several neighborhoods, sub-regional and regional areas, and provide an array of retail, personal, and professional uses.

The applicant has a companion rezoning application, 25Z00029, requesting a change of zoning classification from BU-1 and RU-1-7 to BU-2 with a BDP to limit uses to all BU-1 uses, and BU-2 uses limited to contractor's offices, plants, and storage yards.

The applicants' proposed use falls under a permitted use with conditions under Section 62-1483. The use specifically is found in Section 62-1833.5, which has the condition (a): Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence.

The subject property comprises of two parcels, which were combined under one deed on March 7, 2007, as recorded in ORB 5775, PG 5913.

North are three (3) properties: One (1) property is 0.98 acres, undeveloped with GU and BU-1 zoning classification with RES 15 and CC FLU designation. The second (2) property is 0.91 acres, undeveloped with RU-1-7 and BU-1 zoning classification with RES 15 and CC FLU designation. The third property is 1.5 acres, undeveloped with RU-1-7 and BU-1 zoning classification, and has RES 15 and CC FLU designation. The State of Florida owns all three (3) parcels. South is one (1) property, 1.17 acres, developed with a single-family residence built in 1951, a duplex built in 1973, and the placement of a mobile home in 1975. RU-2-10(6) and BU-1 zoning classification with RES 15 and CC FLU designation. East is Highway 1, a four-lane state-maintained roadway. West is one (1) property of 33.01 acres, developed as a mobile home park, considered non-conforming by design, with approximately 218 units zoned TR-3 with a RES 15 FLU designation.

The CC FLU designation is also located across Highway 1, which is developed as a restaurant. And the daycare abutting the south has an NC FLU designation.

The small-scale Future Land Use amendment and rezoning process is not the proper forum for detailed site plan review. Any site design materials submitted in connection with the application(s) shall be deemed conceptual in nature only. Comments by the Board concerning such conceptual designs shall not confer any vested development rights, nor shall they be construed as granting variances, waivers, or exemptions from applicable Federal, State, or County laws and regulations. The attached conceptual plan is expressly non-binding and has not undergone review for compliance with applicable codes or ordinances.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area; in particular, the Board may wish to consider the intensification and encroachment into the residential area.

On August 18, 2025, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Please return a copy of the filed ordinance to Planning and Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 3, 2025

M E M O R A N D U M

TO: Billy Prasad, Planning and Development Director Attn: Trina Gilliam

RE: Item H.3., Ordinance for Small Scale Comprehensive Plan Amendment Amending Article III, Chapter 62, of the Code of Ordinances, Setting Forth the Thirteenth Small Scale Plan Amendment of 2025, 25S.13

The Board of County Commissioners, in regular session on October 2, 2025, conducted the public hearing and adopted Ordinance No. 25-19, setting forth the thirteenth Small Scale Comprehensive Plan Amendment of 2025, (25S.13), to change the Future Land Use designation from Community Commercial (CC) and Residential 15 (RES-15) to all CC. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

for: [Signature]
Kimberly Powell, Clerk to the Board

/sj

Encl. (1)

cc: Alice Randall, Zoning
County Attorney

ORDINANCE 25-19

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRTEENTH SMALL SCALE PLAN AMENDMENT OF 2025, 25S.13 TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62- 501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI(E), THE FUTURE LAND USE APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2025 as Small Scale Plan Amendment 25S.13; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these

Officially filed with the Secretary of State on October 6, 2025.

Technical Advisory Groups have provided technical expertise for the Amendment 25S.13; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on September 15, 2025, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 25S.13, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on October 2, 2025, the Brevard County Board of County Commissioners held a duly noticed public hearing and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 25S.13; and

WHEREAS, Small Scale Plan Amendment 25S.13 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 25S.13 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 25S.13 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 25S.13, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged

pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 2nd day of October, 2025.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Rachel M. Sadoff, Clerk

By: 
Rob Feltner, Chairman

As approved by the Board on October 2, 2025.

EXHIBIT A
25S.13 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

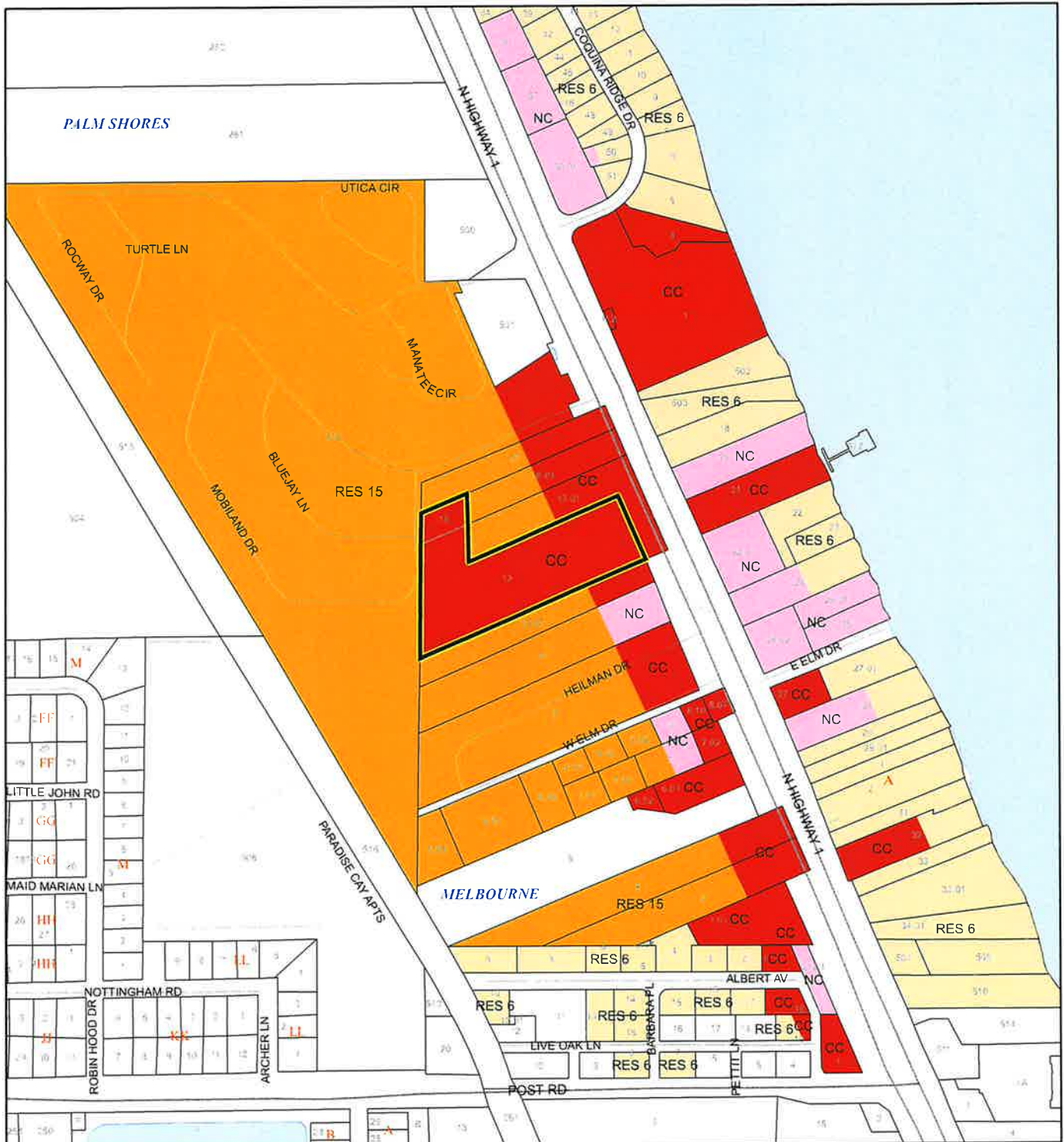
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

PALO, MICHAEL S

25SS00007



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 7/10/2025

EXHIBIT B

Contents

1. Legal Description

Parcel 1:

Being a parcel of land lying in Section 32, Township 26 South, Range 37 East, said parcel being a portion of the Donald R. Palo as trustee property recorded in official records book 2602, page 272, being more particularly described as follows:

Commencing at the southerly corner of the State of Florida property recorded in official records book 4521, page 1804, Tract 100, said corner lying in the westerly right of way line of State Road Number 5 (also known as U.S. Highway 1), proceed thence with said right of way line N 23°17'18" W, for a distance of 199.90 feet to a new 1/2" rebar (PSM 6431) in the South line of the tract which this is a part of and the Point of Beginning; thence with said South line S 66°32'19" W, for a distance of 675.42 feet to a new 1/2" rebar in the West line of Government Lot 4; thence with said lot line N 00°01'57" W, passing through the northwest corner of lot 4 and the southwest corner of lot 3 at 54.60 feet and continuing with the West line of Government Lot 3, a total distance of 326.10 feet; thence N 66°28'10" E, for a distance of 114.70 feet to a point in the West line of the State of Florida property recorded in official records book 4521 page 1804, Tract 102; thence the said West line S 01°40'21" E, for a distance of 107.75 feet to an existing 5/8" rebar (Florida DOT) the southwest corner of Tract 102; thence N 66°28'10" E with the South line of Tract 102, for a distance of 471.66 feet to a new 1/2" rebar (PSM 6431) in the West right of way line of State Road Number 5; thence with said right of way line S 23°17'18" E, for a distance of 199.88 feet to the Point of Beginning.

AND

Being a parcel of land lying in Section 32, Township 26, Range 37 East, said parcel being a portion of the Donald R. Palo as trustee property recorded in official records book 2606, page 272, being more particularly described as follows:

Commencing at the southerly corner of the State of Florida property recorded in official records book 4521, page 1804, Tract 100, said corner lying in the westerly right of way line of State Road Number 5 (also known as U.S. highway 1), proceed thence with said right of way line N 23°17'18" W, for a distance of 199.90 feet to a new 1/2" rebar (PSM 6431) in the South line of the tract which this is a part; thence with said South line S 66°32'19" W, for a distance of 675.42 feet to a new 1/2" rebar in the West line of Government Lot 4; thence with said lot line N 00°01'57" W, for a distance of 89.35 feet to an existing 4"x 4" concrete

monument, the northwest corner of the tract which this is a part of; thence with the North line of said tract N 66°31'52" E, for a distance of 111.89 feet to a new 1/2" rebar (PSM 6431) in the West line of the State of Florida Tract 102 as recorded in official records book 4521, page 1806; thence S 01°40'21" E with the West line of said Tract 102, for a distance of 88.16 feet; thence S 66°28'10" W, for a distance of 114.70 feet to the Point of Beginning.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 6, 2025

Rachel Sadoff
County Clerk
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 25-19, which was filed in this office on October 6, 2025.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 25S.13 (25SS00007)
Township 26, Range 37, Section 32

Property Information

Owner / Applicant: **Michael Palo/ Scheer Engineering, LLC.**

Adopted Future Land Use Map Designation: Community Commercial (CC) and Residential 15 (RES 15)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 3.37 acres

Tax Account # 2611657 and 2611658

Site Location: 4268 N. Highway 1, approximately 394 feet north of West Elm Drive

Commission District: 4

Current Zoning: BU-1 (General Retail Commercial) and RU-1-7 (Single-family residential)

Requested Zoning: BU-2 (Retail, Warehousing, and Wholesale Commercial) with BDP (Binding Development Plan)

Background & Purpose

The applicant requests a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map (FLUM) from Community Commercial (CC) and Residential 15 (RES 15) on a two (2) parcels 3.37-acre property to unify the zoning and FLU across the properties. The requested BU-2 zoning classification may be considered consistent with the proposed CC FLU designation.

The applicant has a companion rezoning application, **25Z00029**, requesting a change of zoning classification from BU-1 and RU-1-7 to BU-2 with a BDP to limit uses to all BU-1 and BU-2 uses limited to contractor's offices, plants, and storage yards.

The applicants' proposed use falls under a permitted use with conditions under Section 62-1483. The use specifically is found in Section 62-1833.5 (a), which has the condition: Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence.

The subject property is located on the west side of Highway 1, a state-maintained road, approximately 394 feet north of West Elm Drive.

The subject property comprises of two parcels, which were combined under one deed on March 7, 2007, as recorded in ORB 5775, PG 5913.

RES 15 is the original FLU designation established by the 1988 Brevard County Comprehensive Plan. The 2004 U.S.1 Corridor Study recommended extending the CC and NC land use on the western portion of Highway 1. from Post Road to Pineda Causeway. The Board adopted the recommendation under Comprehensive Plan Amendment 2005A.5. As a result, approximately 0.8 acres of the subject property FLU designation was changed to CC.

The proposed FLU designation can be considered an intensification and encroachment into the residential area. The applicant wishes to mitigate negative impacts by offering a Binding Development Plan in conjunction with the rezoning action. The CC FLU designation embodies activities which are intended to serve several neighborhoods, sub-regional and regional areas, and provide an array of retail, personal, and professional uses.

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Highway 1 is an MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments before the allowance of any impacts. Board approval may be required for impacts.

This property contains aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. A portion of the north parcel is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

There are no current code enforcement complaints on the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	State-owned vacant land	GU, RU-1-7, BU-1	RES 15, CC
South	Multi-Family Residential	RU-2-10(6), BU-1	RES 15, CC
East	Highway 1	N/A	N/A
West	Mobile Home Park	TR-3	RES 15

North is three (3) properties: One (1) property is 0.98 acres, undeveloped with GU and BU-1 zoning classification with RES 15 and CC FLU designation. The second (2) property is 0.91 acres, undeveloped with RU-1-7 and BU-1 zoning classification with RES 15 and CC FLU designation. The third property is 1.5 acres, undeveloped with RU-1-7 and BU-1 zoning classification, and has RES 15 and CC FLU designation. The State of Florida owns all three (3) parcels.

South is one (1) property, 1.17 acres, developed with a single-family residence built in 1951, a duplex built in 1973, and the placement of a mobile home in 1975. RU-2-10(6) and BU-1 zoning classification with RES 15 and CC FLU designation.

East is Highway 1, a four-lane state-maintained roadway.

West is one (1) property of 33.01 acres, developed as a mobile home park, considered non-conforming by design, with approximately 218 units zoned TR-3 with a RES 15 FLU designation.

The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas, and provide an array of retail, personal, and professional uses.

Future Land Use

The subject property's BU-1 zoning classification can be considered consistent with the CC Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The subject property's RU-1-7 zoning classification can be considered consistent with the RES 15

FLU designation. The proposed BU-2 zoning classification with BDP can be considered consistent with the proposed CC FLU designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject parcel has direct access to Highway 1.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

The Board may consider if the request is compatible with the surrounding area. The proposed FLU designation can be considered an intensification and encroachment into the residential area. The applicant wishes to mitigate negative impacts by offering a Binding Development Plan in conjunction with the rezoning action. There are two BU-2 zoned properties in the area. One has split zoning of BU-2 & BU-1 with used car auto sales, and the other has a mobile home park office. There is no interconnectivity, as this is a separate development with no other proposed or existing commercial abutting it.

- C. Existing commercial development trend in the area;

CC FLU is abutting the subject property to the north on vacant State of Florida property. There are no existing commercial development trends in the area. Across Highway 1 is a small multi-tenant office

building, a daycare, and a restaurant that have been established for decades. On the same side of the road to the south is a used car dealership.

There is one property developed as a marina on the east side of Highway 1 that is currently going through the review process for a minor site plan change under 24AD00014 to revamp the marina for commercial use.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

- E. Availability of required infrastructure at/above adopted levels of service;

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service.

The subject property is within access to centralized potable water provided by the City of Melbourne and is within access to Brevard County Utilities for sewer. Concurrency will be reviewed during the site plan process.

- F. Spacing from other commercial activities:

Community Commercial activities are located north and south of the subject property along the Highway 1 corridor.

The spacing of the nearest commercial activity to the south is approximately 425 feet. Considering the mobile home park office to the north is a distance of approximately 300 feet away. And the commercial activity located directly across Highway 1 to the east is approximately 160 feet. To note, there are a couple of properties with community commercial activities located on the east side of Highway 1, such as a marina and a daycare.

- G. Size of proposed commercial designation compared with current need for commercial lands;

A market study was neither provided nor required.

- H. Adherence to the objectives/policies of the Conservation Element and

minimization of impacts upon natural resources and systems:

A majority of the subject parcel contains wetlands or hydric soils. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along “Mitigation Qualified Roadways” (MQRs). North Highway 1 is a MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts.

This property contains aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. Impacts will be reviewed during the site plan process to ensure adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

FLUE Policy 2.12 discourages strip commercial development. This request is not an extension of strip commercial development.

Locational and Development Criteria for Community Commercial Uses

FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The proposed CC encompasses approximately 3.37 acres but is part of a CC cluster of approximately 7.01 acres. The subject property has direct access

to Highway 1, which is classified as an Urban Principal Arterial Road based on data from the Space Coast Transportation Planning Organization.

The Board may wish to consider mitigating the potential intrusion of this land use into the surrounding residential areas through additional requirements in the applicant's companion rezoning, which does include a proposed BDP for all BU-1 uses and only the BU-2 uses of a contractor's office, plants, and storage yard.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection and will not exceed 40 acres.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

Part of the subject property, approximately 0.8 acres, is a part of a community commercial cluster approximately 7.01 ± acres in size that starts at the intersection of Post and Highway 1 and ends at the intersection of Mobiland Drive and Highway 1. The next Community Commercial, which is less than two (2) acres, is approximately 125 feet to the south.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The subject property is under 10 acres; therefore, the gross floor area shall not exceed 150,000 square feet.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

This application does not accompany a PUD zoning request; therefore, the FAR will be limited to 1.00.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The applicant has not proposed a recreational vehicle park on the subject property.

FLUE 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;

Staff analysis indicates the request is not located within an existing neighborhood. The area is a mixture of mobile homes, a mobile home park office, used automobile sales, single-family residences, and vacant land.

The Board should consider the array of intense uses permitted under the BU-2 zoning classification and the applicant's proposed BDP to limit the impacts.

Any proposed commercial use shall be subject to compliance with all performance standards within Sec. 62-2251 through Sec. 62-2272 will be reviewed at the site plan stage should the zoning change be approved.

Traffic from the proposed development will increase the percentage of MAV utilization by 0.49%. The corridor is anticipated to operate at 66.74% of capacity daily. To note: Concurrency is completed using Highway 1 from Post Road to Pineda Causeway. Specific concurrency issues will be addressed at the time of site plan review.

- 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 use.

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

1. historical land use patterns;

The proposed use would be located between residential uses. And may be inconsistent with the existing residential pattern. Historically, this area is

mostly commercially zone BU-1 within approximately the first 100 feet from the west side of Highway 1 corridor. Additionally, there are residentially zoned properties abutting to the north and south, such as GU and RU-2-10(6). Other zoning classifications within a 0.5 mile radius include BU-2, TR-3, TR-1, RP, RU-1-9, RU-2-15, and RU-1-7.

Currently, there are two (2) properties with BU-2 commercial zoning within the area. One has split zoning of BU-2 & BU-1 with used car auto sales, and the other has a mobile home park office.

There have been no commercial rezonings in the area since 2020. West of Highway 1, the most recent approved commercial rezoning, under 20PZ00032, involved a property approximately 0.2 miles south of the subject property and changed from BU-1, RU-2-10, and RU-1-7 to all BU-1 on 0.92 acres. The request also included an SSCPA to amend the FLUM from RES 15 and NC to CC on 0.68 acre portion of the property. No development plans have been submitted.

In 2001, a property approximately 0.1 miles south of the subject property was rezoned from BU-1 to BU-2. However, at that time, it was owned by the VFW. It appears that portion of the property was sold to the car dealership prior to the VFW annexing into the City of Melbourne.

There are four (4) FLU designations within a 0.5-mile radius of the subject property: Residential 15 (RES 15), Residential 6 (RES 6), CC, and NC. The predominant FLUM designation for commercial is CC, while the predominant residential FLU is RES 15.

There have been no FLUM amendments within one-half mile of the subject property in the past three years.

Please note, this analysis only includes unincorporated areas of Brevard County.

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

Staff analysis has determined there were two single-family residences developed, in 2024 and 2023, within 0.5 miles of the subject property in the preceding three years.

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

It appears no changes in actual development have occurred in the immediate area within the last three years.

There is one property developed as a marina that is currently going through the review process for a minor site plan change under 24AD00014.

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

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

FLUE 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 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.

Staff analysis indicates the request is not located within an established residential neighborhood but rather a residential area. The proposed will introduce commercial activity not already present within the immediate area.

However, a preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service.

- 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.

Staff analysis indicates the subject property is not located in an established residential neighborhood. There are clearly established boundaries, such as roads and open spaces, in the area.

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 considered neighborhood commercial.

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 residential. Within the previous five years, there have been one (1) commercial rezoning approximately 1000 feet to the south:

- **20PZ00032: Approved rezoning on 0.92 acres from BU-1, RU-2-10 and RU-1-7 to all BU-1 on July 9, 2020.**

FLUE 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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

A majority of the subject parcel contains wetlands, or hydric soils. It is also mapped as containing aquifer recharge soils and Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A. A portion of the north parcel is located within the Coastal High Hazard Area (CHHA). Federally and/or state-protected species may be present on the property.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. 1, between Post Road and Pineda Causeway, which has a Maximum Acceptable Volume (MAV) of 39,680 trips per day, a Level of Service (LOS) of D, and currently operates at 66.24% of capacity daily. The proposed rezoning increases the percentage of MAV utilization by 0.49%. The corridor is anticipated to operate at 66.74% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change. The concurrency analysis was based on a trade contractor with an estimate of an approximate 30,000 square foot building.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

Centralized potable water service is available to this property from the City of Melbourne. In addition, centralized sewer service is available from Brevard County Utilities.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Floodplain Protection

- Protected and Specimen Trees
- Protected Species
- Potential Code Enforcement

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

For Board Consideration

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

The Board should consider the array of intense uses permitted under the BU-2 zoning classification and the applicant's proposed BDP to limit the impacts.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 25SS00007**

Applicant: Landon Sheer (Owner: Michael Palo)

Land Use Request: CC & RES 15 to all CC

Note: to unify the zoning and FLU across the properties

LPA Hearing: 09/15/2025; **BCC Hearing:** 10/02/2025

Tax ID No.(s): 2611657 & 2611658

- 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
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Wetlands

A portion of the subject parcel contains mapped National Wetlands Inventory (NWI) wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Highway 1 is a MQR at this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require no net loss mitigation in accordance with Section 62-3696.

Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

Aquifer Recharge Soils

This property contains Tavares fine sand, 0 to 5 percent slopes; and St. Lucie fine sand, 0 to 5 percent slopes, classified as aquifer recharge soils. Additionally, the mapped topographic elevations show that the property falls within Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

A portion of the north parcel is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

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 parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. 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."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan

design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, 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 and buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

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



Certificate Of Completion

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Source Envelope:	
Document Pages: 1	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
EnvelopeId Stamping: Enabled	Myron Barker, PLS 5085
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	2900 Lake Washington Rd, Suite 1 Melbourne, FL 32935 PrecisionSurveying1993@gmail.com IP Address: 108.189.246.130


Record Tracking

Status: Original	Holder: Myron Barker, PLS 5085	Location: DocuSign
6/30/2025 5:13:58 PM	PrecisionSurveying1993@gmail.com	

Signer Events

Myron Barker, PLS 5085
 precisionsurveying1993@gmail.com
 Vice President
 Precision Land Surveying, Inc
 Security Level: Email, Account Authentication
 (None)

Signature

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 Myron Barker, PLS 5085
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Electronic Record and Signature Disclosure:
 Not Offered via Docusign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
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Payment Events	Status	Timestamps

LOCATION MAP

PALO, MICHAEL S
25SS00007





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

Buffer Distance: 500 feet

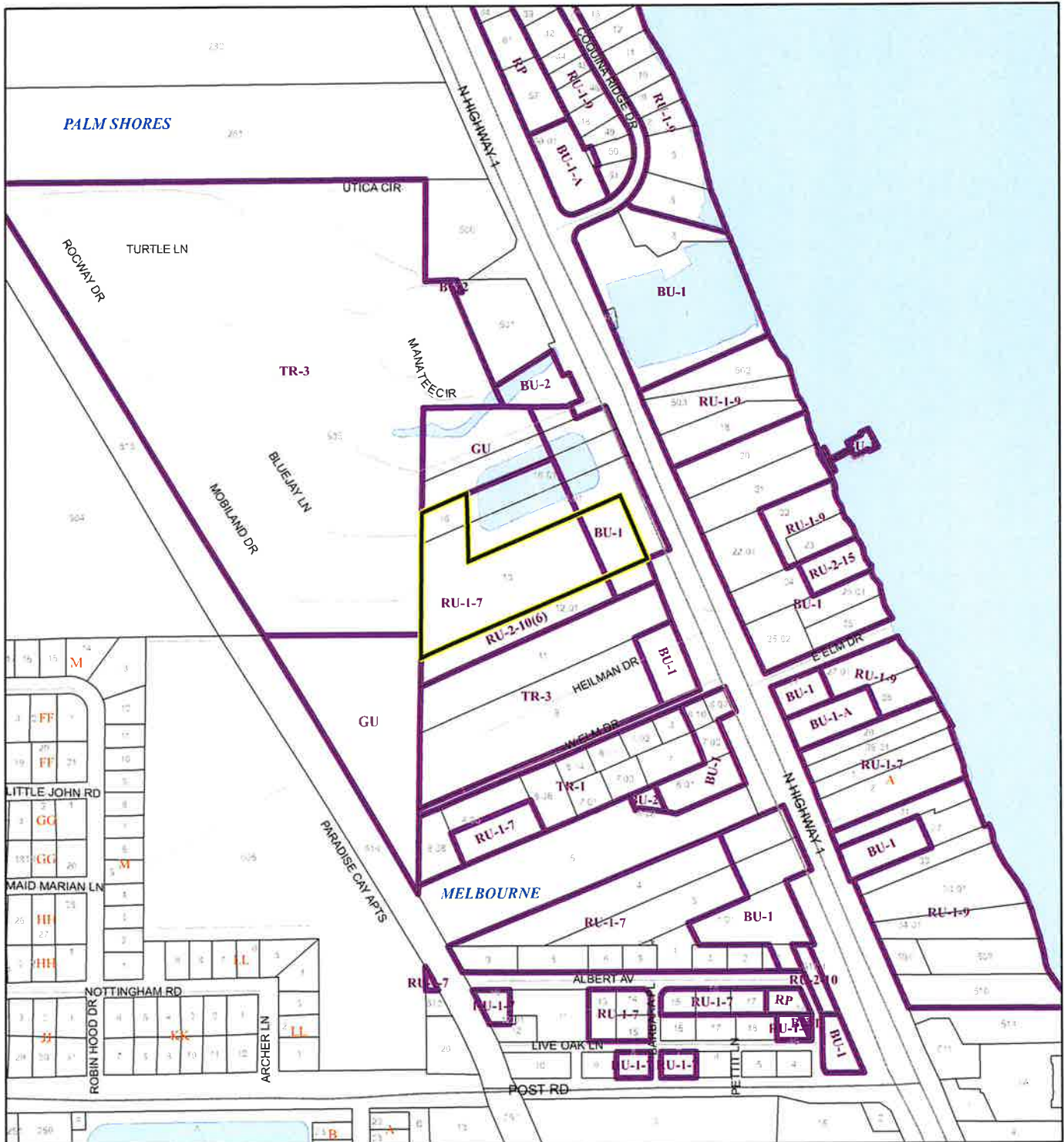
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/10/2025

 Buffer
 Subject Property

ZONING MAP

PALO, MICHAEL S
25SS00007



1:4,800 or 1 inch = 400 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.

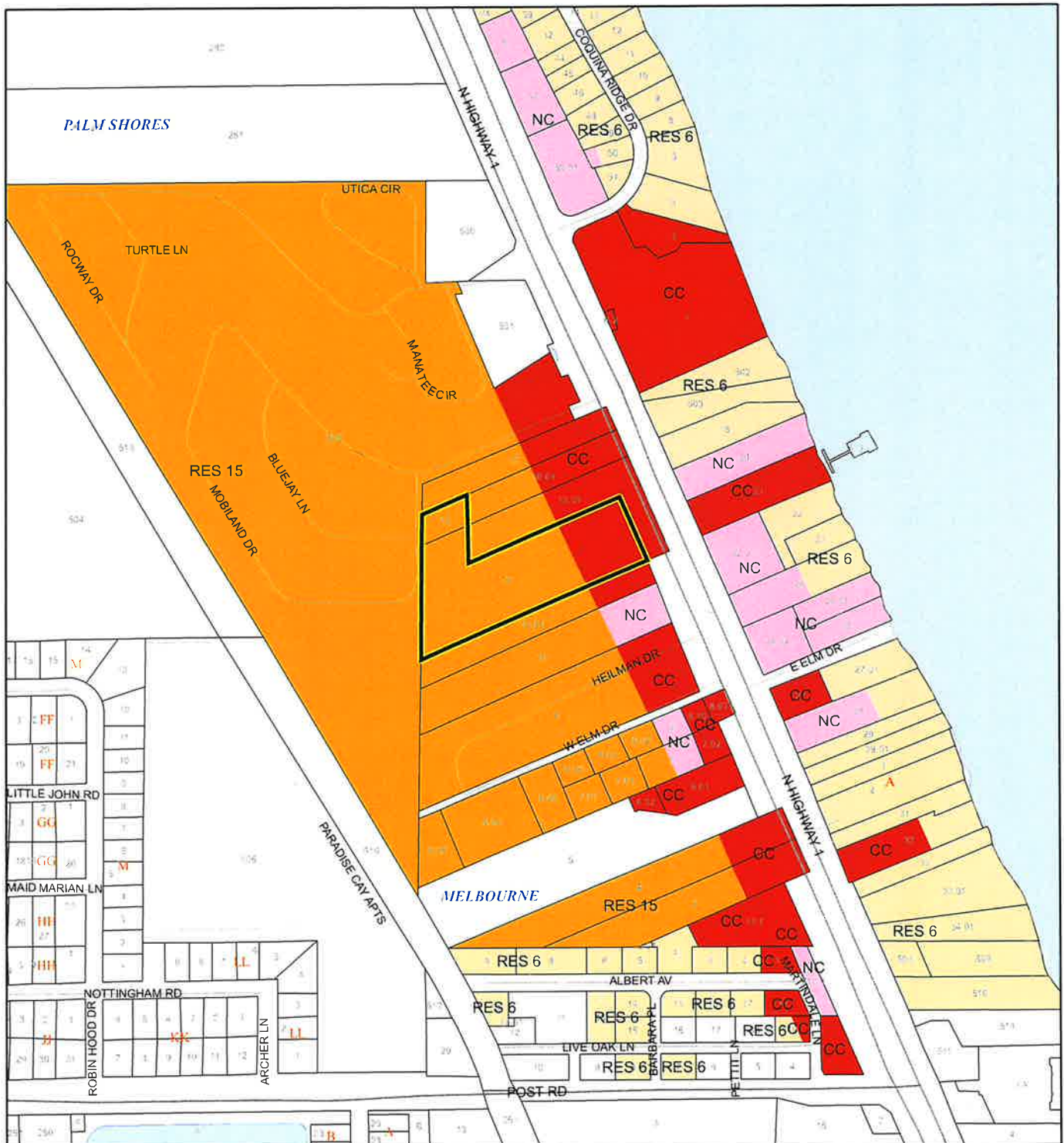
Produced by BoCC - GIS Date: 7/10/2025

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

PALO, MICHAEL S

25SS00007



1:4,800 or 1 inch = 400 feet

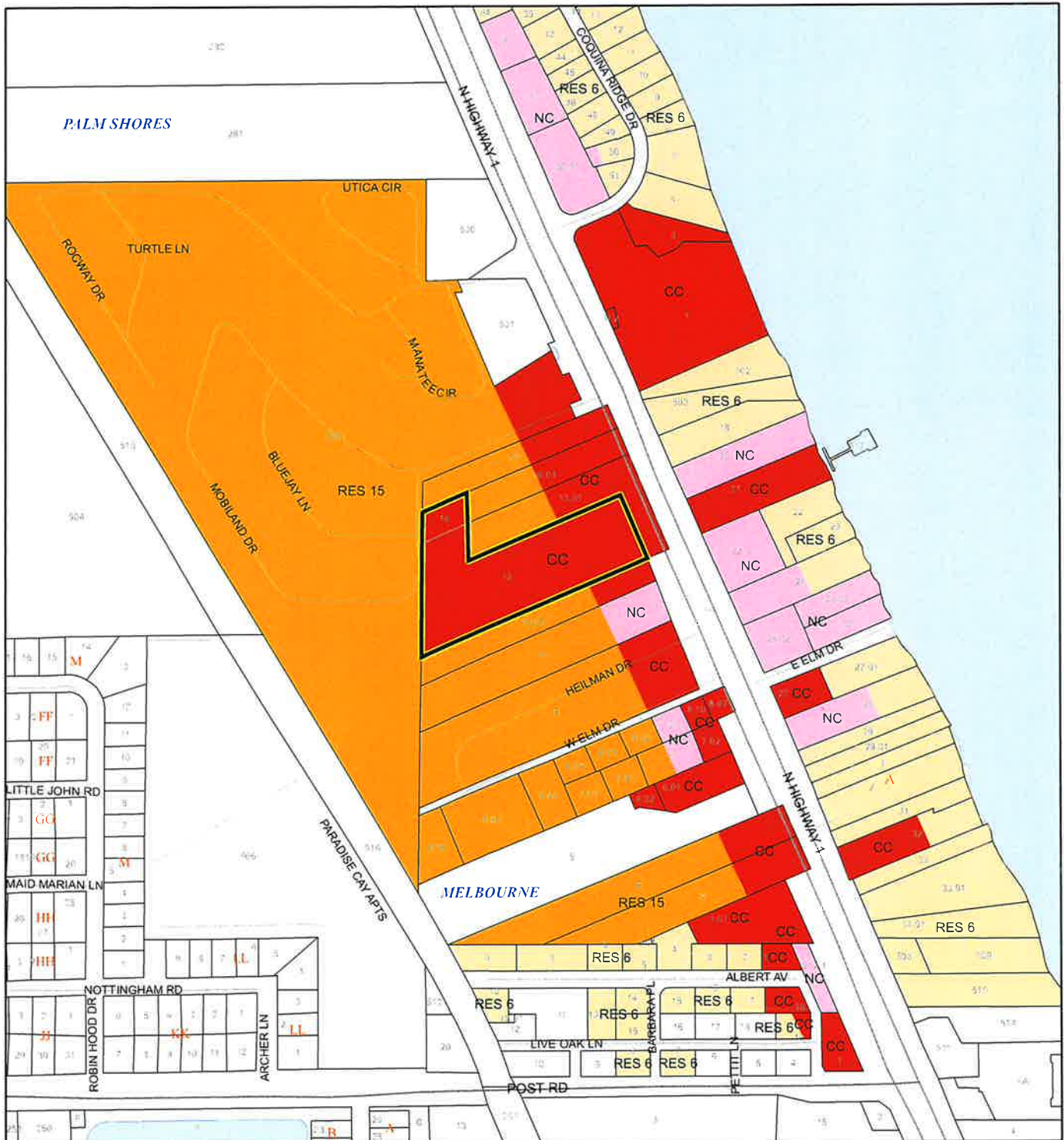
— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 7/10/2025

PROPOSED FUTURE LAND USE MAP

PALO, MICHAEL S
25SS00007



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

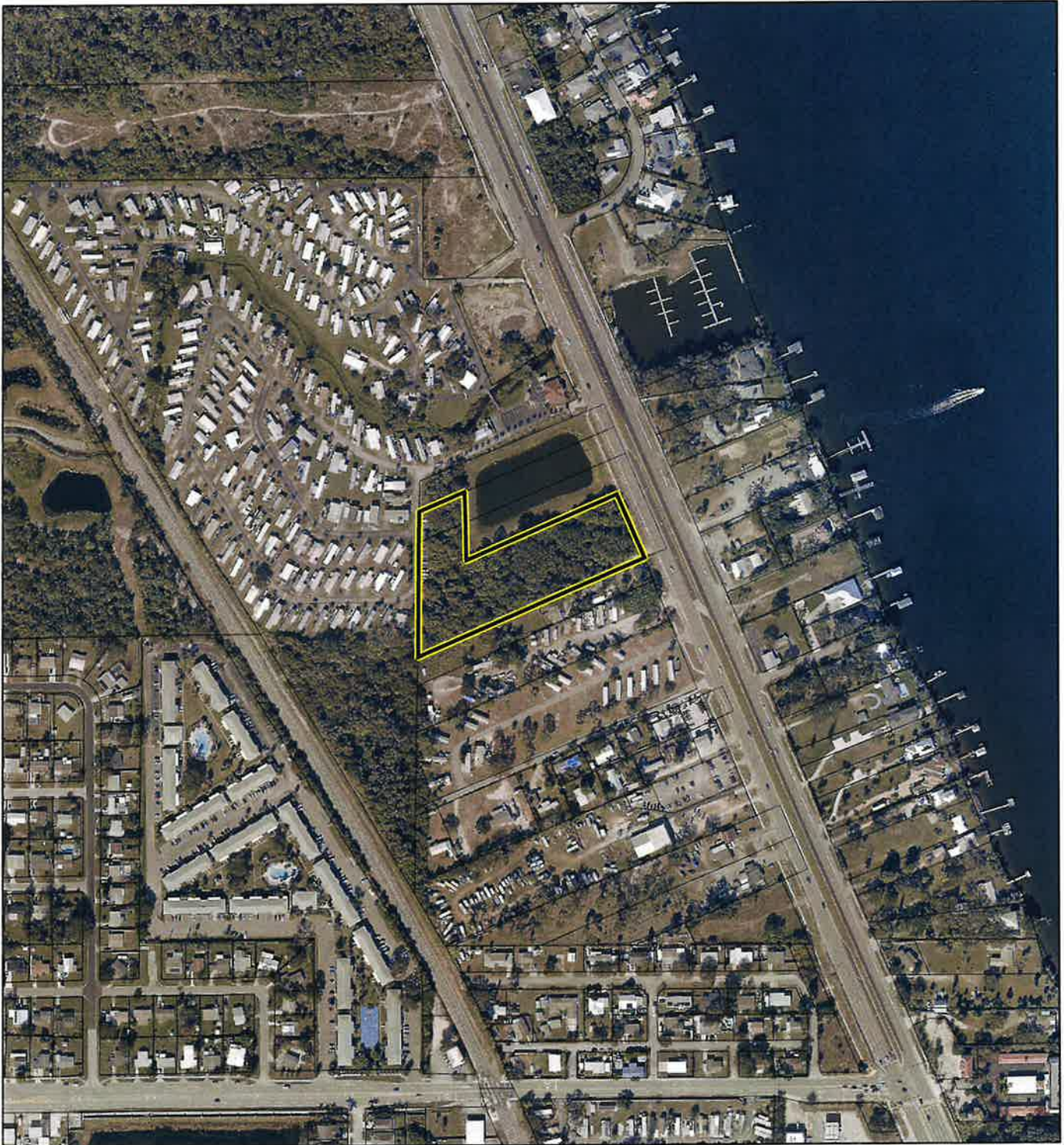
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/10/2025

AERIAL MAP

PALO, MICHAEL S

25SS00007



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2025

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: 7/10/2025

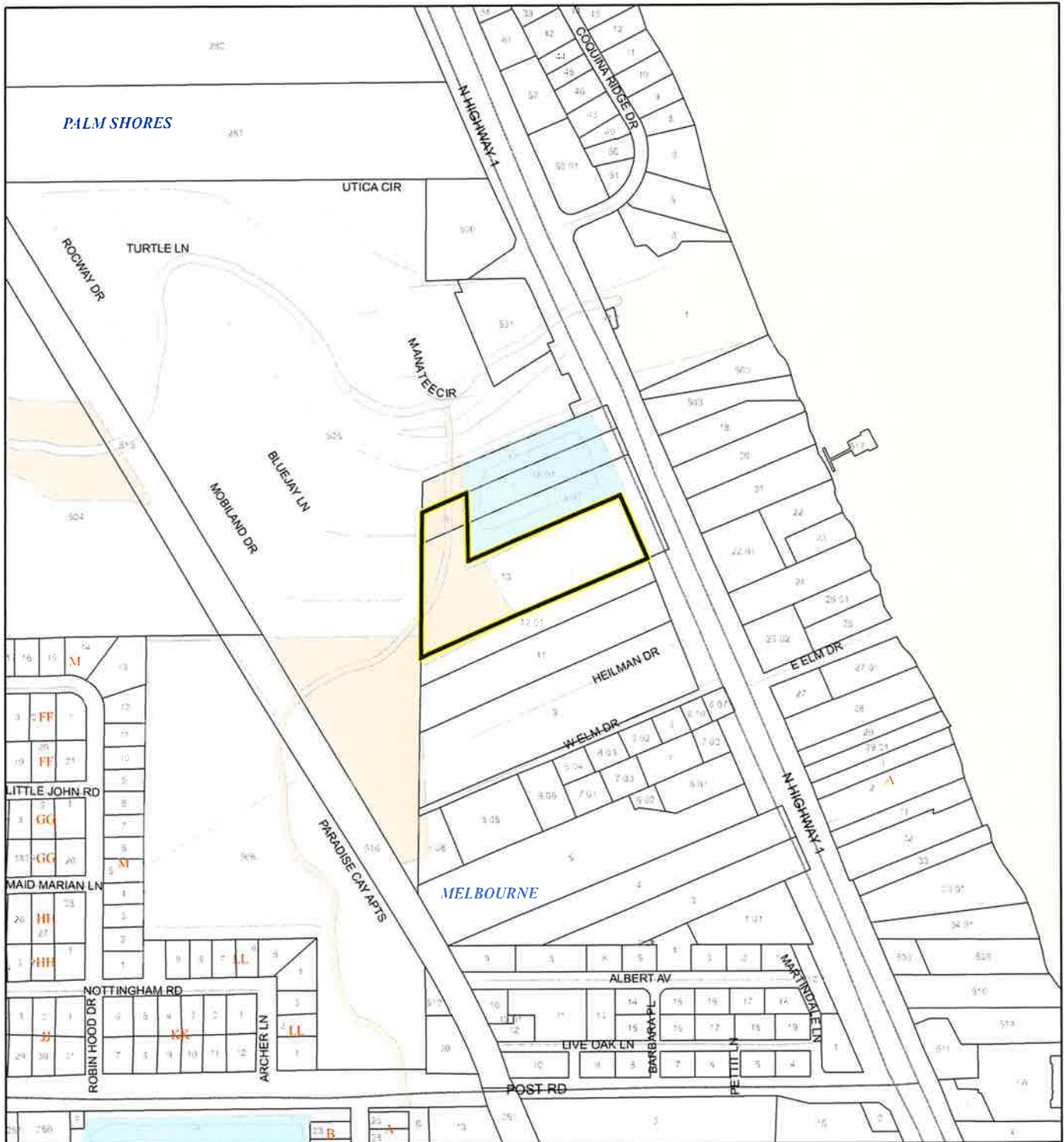
 Subject Property

 Parcels

NWI WETLANDS MAP

PALO, MICHAEL S

25SS00007



1:4,800 or 1 inch = 400 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: 7/10/2025

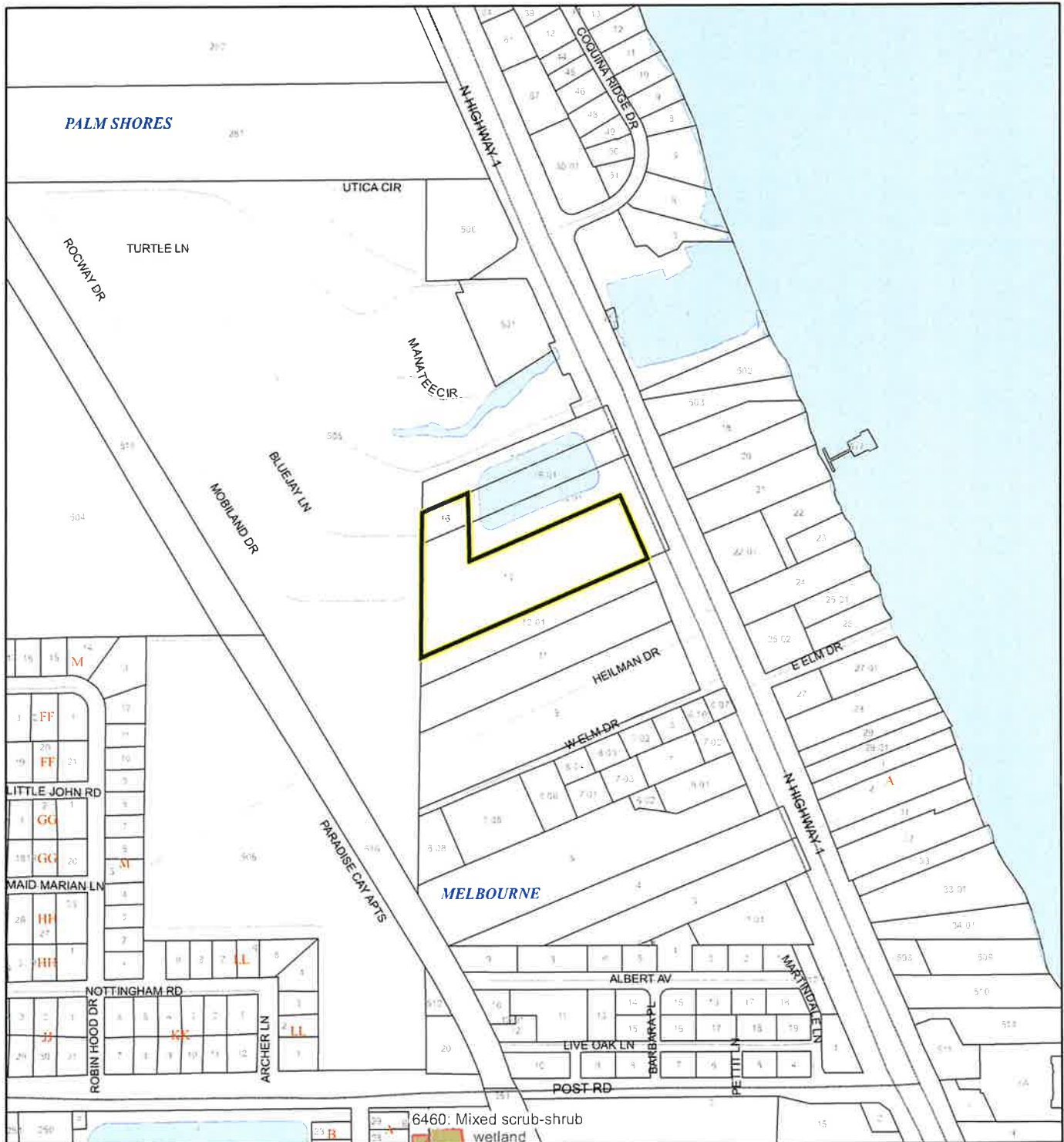
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| 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

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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

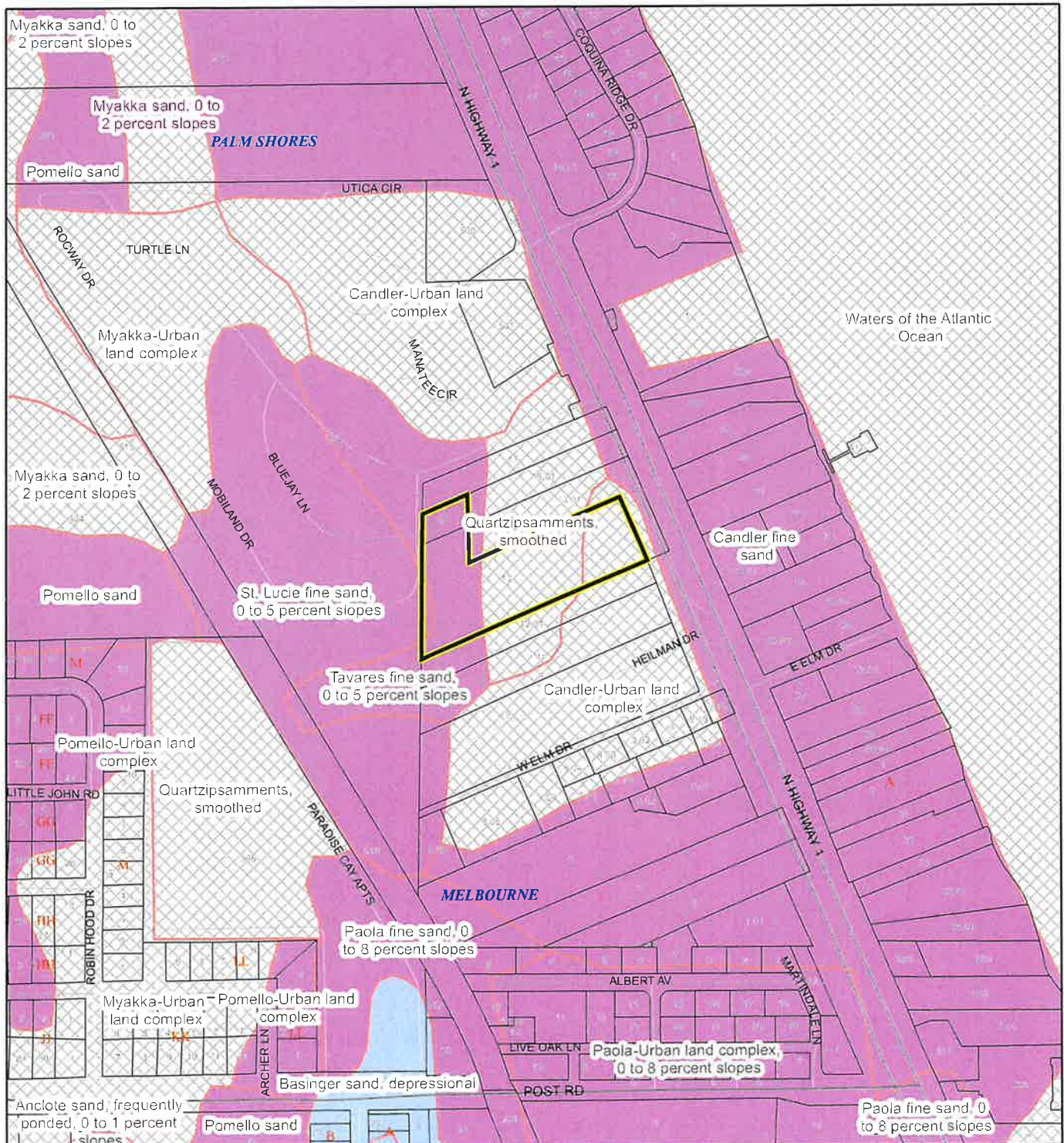
Subject Property

Parcels

USDA SCSSS SOILS MAP

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USDA SCSSS Soils

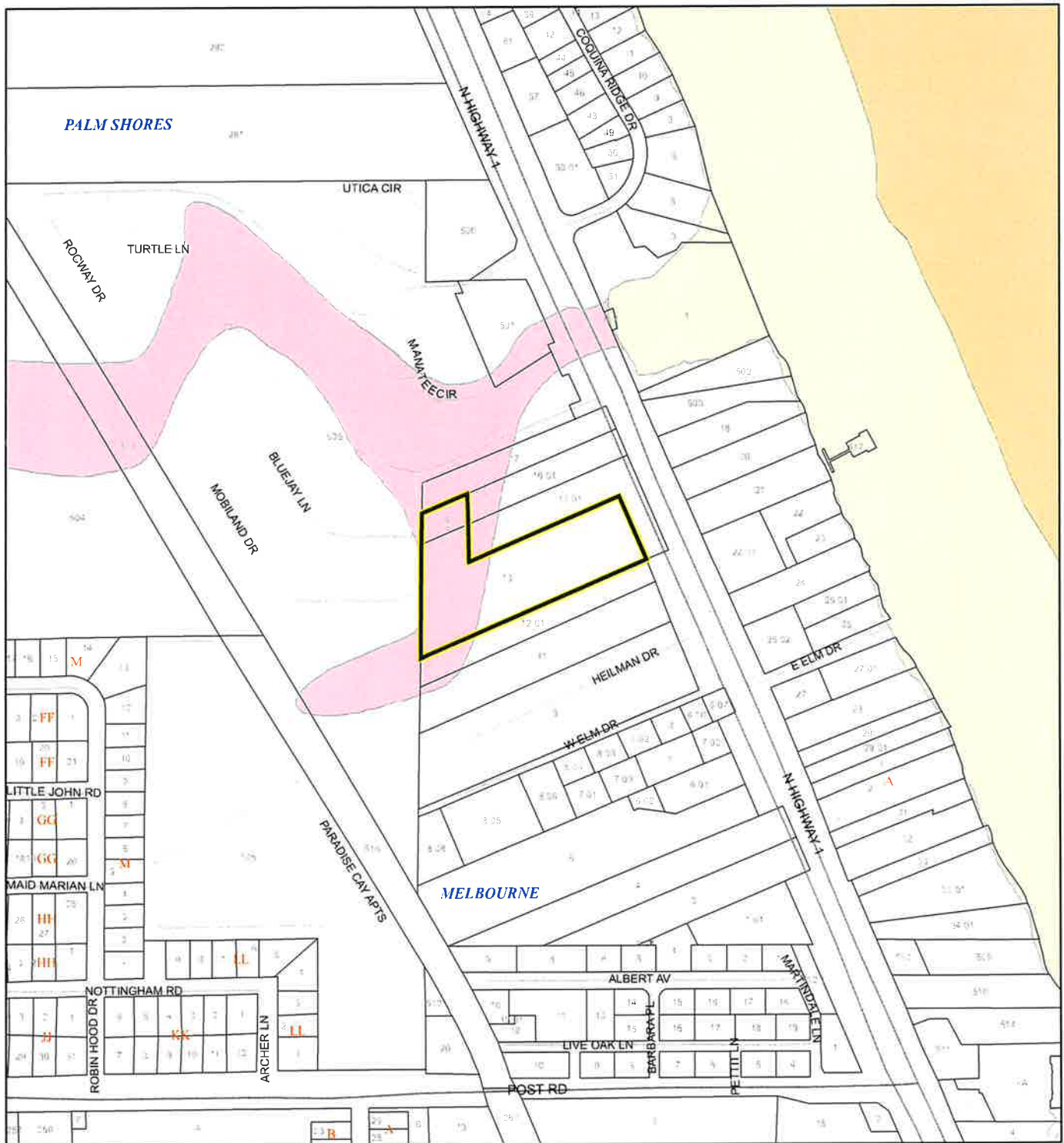
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

PALO, MICHAEL S

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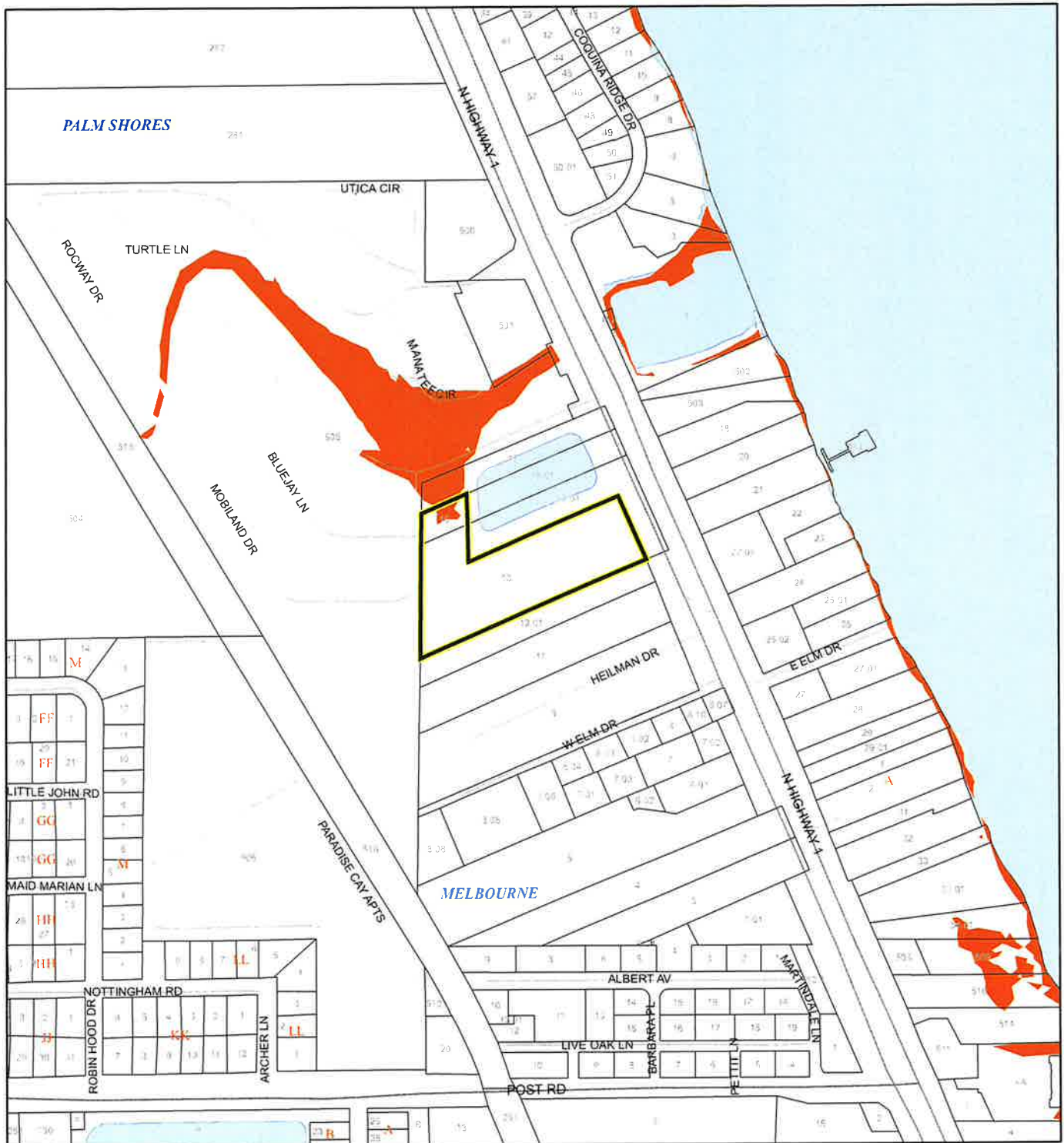
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

PALO, MICHAEL S

25SS00007



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Produced by BoCC - GIS Date: 7/10/2025

— Subject Property

□ Parcels

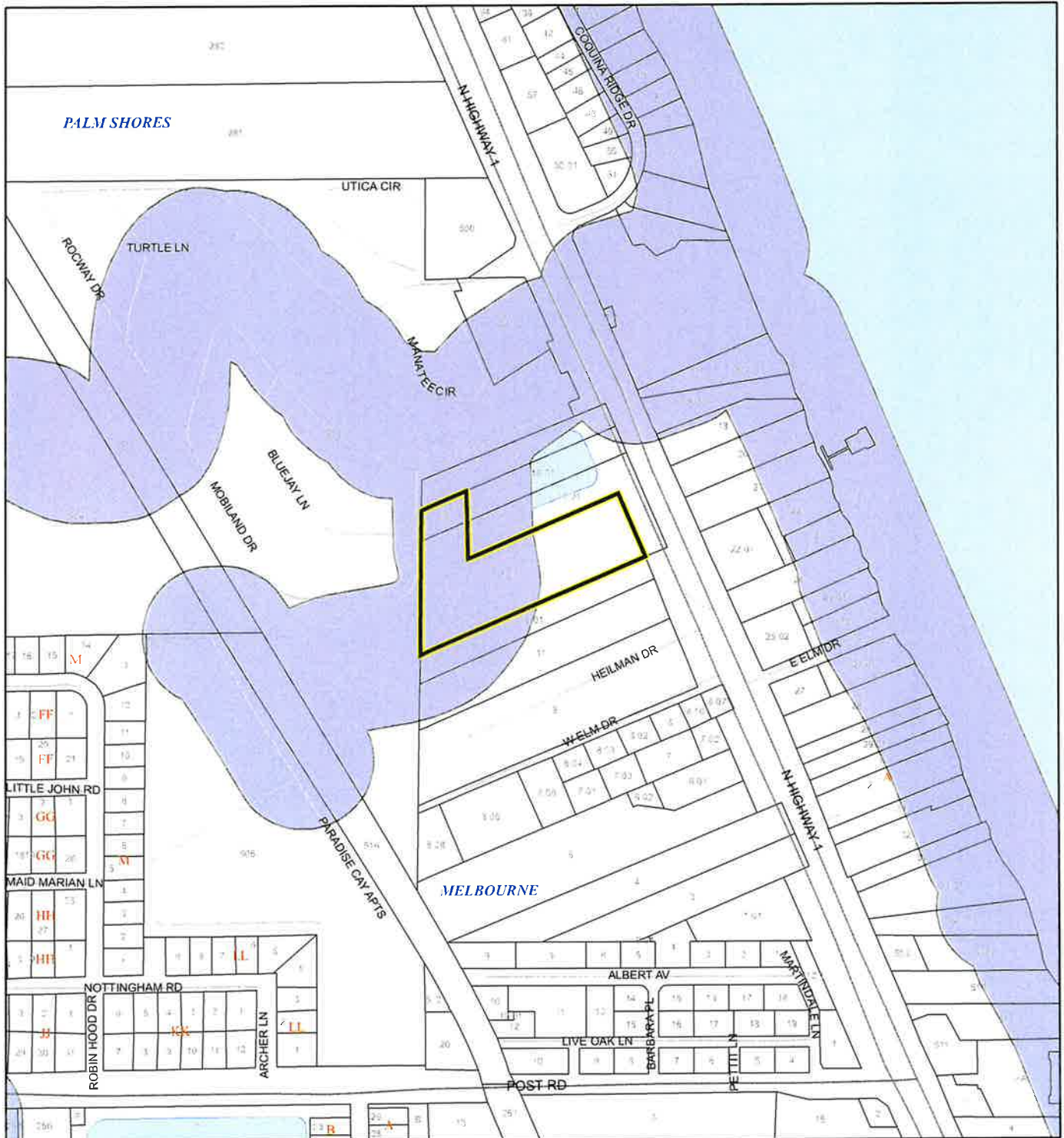
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PALO, MICHAEL S

25SS00007



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— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

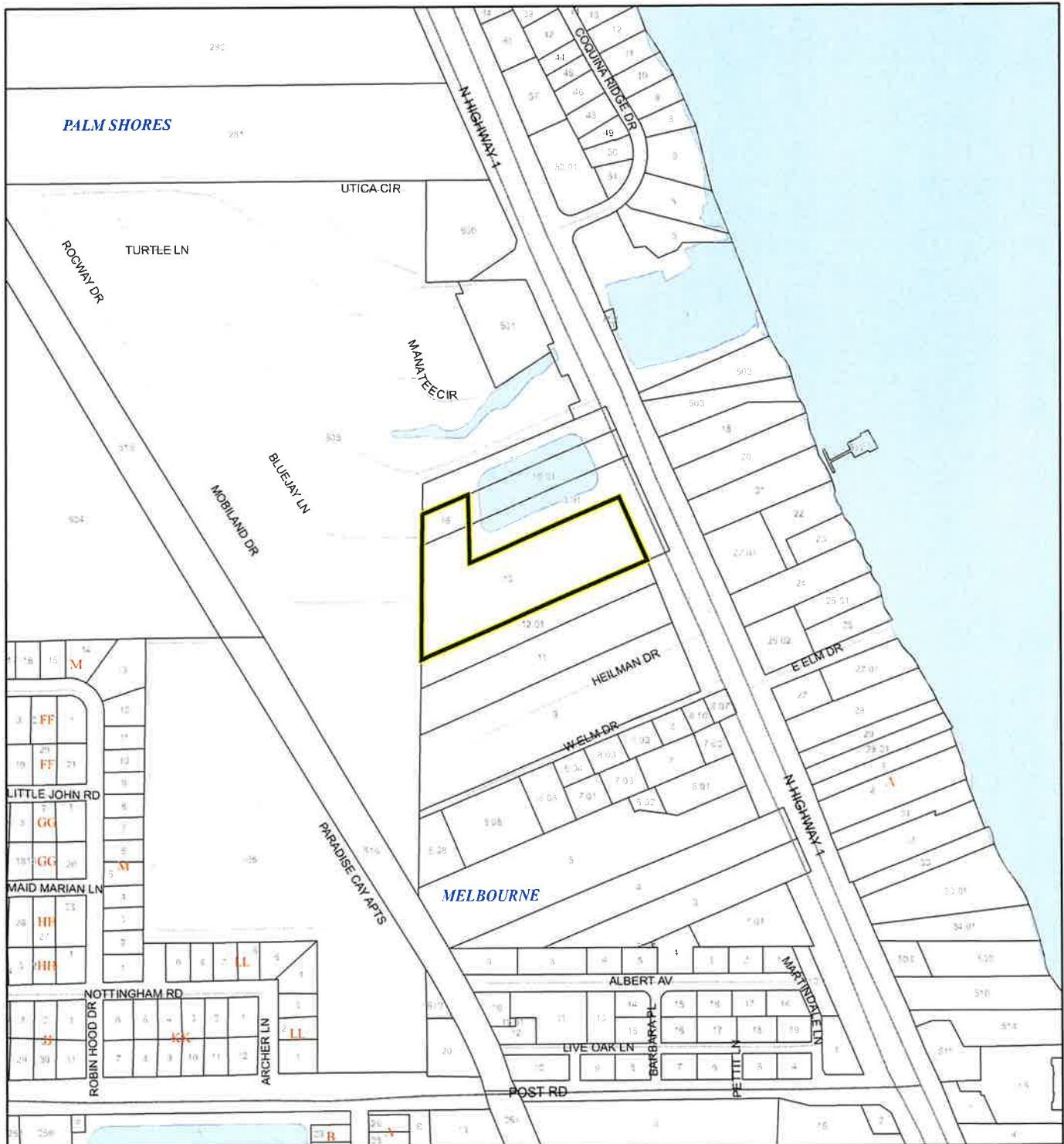
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

PALO, MICHAEL S

25SS00007



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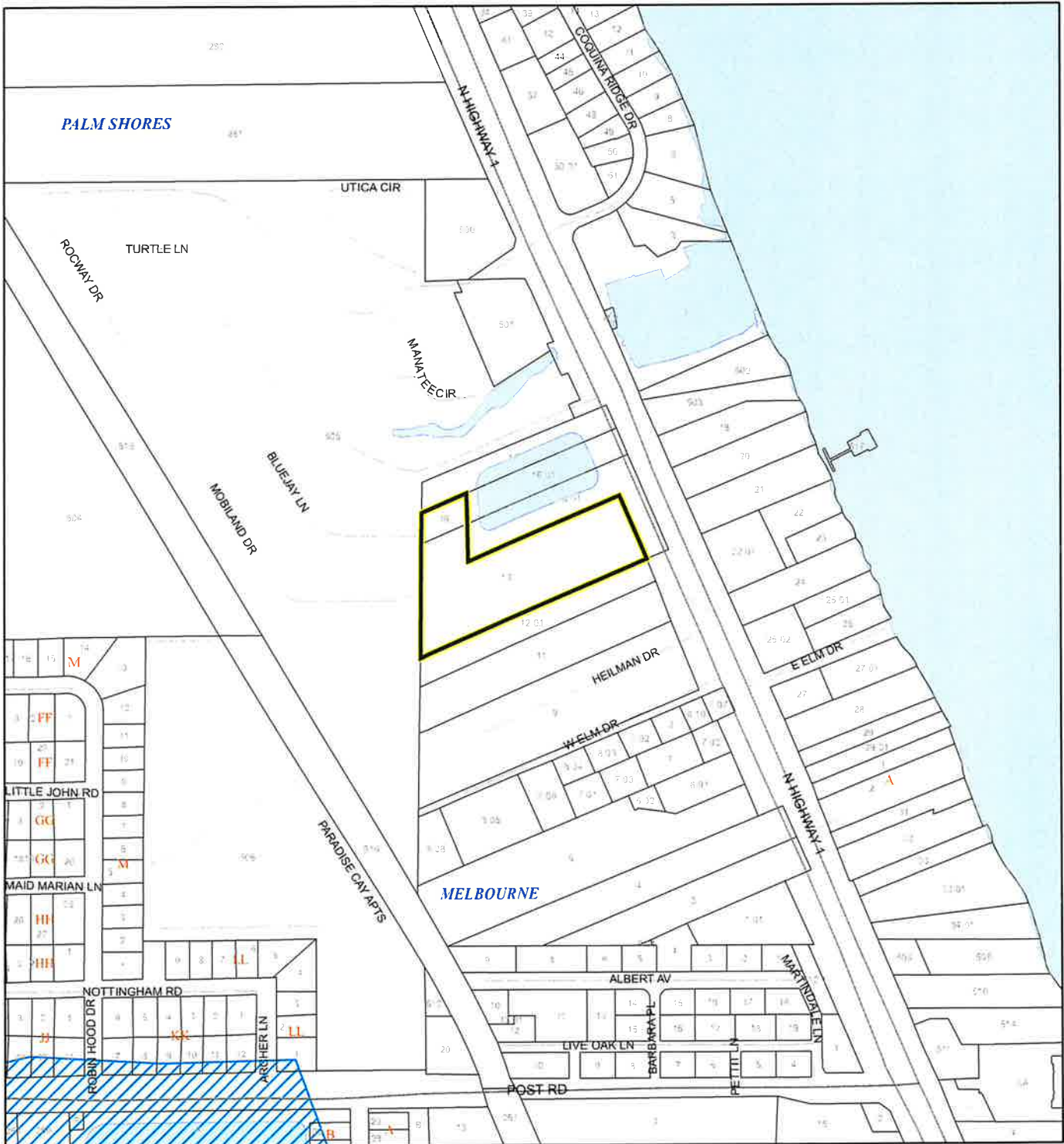
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

PALO, MICHAEL S
25SS00007



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Produced by BoCC - GIS Date: 7/10/2025

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PALO, MICHAEL S

25SS00007



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Produced by BoCC - GIS Date: 7/10/2025

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 15, 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); Debbie Thomas (D4); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Robert Brothers (D5); Melissa Jackson (D5); Neal Johnson (D4); Robert Wise (D2); and Eric Michajlowicz (3).

Staff members present were Billy Prasad, Planning & Development Manager, Paul Body, Planner; Alex Esseeesse, Deputy County Attorney; and Alice Randall, Operations Support Specialist.

EXCERPT OF COMPLETE AGENDA

H.1. Michael S. Palo (Landon Scheer) requests a Small-Scale Comprehensive Plan Amendment (25S.13) to change the Future Land Use designation from CC and RES-15 to all CC (25SS00007) (Tax Account 2611657, 2611658) (District 4)

H.2. Michael S. Palo (Landon Scheer) requests a zoning classification change from BU-1 and RU-1-7 to BU-2 (25Z00029) (Tax Account 2611657, 2611658) (District 4)

Paul Body read both item H.1. and H.2. into the record as they are companion applications but will need separate recommendations.

Landon Scheer spoke to the application. The property has been owned by the family for quite some time. They owned it when they developed the mobile home park to the west. They carved this parcel out when they developed the mobile home park. They no longer own the mobile home park, but they had the intent of developing this parcel for a long time. Then FDOT came in and decided they wanted some of it, so there is an FDOT pond that they took and developed with eminent domain which left them with an awkwardly shaped parcel that has a split zoning and land use which makes it difficult to develop. Our request is to rezone the property and change the land use to unify the zoning into one commercial zoning and land use. We are requesting to rezone to BU2 with a BDP that restricts the allowable uses to all BU1 uses with the additional use of contractor office, and storage. The property owner has a HVAC and plumbing contractor business up in Rockledge and they've outgrown their current operation and they're looking to relocate here. The nature of the use is HVAC and plumbing contractor. Obviously, they want to keep the materials shielded from the weather. So, 99% of the time they're going to be indoors. They have rollup doors so they can bring deliveries inside. The request for the outdoor storage comes if they have an afterhours delivery. They come in box trucks and drop the materials off outside the rollup doors and then

the guys come and take them inside. They're trying to be proactive about not getting a code violation for the materials that are left outside overnight if the guys can't get them right away. This is a mixed-use corridor. There is some residential in the area but there's also quite a bit of commercial. Within this corridor there's Curb Pro, Paver Pro, dentist office, marine and boat repair, restaurant, hair salon, Car Spot, VFW, daycare, vacant commercial office space, gas station, office complex, and doctor's office. There's an aquatic center that's been permitted but hasn't started construction. The property is off US-1 which is a major six lane highway that has plenty of capacity for the proposed use. Again, the intent is to have the rollup doors to not face the right-of-way or the residential property. They're situated right now on a concept plan shielded. They're facing the north, which is the DOT pond, not the residences. We're doing all that we can. We push the building as close to DOT as we could to keep it away from the residential properties as well. There are no wetlands on the property. That came up in uh natural resources review. We did have an environmental assessment done. There's a ditch on the west side of the property, but we've already spoken with St. John's and that can be relocated as necessary to accommodate our development. There's also a bit of a floodplain on our site but it's also on the west side where the dry pond is. So, we strategically placed the storm water and the building to be out of the floodplain and the storm waters in the floodplain to provide compensatory storage and required storm water. Landscape buffers were going to be required by county code regardless of if it was BU1 or BU2 to provide a 20ft landscape buffer from any residential property. That's just the code, along with a screening wall. So, we're going to make sure that we provide adequate screening from all residential properties. And again, the request is BU2, but only one use within BU2 and then all BU1.

No Public Comment

John Hopengarten asked staff to define plant.

Mr. Prasad responded in the context of the contractor's offices, plants and storage yards, I don't think it's defined in our code, but that as a group has a specific use in our zoning code.

Mr. Hopengarten asked, "so what is that use?"

Mr. Prasad stated the use is contractor's offices, plants, and storage yards.

Mr. Hopengarten then asked, "again, what's plants?" You can't have the word in the definition if you're not defining it.

Mr. Prasad responded you just use the common definition of plants. It's not specifically defined in our code.

Mr. Hopengarten asked if a plant could be a factory.

Mr. Prasad stated in the context of this, contractors offices, plants, and storage yards, it's in that kind of grouping together.

Mr. Hopengarten stated you're not answering my question.

Mr. Prasad continued with ultimately, it's an evaluation that would have to be done if a complaint had come in that it was outside of something that looks to be that.

Mr. Hopengarten stated but that's after the fact. If you're giving an opportunity to have a plant what's your definition of a plant?

Mr. Prasad stated as I said it's not defined in our code. So, it would be an as applied determination.

Mr. Hopengarten stated that's not a good answer.

Ron Bartcher asked if they got permission to relocate the ditch.

Mr. Scheer responded I wouldn't say we have permission yet. We'd still have to permit it, but we've spoken with St. John's, and it would have to be appropriately mitigated and relocated with calculations and appropriate plans.

Mr. Bartcher stated he was concerned if they're going to be interfering with the flow of water through that ditch either way.

Mr. Scheer replied we would have to maintain capacity and when we redirect it, we'd have to show modeling and calculations that we don't hinder the capacity of that ditch.

Mr. Bartcher continued with when I looked at the property appraisers website in your plan, I noticed that off US-1 there's an entrance that looks like it's an entrance to the property just south of you. But it's on your property. You've given them an easement of some kind, or have they just taken it over?

Mr. Scheer responded I believe my client is still working through that because there's no legal easement for that driveway, but it is there. That's something that we're going to have to work through with the property to the south of us because right now they don't have legal access through there. But they must have just built it there at one point.

Mr. Bartcher continued the other end of the property on the west end the trailer park looks like there are some parking places that are on your property for the trailer park.

Mr. Scheer replied I saw that, and it's not very well defined in the property appraiser's property line. The aerial can be off a couple feet. We're still getting our final survey, topo that would show where those parking spaces are, but I believe we're outside of it. Obviously if they were in our property, we would have to deal with it at that point, because I did see that too. I think it was a matter of the aerial scaling with property appraiser's website.

Mr. Bartcher responded I was curious about both of those. I didn't see it as a problem,

but was curious about how you would handle that.

Eric Michajlowicz inquired adjacent to the property, there are manufactured homes, correct? That's the south side.

Mr. Scheer responded correct. Immediately south is a single-family home and then two properties south is manufactured homes. On the west side there's a mobile home park on both sides of this property. And then north is the FDOT pond.

Mr. Michajlowicz asked if the owner owns one of those mobile home parks.

Mr. Scheer responded they did in the past way back in the 80s when this property owner developed the mobile home park and then sold it off and they kept this parcel with the intent to develop it. They were going to develop it quite some time ago, but FDOT took the pond and left them with an awkward shaped piece of property that has a split zoning. Now they're deciding to front it head-on. And to clarify the contractor office is the use and that is an allowable use in B1 but we're asking for the storage aspect of it if they get a late delivery that they can't deal with right away and move it inside.

Erika Orriss inquired you're asking for the plant use of it. That's what I'm questioning.

Mr. Scheer responded in the county's code under BU2 the way that the use is read is contractor office, plant, and storage yards. It's all in one mind.

Ms. Orriss replied would you be using anything as a plant is my question. You're just looking to have the contractor's and storage. And that will be in the BDP.

Mr. Scheer responded I believe that's how it is in the BDP. The BDP is in the package. I'm sure the client would be okay with crossing out plants, but that's the way it's written in the BDP on number three, it's directly from the code.

Ana Saunders stated you're showing a retaining wall. How do you plan on providing the appropriate buffer and so on if are you providing access? I know you said you were working through it, but I feel like you kind of must know that to go on with this plan.

Mr. Scheer replied I don't know the answer to that. I believe my client is working legally to get them to move their driveway off our property.

Ms. Saunders continued my question then would be to staff because depending on how this lays out, there is no buffer if there's the easement there. How are you guys going to apply that requirement? How would you look at that?

Mr. Prasad responded obviously this is just a concept plan. But he will have to either come up with a buffer or seek a waiver to it. One option I understand that he would be amenable to is to include some language in the BDP to require the buffer if you're particularly concerned about it so that it can't be waived later.

Motion to recommend approval of item H.1. by Ron Bartcher, seconded by Robert Brothers. Motion passed unanimously.

Motion to recommend approval of item H.2 with a BDP, and striking the word plant, by Ron Bartcher, seconded by Neal Johnson. Motion passed unanimously.

Meeting adjourned at 3:47 p.m.

DRAFT

10-2-25

H.3.

KA

KD

Nay By:

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