



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

G.5.

12/7/2023

### Subject:

Linde, Inc. (Kim Rezanka) requests a change of zoning classification from AU and BU-1 to BU-2. (23Z00072) (Tax Accounts 2103325 & 3019428) (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 AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### Summary Explanation and Background:

The applicant is requesting to change the zoning classification from AU and BU-1 to BU-2 for the purposes of a unified zoning across the entire proposed project area which includes two parcels, and to establish consistency with the proposed Future Land Use designation. The property is 9.97 acres according to the boundary survey. The proposed development is to use the site for maintenance, storage, and parking of distribution trucks. A companion application, 23SS0021, if approved, would amend the Future Land Use designation from CC (Community Commercial) and Res 4 (Residential 4) to all CC.

The proposed BU-2 zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services, outdoor storage yards, warehousing activities, and outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats, and mobile homes on minimum 7,500 square-foot lots.

The subject parcel is located along the U.S. Highway 1 corridor with a mix of commercial uses, single-family residential and vacant land. Multiple existing commercial developments are located to the west across U.S. Highway 1. A portion of the abutting parcel to the south is developed as a nightclub/bar. The remaining abutting parcels to the south and east are either developed as single-family residential or vacant with residential zoning. Two parcels are located to the north across Wiley Avenue, one of which is 73.2 acres of vacant residentially zoned land and the other is developed as a multi-family.

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

On November 13, 2023, the Planning and Zoning Board considered the request and unanimously

recommended approval. (Bruce Moia abstained)

**Clerk to the Board Instructions:**

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

**Resolution 23Z00072**

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

**WHEREAS**, Linde, Inc. (Kim Rezanka) requests a change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial), to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as follows; (See attached); and

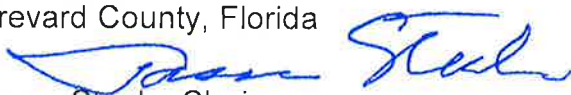
**WHEREAS**, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU & BU-1 to BU-2, 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 December 7, 2023.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
Jason Steele, Chair  
Brevard County Commission

As approved by the Board on December 7, 2023.

ATTEST:

  
RACHEL SADOFF, CLERK

(SEAL)

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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.**

### 23Z00072 Legal Description:

A portion of Parcel 1, as described in ORB 9628, Page 935. That portion of **Section 17, Township 21S, Range 35E**, Brevard County, Florida, lying south of Wiley Ave. east of U.S. Highway 1 (SR 5), north of the Plat of Orange Park, Plat Book 5, Page 39A and west of lands described in ORB 8370, Page 641, more particularly described as follows: Commence at the NW corner of the NW  $\frac{1}{4}$  of said Section 17; thence run N89deg00'43"E along the north line of the NW  $\frac{1}{4}$  of Section 17, a distance of 89.44 ft; thence run S22deg4'32"E, a distance of 16.16 ft. to the intersection of the south right-of-way of Wiley Ave. (variable width right-of-way per Brevard County Improvements Plat Project Number 2013-47) and the easterly right-of-way of U.S. Highway 1 (per FDOT Map Section 7003-(175) 277; thence run N89deg00'43"E along the south right-of-way of Wiley Ave., a distance of 277.94 ft. to the point of beginning; thence continue N89deg00'43"E said south right-of-way of Wiley Ave., a distance of 280.54 ft. to the west line of lands described in ORB 8370, Page 641, of the Public Records of Brevard County, Florida; thence run S11deg36'09"E along said west line, a distance of 564.03 ft. to the north line of Block 1, Orange Park, according to the Plat thereof, as recorded in Plat Book 5, Page 39A of said Public Records; thence run S73deg18'48"W along said north line, a distance of 151.50 ft.; thence run N22deg49'32"W, a distance of 641.40 ft. to the point of beginning; AND Parcel 2: (per ORB 8370, Page 641). Commence at the NW corner of Section 17, Township 21S, Range 35E, Brevard County, Florida; thence N89deg00'16"E, along the north line of said Section 17, 33.33 ft.; thence departing said north line of Section 17, S00deg59'44"E, 27.50 ft.; thence N89deg00'16"E, 81.08 ft. to the intersection of the east right-of-way of U.S. Highway 1, according to the State of Florida State Road Department right-of-way map Section No. 7003-(175)277, and south right-of-way of Wiley Ave., according to Wiley Ave. Improvements Plans (Project Number 2013-47), Brevard County, Florida, thence continue N89deg00'16"E along said south right-of-way, 542.15 ft. to the point of beginning, thence continue along said south right-of-way, N89deg00'16"E, 300.00 ft.; thence departing said south right-of-way, S00deg59'44"E, 495.22 ft.; thence S73deg53'04"W, 203.57 ft.; thence N11deg40'58"W, 558.00 ft. to the point of beginning. (9.97 acres) Located on the southwest corner of Wiley Ave. and U.S. Highway 1. (2719 U.S. Highway 1, Mims)

## **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  
23Z00072**

**Linde Inc. (f/k/a Praxair Inc.)**

**BU-1 (General retail commercial) and AU (Agricultural Residential) to BU-2 (Retail, warehousing and wholesale commercial)**

Tax Account Number: 2103325 and 3019428  
Parcel I.D.: 21-35-17-00-282 and 21-35-17-00-336  
Location: Southeast corner of Wiley Ave. and Highway 1 intersection.  
(District 1)  
Acreage: 9.97 +/-acres

Planning & Zoning Board: 11/13/2023  
Board of County Commissioners: 12/07/2023

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU and BU-1	BU-2
<b>Potential*</b>	2 Single-family\ F.A.R. 1	F.A.R. 1
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4 and CC	YES CC

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

\*\*Approval is pending approval of companion request **23SS00021**.

**Background and Purpose of Request**

The applicant is requesting to change the zoning classification from AU (Agricultural Residential) and BU-1 (General retail Commercial) to BU-2 (Retail, warehousing and wholesale commercial) for the purposes of a unified zoning across the entire proposed project area which includes two parcels and to establish consistency with the proposed FLUM. The property is 9.97 acres according to the Boundary Survey. The proposed

development is to use the site for maintenance, storage, and parking of distribution trucks. The parcel associated with tax account 2103325 (west parcel), is 7.27 acres and has BU-1 and AU zoning. The applicants main facility is located at the intersection of Wiley Ave and Hammock Rd. abutting the FEC Railway approximately 1 mile east of the subject property. Approximately four acres of it is zoned BU-1 zoning. The remainder is zoned AU. The existing structures on this parcel include one dog kennel, shed, four barns, one workshop and two residences.

The parcel associated with tax account 3019428 (east parcel), is 3.01 acres and has AU zoning. This parcel is vacant.

The applicant also owns property to the east, which is not included in this request.

At this time, there are no active code enforcement associated with the subject parcels.

The AU zoning portion of the subject property is the original zoning classification. On May 31, 1967, a zoning request from BU-2 to BU-1 was approved under zoning action **Z-2090**.

A companion application **23SS0021**, if approved, would amend the FLUM designation from CC (Community Commercial) and Res 4 (Residential 4) to all CC FLUM.

### Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Across Wiley Ave. Triplexes	BU-1, AU & RU-1-7	CC & RES 4
<b>South</b>	Bar/lounge	BU-1 & RU-1-7	CC, NC & RES 4
<b>East</b>	Vacant	AU	RES 4
<b>West</b>	Across Highway 1: Postal facility; fast-food restaurant; warehousing, distribution and trucking terminal	BU-1 & BU-2	CC

To the north are 2 parcels; 1.0-acre (developed as three un-platted residential triplexes) with AU zoning and 73.2-acre (unplatted residential vacant land) with BU-1 and RU-1-7 zoning.

To the east is 1 parcel; 0.41-acre (unplatted residential vacant land) with RU-1-7 zoning.

To the south is 1 parcel; 2.72-acre parcel classified by BCPAO as a bar/lounge on the BU-1 portion and the remaining is vacant land with RU-1-7 zoning.

West are four parcels; 1.82-acre parcel classified by BCPAO as postal facility with BU-2 zoning, 0.67-acre parcel is a fast-food restaurant with BU-2 zoning, 6.69-acres parcel classified by BCPAO as warehousing, distribution and trucking terminal with BU-1 zoning and 0.84-acre parcel (vacant commercial land) with BU-2 zoning.

The current AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The current BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The proposed BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services, outdoor storage yards, warehousing activities, and outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes on minimum 7,500 square foot lots.

BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted such as dry cleaning plants; Seafood processing plants not located within 300 feet of any residential zone boundary; and Testing laboratories.

Other activities permitted with conditions in BU-2; Crematoriums; Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products such as: Electronic assembly, Food, beverage and tobacco products, Pottery and figurines, Professional, scientific, photographic and optical instruments, Technical and scientific products and materials; and Recovered materials processing facility.

Chemical manufacturing or Industrial Gas Manufacturing is considered a Heavy Industrial use as defined in Sec.62-1102 and would require Industrial Future Land Use Map designation and IU-1 zoning classification. In addition, the use would require a Conditional Use Permit (CUP) as identified in Sec. 62-1544.

Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered.

There are no pending zoning actions within one-half mile of the subject property.

## **Future Land Use**

The subject property is currently designated as Community Commercial (CC) and Residential 4 (RES 4) FLUM. The existing BU-1 cannot be considered consistent with the existing CC FLU designation. The AU zoning can be considered consistent with the existing RES 4 FLU designation. The proposed BU-2 zoning classification can be considered consistent with the existing CC FLUM designation, however, cannot be consider with the existing RES 4 FLUM designation.

## **Applicable Land Use Policies**

Per **FLUM Policy 2.2** the zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

### **Criteria:**

#### **A. Permitted/prohibited uses;**

**BU-2 zoning classification permits retail, outdoor storage yards, wholesale and warehousing uses on minimum 7,500 square feet lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities (auto-repair facilities, paint and body shops, and contractor storage yards).**

#### **B. Existing commercial zoning trends in the area;**

**The commercial uses are sparse around the intersection of Wiley Ave/Highway 1). Most commercial development is located along Highway 1. There is some single-family residential also located along this segment of Highway 1. All of the commercial uses in the area have been established for more than 10 years. The fast-food restaurant, established in 2013, appears to be the last commercial development to take place in the area. Commercial uses in the area includes, but not limited to a hardware store, government facility, warehousing and truck terminal, bar/lounge and a fast-food establishment.**

#### **C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;**

**The applicants request can be considered compatible with the commercial uses in the area due to the subject property being located at the intersection with direct access to Highway 1. The proposed use will need to comply with Brevard County Performance Standards noted within Section 62-1483, 62-1833.5, and 62-2251-62-2272 of Brevard County Code and subject to a site plan review.**



- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

**The proposed development increases the percentage of MAV utilization by 1.23%. The corridor is anticipated to operate at 28.51% of capacity daily. The proposed development will not create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.**

**Potable water service may be provided by Brevard Water service area. The closest Brevard County sewer line is approximately 2,045 feet southwest on Highway 1. An approved Concurrency Application, including potable water service capacity, Sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.**

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

**None identified.**

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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

**Criteria:**

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

**The applicant is requesting to rezone 9.97 acres to BU-2 zoning for development of a maintenance, storage, and parking of delivery trucks. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.**

**Additionally, because delivery trucks will be parked on site, staff analyzed the site for access to fire hydrants. Findings indicate there is a fire hydrant located directly across Wiley Ave.**

- 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 (Master Appraisal 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 three (3) FLU designations within 500 feet of the subject site: CC, NC and RES 4. Predominant FLU designations CC and RES 4.**

**There are 3 clusters of Community Commercial within and extends outward from the 500 feet boundary. Total acreage for each cluster is 31.7 acres located to the west across Highway 1 and 35.7 acres located to the north across Wiley Ave. with frontage along Highway 1.**

**Staff analysis indicates the proposed use may be considered consistent with the existing pattern of development. Approval of this request could be considered an expansion into the surrounding residential areas located to the east.**

**FLUM amendments within one-half mile within the past three years:**

- **23SS00007 request to amend FLUM designation from CC & RES 4 to all CC on 2.17-acres, approved 08/03/2023 located approximately 710 feet south of the subject property on the eastside of Highway 1.**

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

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

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

**There has not been any development approved but not yet constructed within this area in the preceding three (3) years.**

**Development not yet approved is a proposed mini-storage warehouse in site plan review (23SP00034), approximately 710 feet south of the subject property on eastside of Highway 1.**

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

**No material violation of relevant policies has been identified.**

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

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**Staff analysis indicates the subject property is not located in an established residential neighborhood. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. The proposed development increases the percentage of MAV utilization by 1.23%. The corridor is anticipated to operate at 28.51% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.**

- 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.**

- 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.

**Staff analysis indicates the subject property is not located in an established residential neighborhood.**

- 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 subject parcel is located along a Highway 1 corridor with a mix of commercial uses, single-family residential and vacant land.**

**Multiple existing commercial developments are located to the west across Highway 1. A portion of the abutting parcel to the south is developed as a nightclub/bar. The remaining abutting parcels to the south and east are either developed as single-family residential or vacant with residential zoning.**

**Two parcels are located to the north across Wiley Ave., one of which is 73.2-acres of vacant residentially zoned land and the other is developed as a multi-family.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway 1 from SR 46 to Lionel Rd, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.28% of capacity daily. The proposed development increases the percentage of MAV utilization by 1.23%. The corridor is anticipated to operate at 28.51% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permittable uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

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

The subject parcel is within the Mims Water utilities service area for potable water. The closest Brevard County sewer line is approximately 2,045 feet southwest on Highway 1. The closet fire hydrant is located directly across Wiley Ave. An approved Concurrency Application, including potable water service capacity, Sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 23Z00072**

**Applicant:** Kimberly Rezanka (Owners: Linde, Inc. and Praxair, Inc.)

**Zoning Request:** BU-1 and AU to BU-2

**Note:** To create consistent zoning on two parcels, for use by Linde Inc. (formerly known as Praxair Inc.) for maintenance, storage, and parking of distribution trucks

**Zoning Hearing:** 11/13/2023; **BCC Hearing:** 12/07/2023

**Tax ID No.(s):** 3019428 and 2103325

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject property contains mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes; and Tavares fine sand, 0 to 5 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 and/or Type 3 Aquifer Recharge soils that have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Land Clearing and Landscape Requirements**

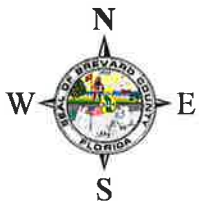
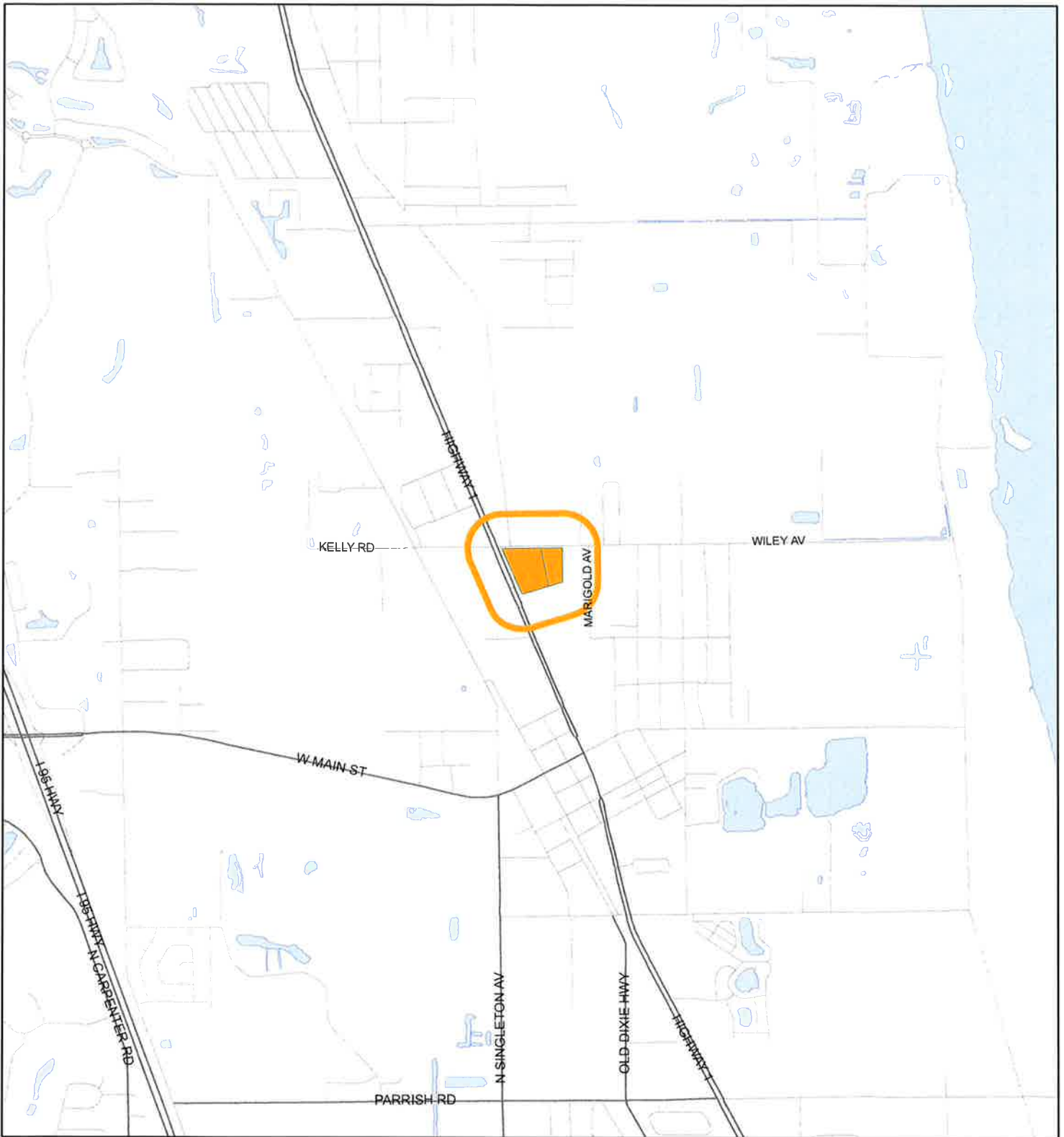
Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. Per Section 62-4341(18) of the Brevard County Landscaping, Land Clearing, and Tree Protection ordinance, Specimen and Protected Trees shall be preserved or relocated on site to the 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, canopy coverage, 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 properties with aquifer recharge soils. Specifically, Gopher Tortoises may be found where there are aquifer recharge soils. Should any protected species be present, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

# LOCATION MAP

Linde, Inc.  
23Z00072



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.

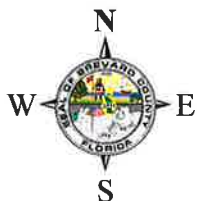
Produced by BoCC - GIS Date: 9/8/2023

— Buffer  
— Subject Property



# ZONING MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

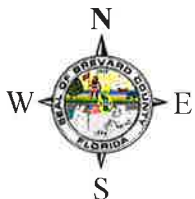
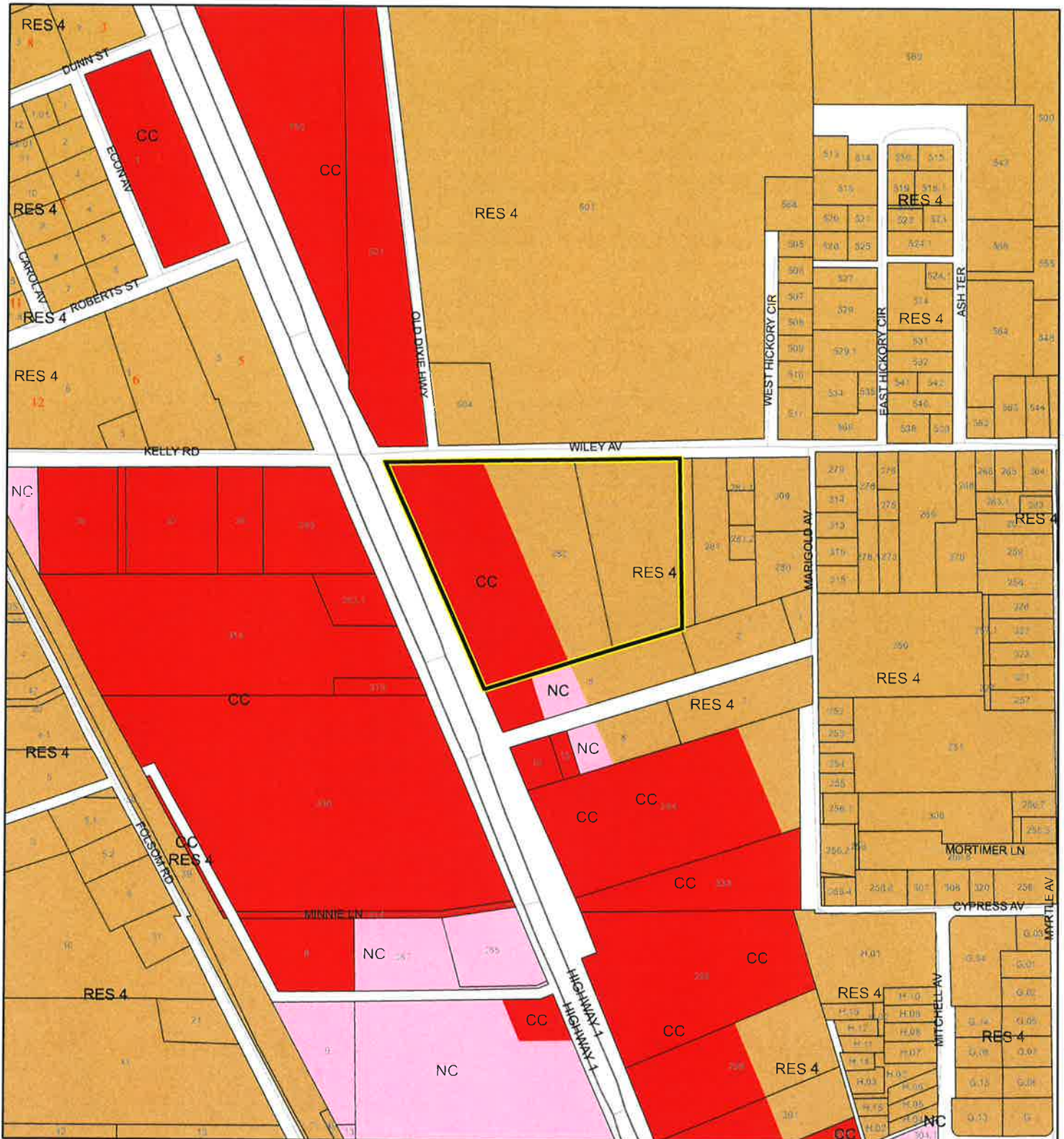
Subject Property

Parcels

Zoning

# FUTURE LAND USE MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

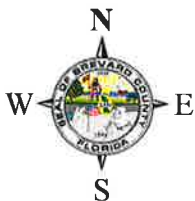
— Subject Property  
□ Parcels



# AERIAL MAP

Linde, Inc.

23Z00072



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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: 9/8/2023

 Subject Property

 Parcels



Linde, Inc.  
23Z00072



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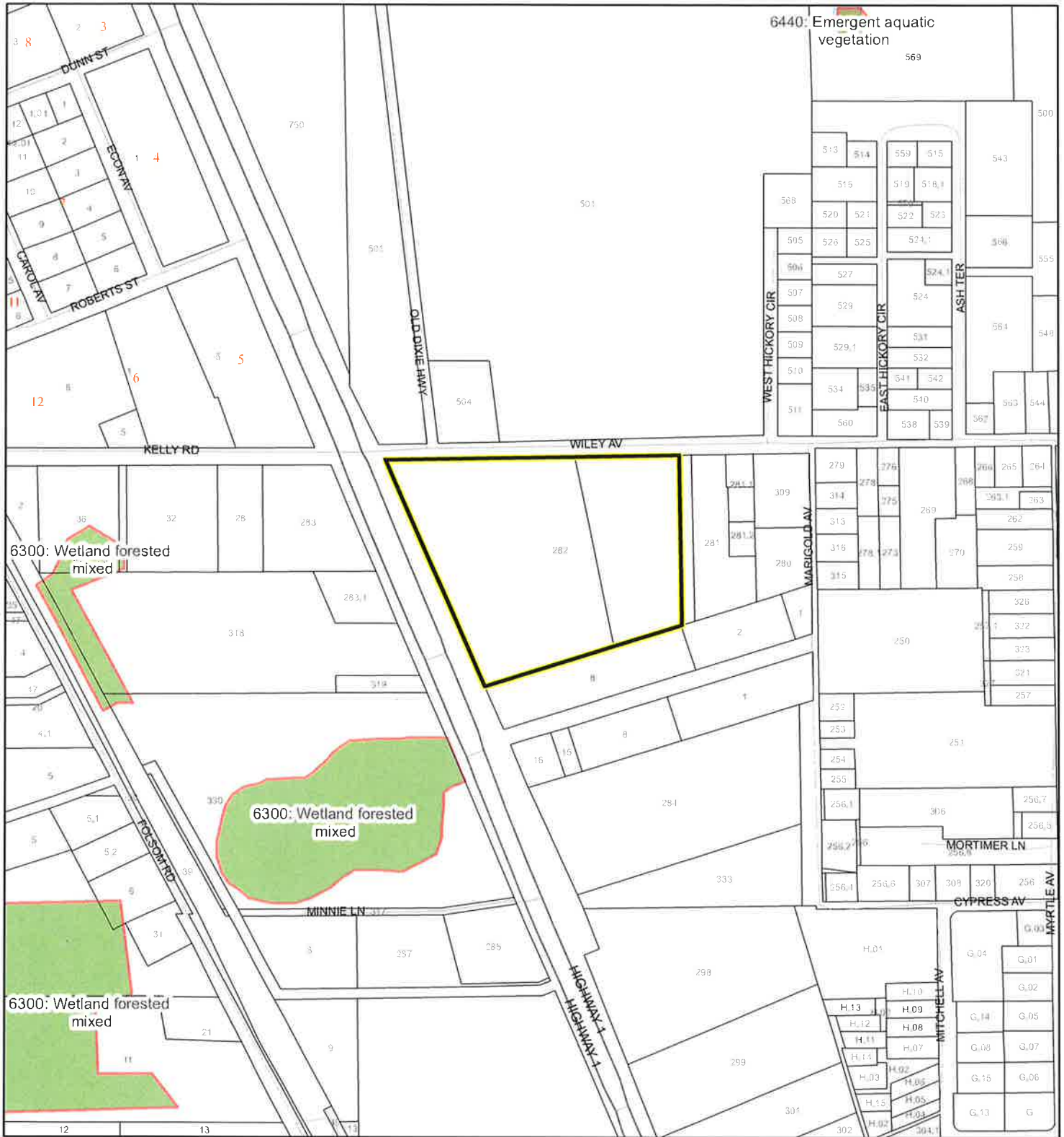
National Wetlands Inventory (NWI)

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

# SJRWMD FLUGGS WETLANDS - 6000 Series MAP

Linde, Inc.

23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

## SJRWMD FLUGGS 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

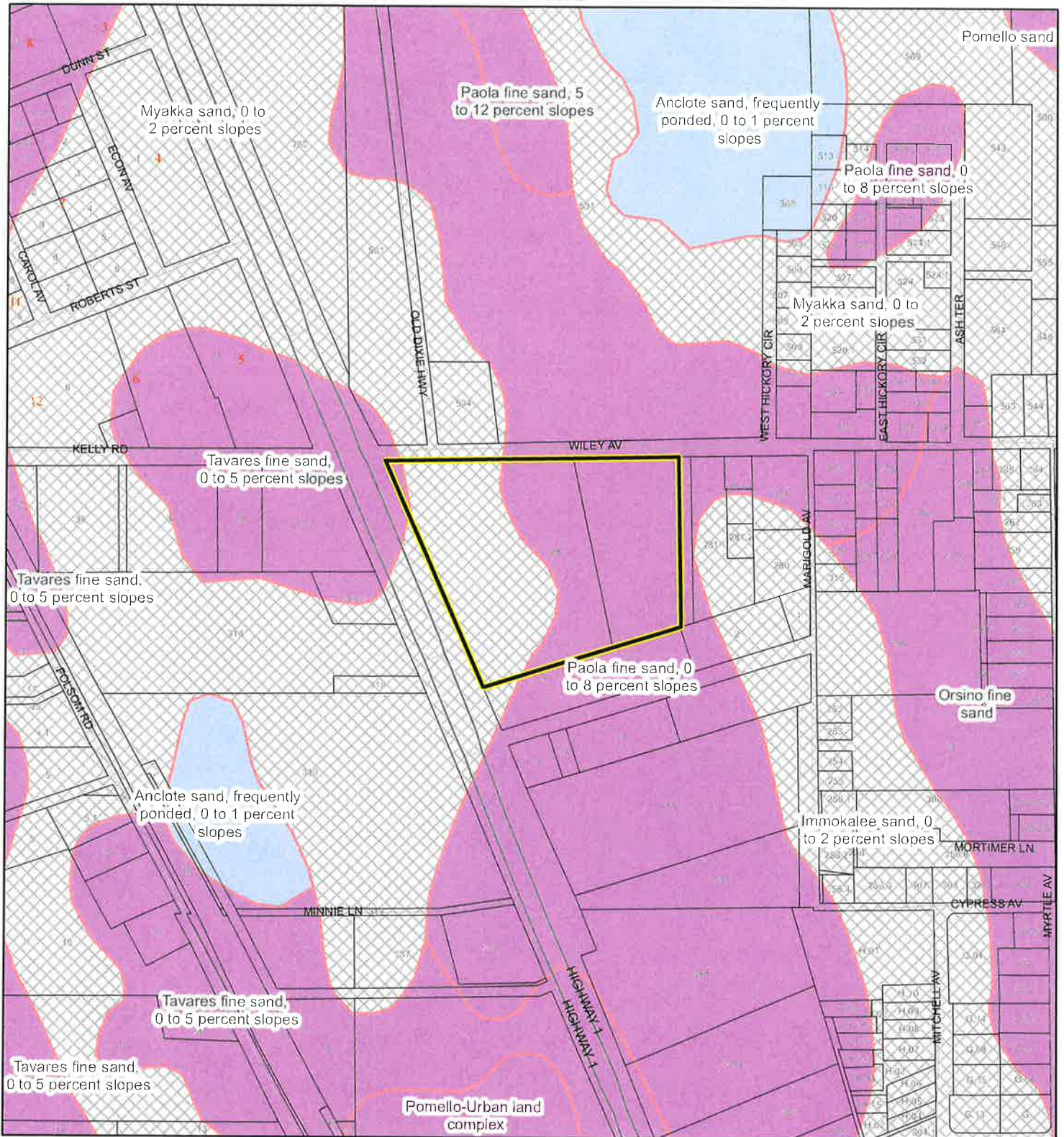
Subject Property

Parcels



# USDA SCSSS SOILS MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

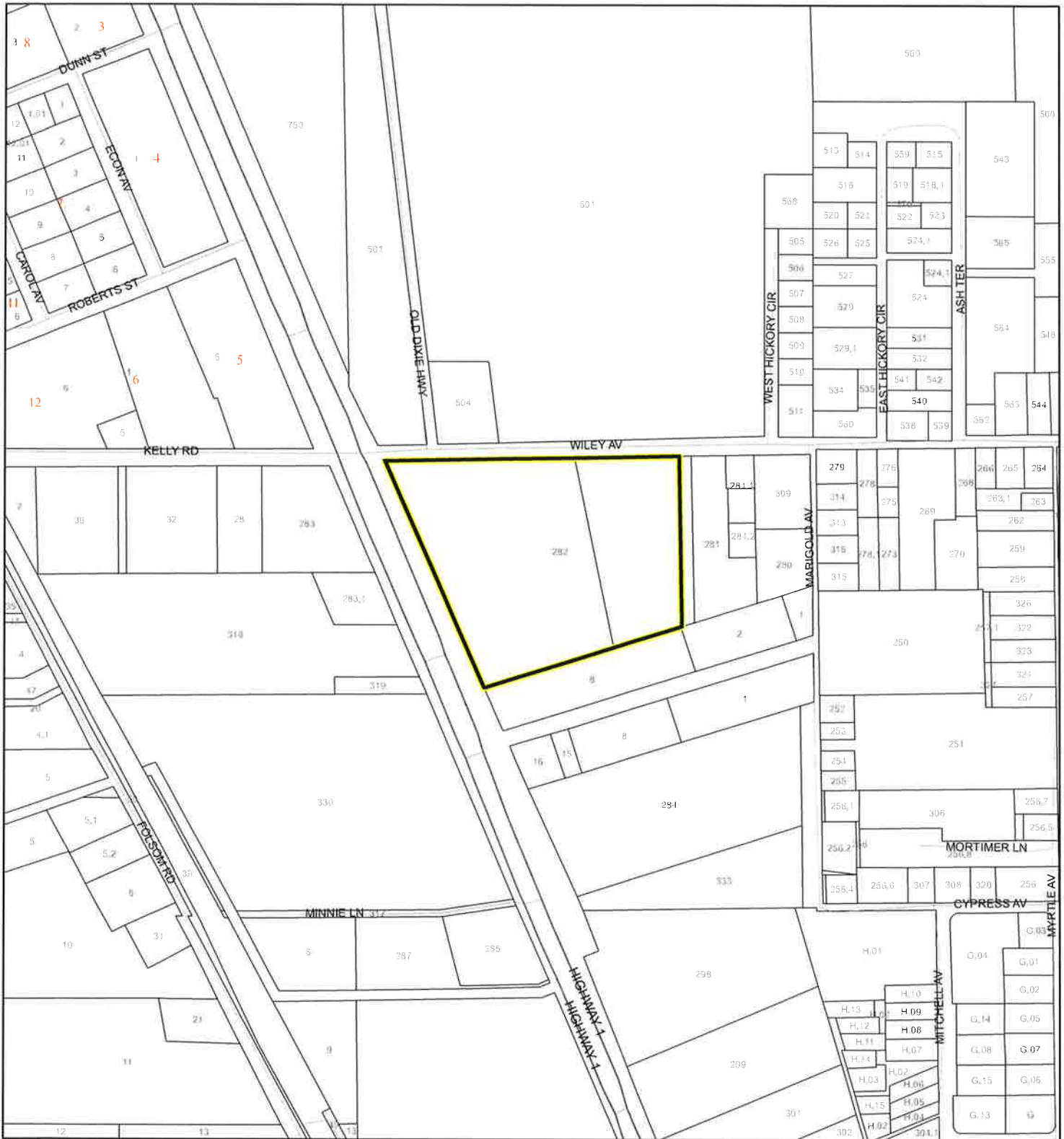
- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

Linde, Inc.

23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

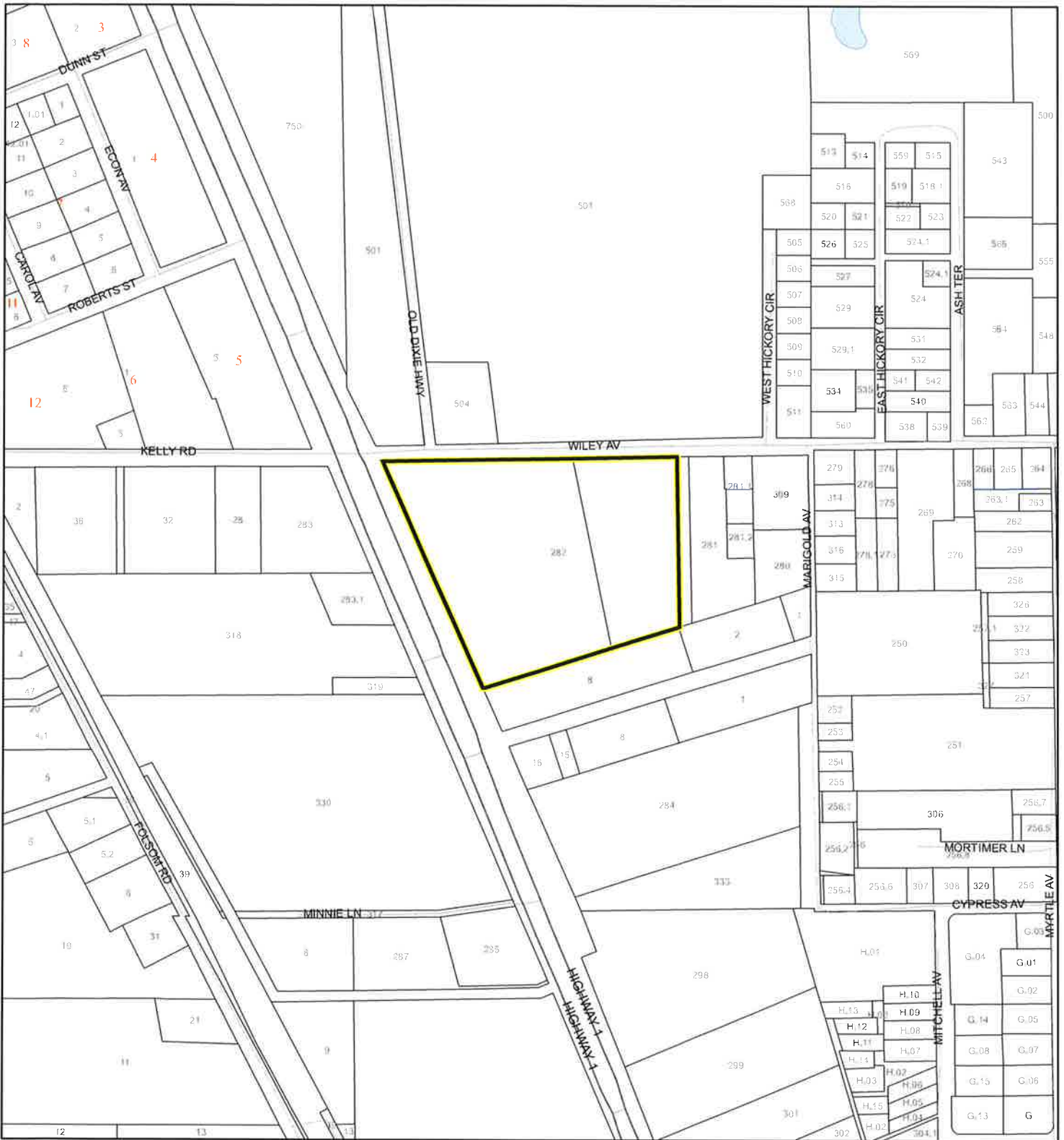
## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

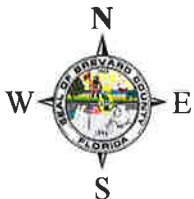
# COASTAL HIGH HAZARD AREA MAP

Linde, Inc.

23Z00072



1:4,800 or 1 inch = 400 feet




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Produced by BoCC - GIS Date: 9/8/2023

 Subject Property

 Parcels

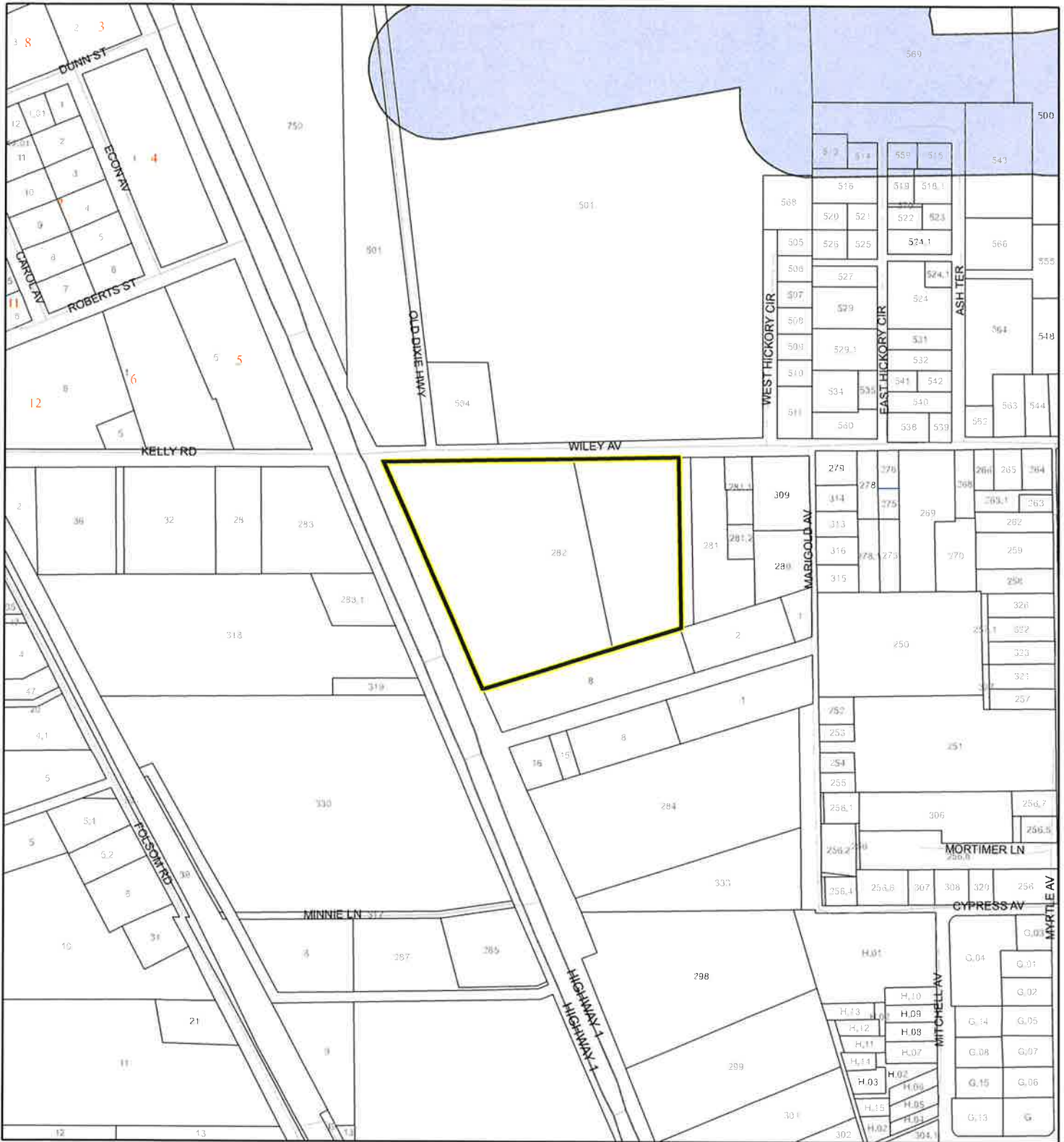
**Coastal High Hazard Area**

 SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

Subject Property

Parcels

## Septic Overlay

40 Meters

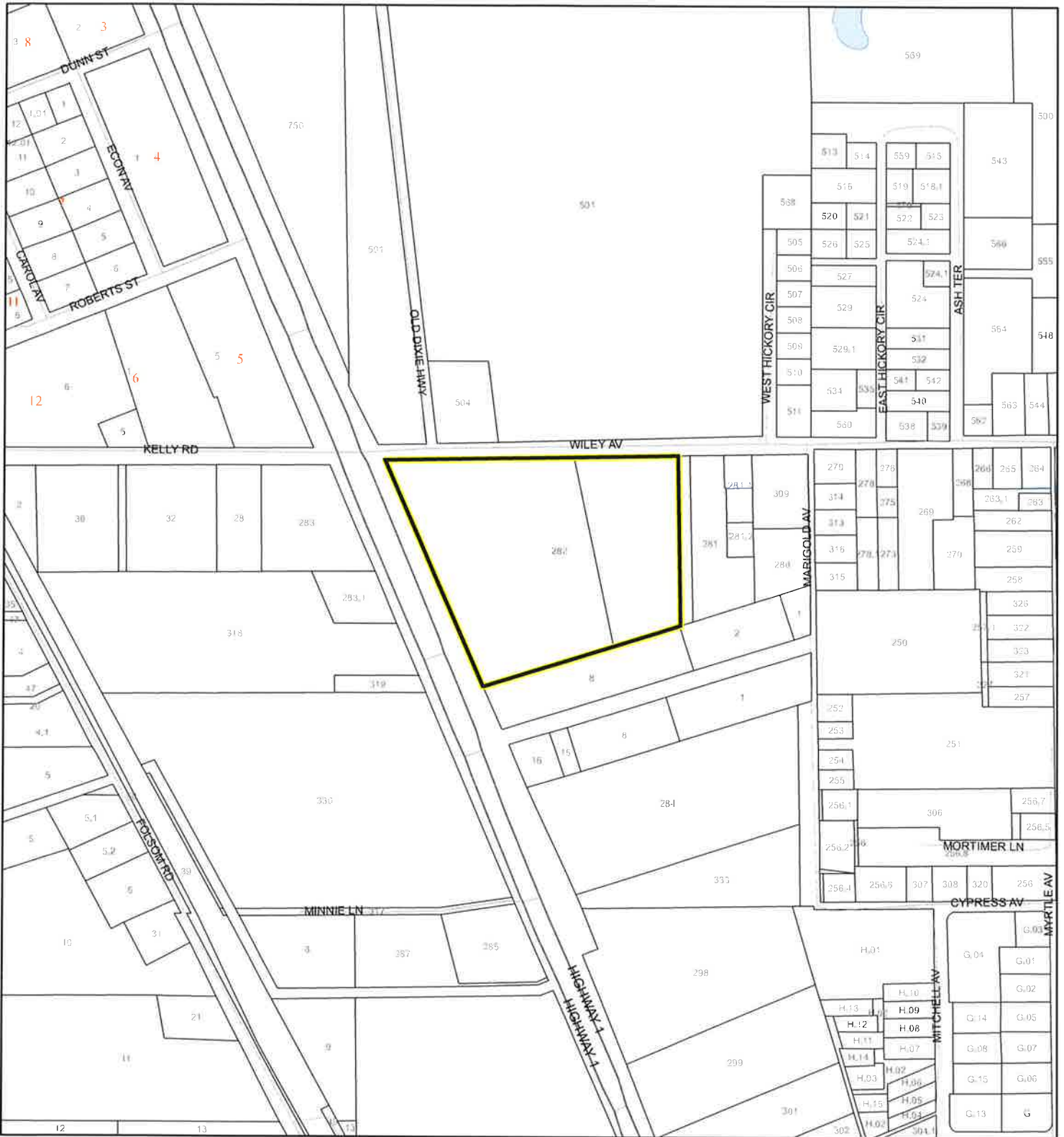
60 Meters

All Distances

# EAGLE NESTS MAP

Linde, Inc.

23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

 Subject Property

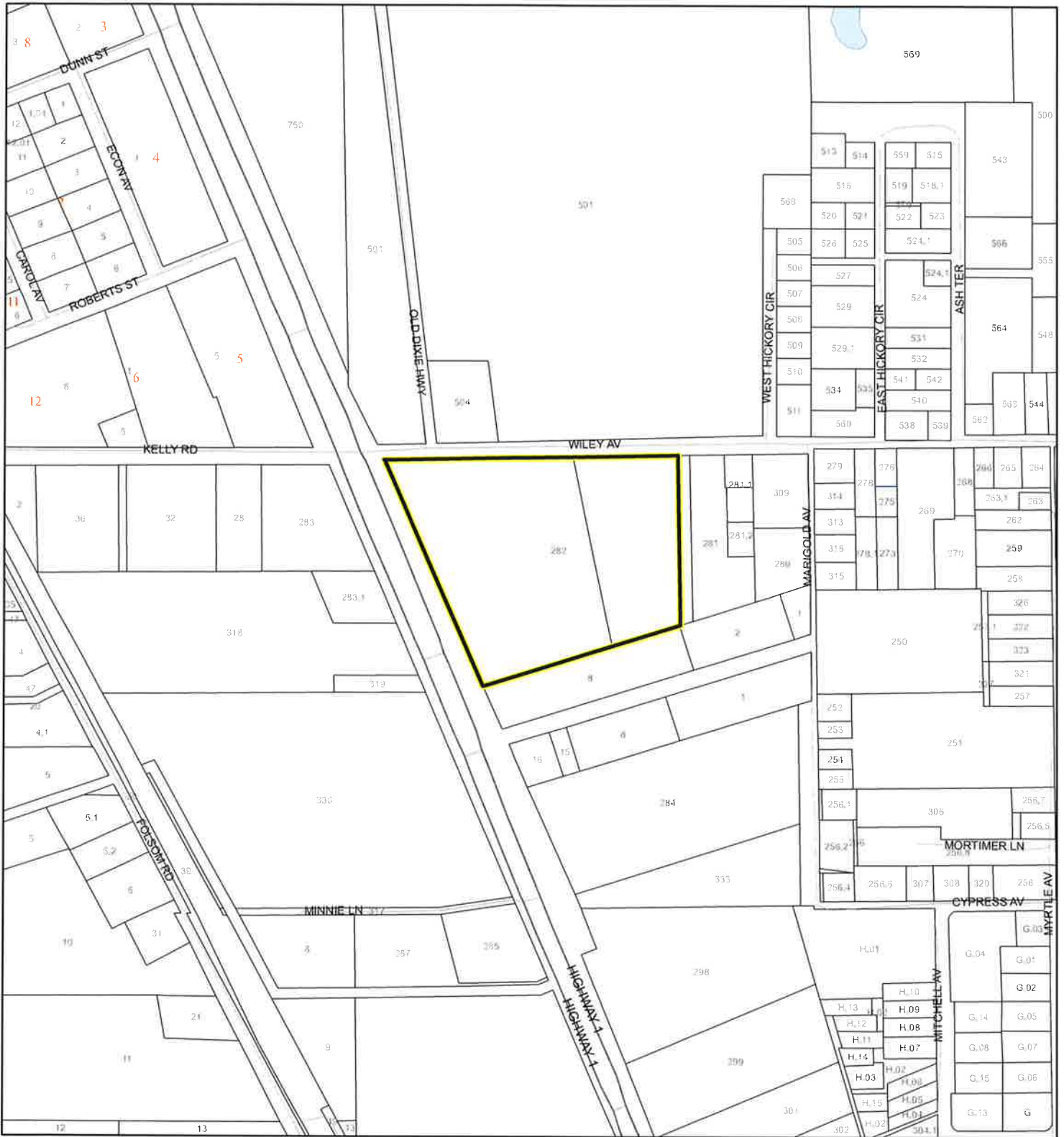
 Parcels



Eagle Nests  
FWS

# SCRUB JAY OCCUPANCY MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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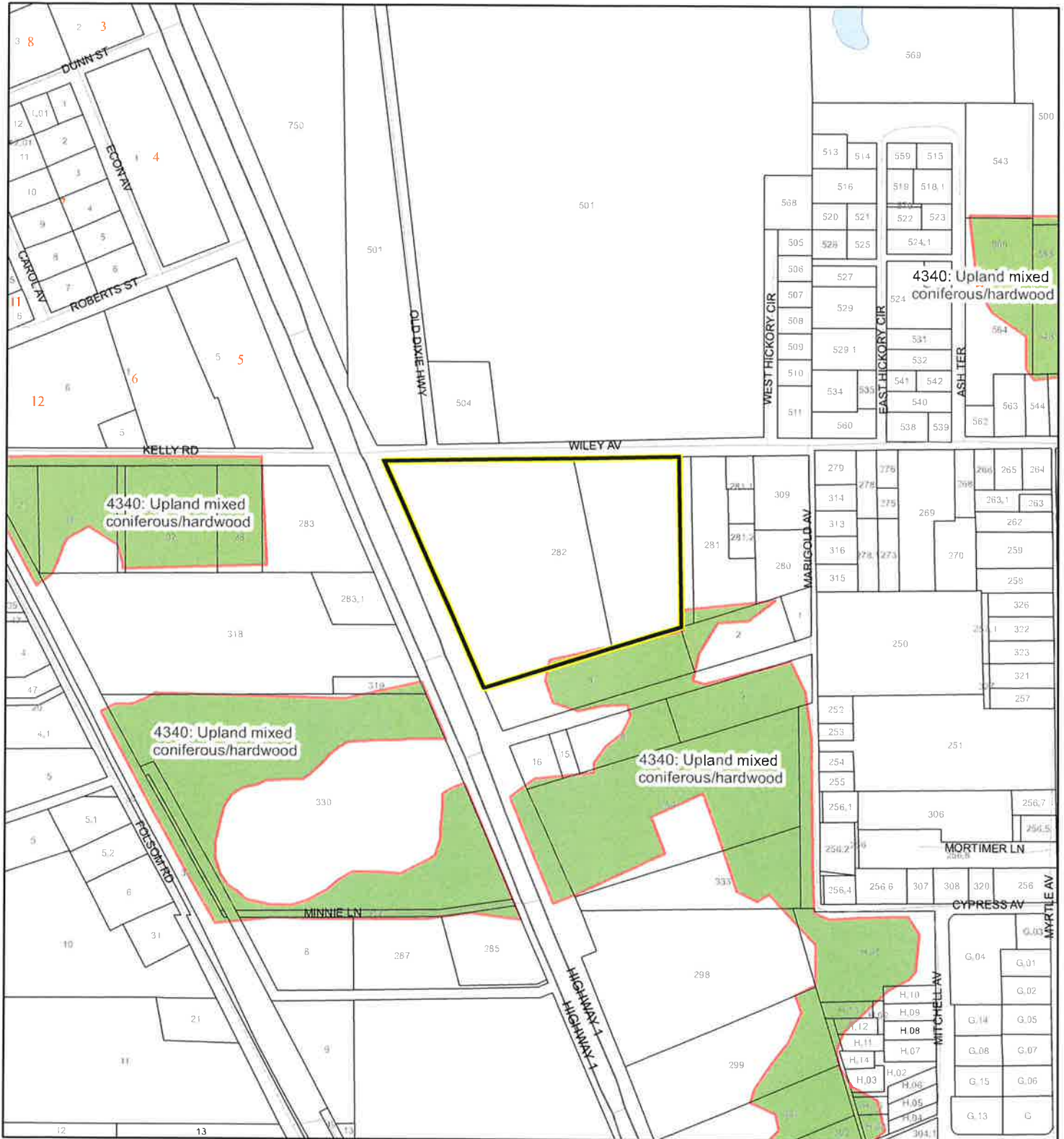
Produced by BoCC - GIS Date: 9/8/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Linde, Inc.  
23Z00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2023

## 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

**LEGAL DESCRIPTION:**



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
I, \_\_\_\_\_, County Clerk of said County,  
do hereby certify that the foregoing is a true and correct copy of the original as same appears from the records of said County.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.  
County Clerk of said County.

NOTED AND FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, AT LOS ANGELES, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 19\_\_\_\_.

\_\_\_\_\_ County Clerk of said County.

[illegible][illegible]

**SURVEYOR'S CERTIFICATE:**  
I HEREBY CERTIFY THIS SURVEY MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPLERS IN RULE 61.005, F.A.C.  
NAT-500-001 FLOIDA ADMINISTRATIVE CODE  
Digitally signed by  
William D Donlevy  
Date: 2023.07.18

DATE OF BIRTH: 06/28/59 DATE OF: 06/28/59

NAME: WILLIAM D. DORRITY

FLORIDA LICENSED SURVEYOR & MAPPER NO. 123281

THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A LICENSED SURVEYOR AND MAPPER.

SCALE	PROJECT NO	1 OF 1
7/14/23	1000.014	

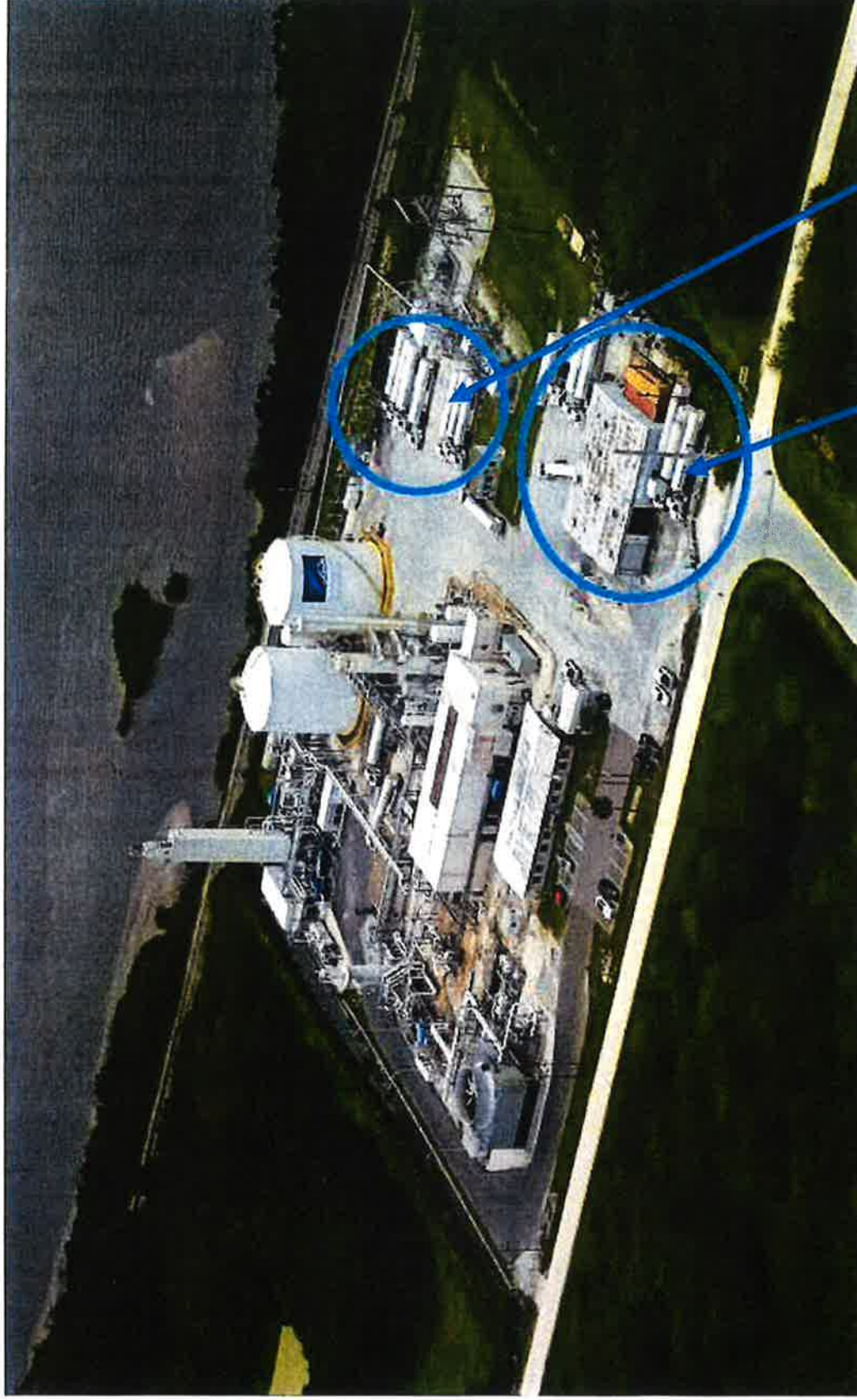
LOCATED IN SECTION 17, TOWNSHIP 21 SOUTH, RANGE 35 EAST	BOUNDARY SURVEY for:  LINDE INC.
--	--

**DONLEY CONSULTING GROUP, LLC**

#									
NO	DATE	TIME	NAME	REMARKS	STATUS				
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# Mims Production Facility 2801 Hammock Road @ Wiley Avenue

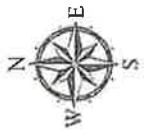


existing truck facility





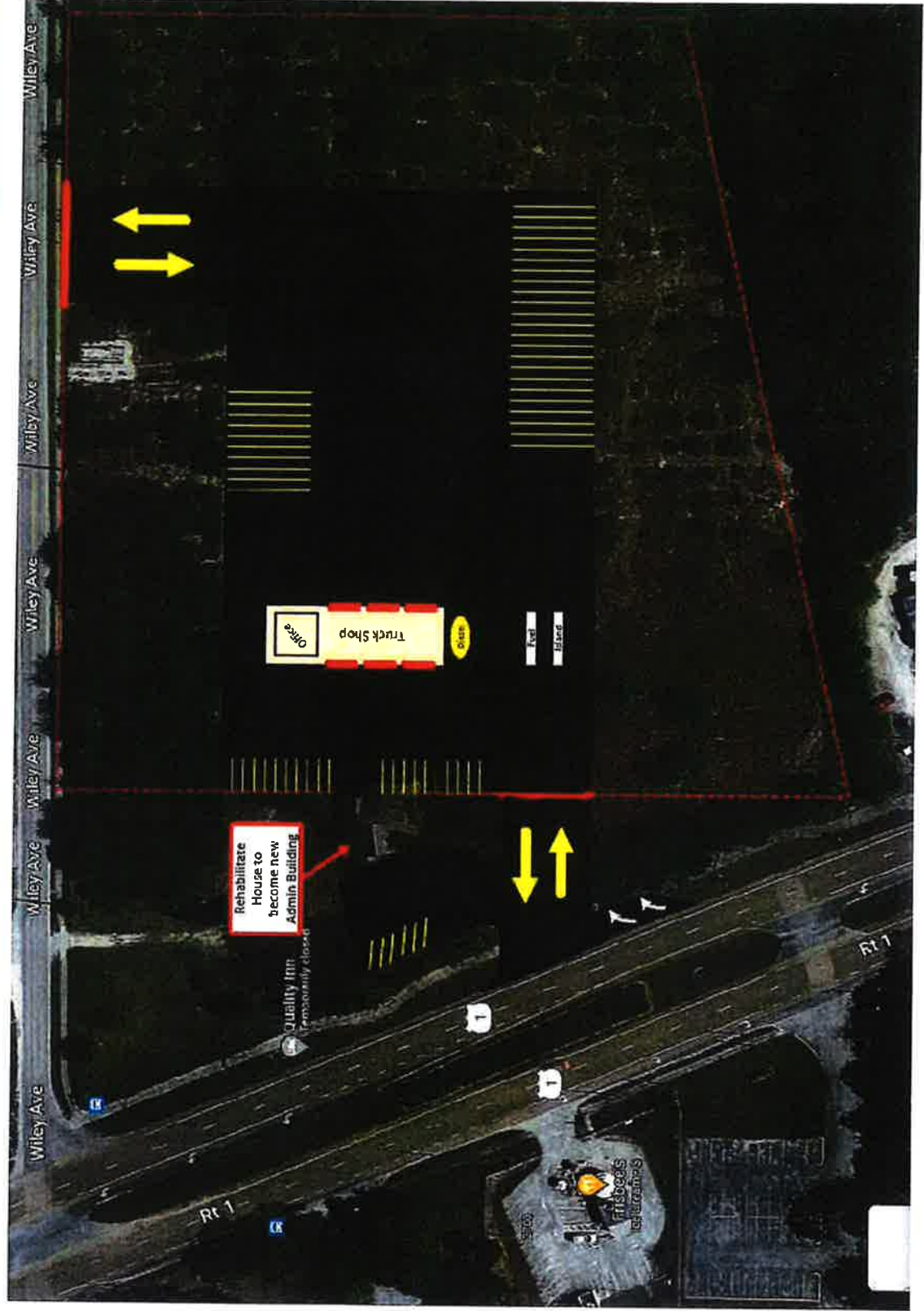
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All BCPAO maps and/or map applications are maintained for assessment and illustrative purposes only and do not represent surveys, plats, or any other legal instrument. Likewise, measurement and location tools are for assessment and illustrative purposes only and do not necessarily reflect real-world conditions. Due to the nature of Geographic Information Systems (GIS) and cadastral mapping, map layers may not precisely 1 and may not represent precise location, shape, and/or legal boundaries. Only a Florida-licensed surveyor can determine legally-relevant property boundaries, elevation, distance, area, and/or location in Florida.



# New Truck Facility Conceptional Design





## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 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); Ben Glover (D3); Mark Wadsworth, Chair (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Paul Body, Senior Planner; Trina Gilliam, Senior Planner; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, Bruce Moia advised the board of a conflict of interest on Items G.3. and G.4., and he abstained from voting on those items. Mr. Moia completed two forms, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Offices. The forms are attached to the minutes.

### Excerpt of Complete Agenda

#### **Linde, Inc. (Kim Rezanka)**

*A Small Scale Comprehensive Plan Amendment (23S.21), to change the Future Land Use designation from RES 4 (Residential 4) and CC (Community Commercial) to all CC. The property is 9.97 acres, located on the southwest corner of Wiley Ave. and U.S. Highway 1. (2719 U.S. Highway 1, Mims) (23SS00021) (Tax Accounts 2103325 & 3019428) (District 1)*

#### **Linde, Inc. (Kim Rezanka)**

A change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial), to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 0.65 acres, located on the southwest corner of Miami Ave. and Arizona St. (2162 Arizona St., Melbourne; and 4215 Miami Ave., Melbourne) (23Z00072) (Tax Accounts 2863326 & 2801026) (District 1)

Kim Rezanka, Lacey, Lyons, Rezanka Law Firm, Rockledge, stated two years ago the same owners were in front of the board for a rezoning to expand the existing facility in Mims, but at that time they were known as Praxair; they have since merged with Linde, Inc. and have become much larger. She stated Linde owns the 35-foot-wide parcel to the east, which will be left as a buffer. The purpose of the requests is to relocate Linde's truck facility to allow the existing truck parking and maintenance to move from the production facility on the river to the U.S. Highway 1 site, approximately 1 mile west. The existing truck facility was built approximately 60 years ago and needs to be demolished to make room for plant expansion at the main site. [Ms. Rezanka provided a handout to the board. The handout can be found in files 23SS00021 and 23Z00072, located in the Planning and Development Department].

Benjamin Vasquez, Linde Facilities Manager, 2801 Hammock Road, Mims, stated Linde is an air separation plant that makes three, nonhazardous, products out of the atmosphere: liquid oxygen, liquid nitrogen, and liquid argon. He said the need for the plant expansion is mostly from the space industry, which is growing tremendously. He said Linde has outgrown its footprint at 2801 Hammock Road, and the truck shop and trucks need to be moved. He stated the hope in the future is to also move the distribution center to the subject property.

Kim Rezanka stated the new site will house the distribution supervisor, an administrative assistant, and three truck supervisors. There will be approximately 25 tanker trailer units that will be housed there, but they will not all be used, and it will be an average of 15 of the tanker trailer units coming and going per day. She said the trucks will park there, fill up at the main site, and distribute to the space center. There will be two fuel islands, and the entire site will be fenced and landscaped for safety and aesthetics. She noted the staff report states the intended use can be considered compatible with the approved and proposed uses in the area.

No public comment.

Henry Minneboo asked if Linde's process is the same as Air Liquide's process on North Courtenay Parkway.

Mr. Vasquez replied Air Liquide is one Linde's competitors, and it is also an air separation process. The biggest difference in operations is Linde is a bulk producer that moves liquid product; Air Liquide's plant is largely a gaseous production, mostly high-pressure nitrogen that is piped around the Cape facilities and launch pads. It is the same process, but different application.

Ron Bartcher asked how the trucks will go south on U.S. Highway 1. Mr. Vasquez replied there is a cut through from Wiley Avenue, and the trucks will come out onto Wiley Avenue and then go west to U.S. Highway 1. He stated both entrances are proposed to be used, Wiley Avenue as well as U.S. Highway 1.

Mr. Bartcher asked what kind of vegetation buffer there will be along U.S. Highway 1. Ms. Rezanka replied, the trucks will be parked further to the west, and in the front will be the parking for the administrative building, and there will be a 7-foot fence.

Motion by Ron Bartcher, seconded by Henry Minneboo, to recommend approval a Small Scale Comprehensive Plan Amendment from RES 4 and CC to all CC. The motion passed unanimously, with Moia abstaining.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of a change of zoning classification from AU and BU-1 to BU-2. The motion passed unanimously, with Moia abstaining.

Item G.3.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS			
LAST NAME <b>Moia</b>	FIRST NAME <b>Bowles</b>	MIDDLE NAME <b>A.</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>LEA/222</b>
MAILING ADDRESS <b>375 Eutan Ct.</b>			THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <b>143 FL 32931</b>	COUNTY <b>Browns</b>		NAME OF POLITICAL SUBDIVISION: <b>Browns County</b>
DATE ON WHICH VOTE OCCURRED <b>11/13/23</b>			MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

#### WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

#### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

#### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict: PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

#### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, *Bruce Mora*, hereby disclose that on *11/13/23*:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain or loss;

☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;

☐ inured to the special gain or loss of my relative, \_\_\_\_\_;

☒ inured to the special gain or loss of *MAV*, by  
whom I am retained; or

☐ inured to the special gain or loss of \_\_\_\_\_, which

is the parent organization or subsidiary of a principal which has retained me.

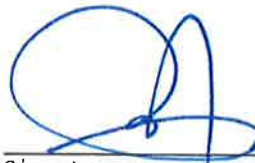
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*THE APPLICANT IS A CLIENT OF MAV, WHICH I AM PRESIDENT OF MAV.*

Date Filed

*11/13/23*

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Item G.4.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME <b>MOIA</b>	FIRST NAME <b>BATES</b>	MIDDLE NAME <b>A.</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>LPA/P&amp;Z</b>
MAILING ADDRESS <b>325 EUTAW CT.</b>			THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <b>11th St 32837</b>	COUNTY <b>BREVARD</b>	NAME OF POLITICAL SUBDIVISION: <b>BREVARD County</b>	
DATE ON WHICH VOTE OCCURRED <b>11/13/23</b>			MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict: PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)



**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, \_\_\_\_\_, hereby disclose that on \_\_\_\_\_:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain or loss;

☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;

☐ inured to the special gain or loss of my relative, \_\_\_\_\_;

☒ inured to the special gain or loss of MBV, by

whom I am retained; or

☐ inured to the special gain or loss of \_\_\_\_\_, which

is the parent organization or subsidiary of a principal which has retained me.

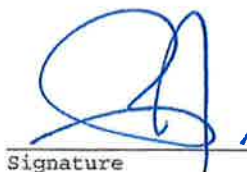
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

THIS APPLICANT IS A CLIENT OF MBV, IN WHICH I AM PRESIDENT  
OF MBV.

Date Filed

11/13/23

Signature



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