



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

10/6/2022

Subject:

Mark A. and Rebecca L. Oostdyk request a change of zoning classification from RR-1 to AU. (22Z00036) (Tax Account 2405176) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicant is requesting to rezone from RR-1 to AU. The applicant is proposing to build one single-family detached residential dwelling, and would like to raise and graze farm animals, including fowl, as well as beekeeping and growing fruit trees. The subject parcel is undeveloped.

The subject parcel was recorded into the Official Record Books in June 1982. The easement over the north 50 feet of the east 149.66 feet was recorded in ORB 2779, Page 1737, dated March 3, 1987. A revision to the easement was made through an Administrative Action (AA-485) on March 15, 1990. The applicants would need to obtain flag lot approval prior to applying for Building Permits or demonstrate easement access satisfies Section 62-102.

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

All immediate surrounding parcels are single-family residential or undeveloped. Several parcels in the immediate area have horses but there was no observation of agricultural use during a recent site visit. On Rayburn Road, south of the subject parcel, is Rudy Ranch which has cattle. There is a mixture of GU and RR-1 zoning classifications in the general area. There is an existing pattern of consistent zoning in the area surrounding the subject parcel. The closest parcel with AU zoning, as mentioned, is 641 feet north.

Should the Board be concerned with compatibility and consistency of agricultural activities, on a commercial level, they may consider a lower intensity zoning classification such as AU(L).

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

On September 12, 2022, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00036

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

WHEREAS, Mark A. and Rebecca L. Oostdyk, have requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 769, as recorded in ORB 7096, Pages 931 - 932, of the public records of Brevard County, Florida. **Section 14, Township 24, Range 35.** (10.89 acres) Located on the west side of Cox Rd., approx. 820 ft. north of Rayburn Rd. (2030 Cox Rd., Cocoa); and

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RR-1 to AU, 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 October 6, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on October 6, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – September 12, 2022

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

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

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

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

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00036

Mark & Rebecca Oostdyk

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

Tax Account Number: 2405176
Parcel I.D.: 24-35-14-00-769
Location: 2030 Cox Rd., Cocoa, FL 32926 (District 1)
Acreage: 10.89 acres

Planning & Zoning Board: 9/12/2022
Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

| | CURRENT | PROPOSED |
|--|----------------|-----------------|
| Zoning | RR-1 | AU |
| Potential* | 2 SF unit | 1 SF unit |
| Can be Considered under the Future Land Use Map | YES RES 1 | YES RES 1 |

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

Background and Purpose of Request

The applicant is requesting to rezone the property from RR-1 (Rural Residential) to AU (Agricultural Residential). The applicant is proposing to build one single-family detached residential dwelling on the property as well as using it for personal and commercial agricultural pursuits. Applicants would like to raise and graze farm animals including fowl as well as beekeeping and growing fruit trees. The subject parcel is undeveloped.

The subject parcel was recorded into the Official Record Book in June 1982. The easement over the north 50 feet of the east 149.66 feet was recorded in Official Record Book (ORB) 2779, Page 1737 dated March 3, 1987. A revision to the easement was made through an Administrative Action (**AA-485**) on March 15, 1990.

The applicants would need to obtain flag lot approval prior to applying for Building Permits or demonstrate easement access satisfies Section 62-102.

Land Use

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

FLUE Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

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

Applicable Land Use Policies

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

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

The applicant proposes to build a single-family home as well as conduct personal agriculture and commercial ventures. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

There is one (1) FLU designation (RES 1) within 500-feet of this site. There have been no FLU changes within 500-feet. 10 out of 44 parcels within ½ mile are undeveloped. Properties to the east, located on the east side of Cox Rd. is City of Cocoa and is zoned as RR-1; the properties to the southeast are also located in the City of Cocoa and are zoned RU-1-7. Property sizes range from 0.5-acres to 5.29-acres. The closest parcel with AU zoning is 642 feet to the north; there are others to the west that are 700 feet away.

All immediate surrounding parcels are single-family residential or undeveloped. Several parcels in the immediate area have horses but there was no observation of agricultural use when a recent site visit was performed. On Rayburn, a street south of the subject parcel, is Rudy Ranch and they have cattle.

There has not been any actual development within this area in the preceding three (3) years. There has not been any approved development within 500-feet in the preceding three (3) years.

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

Zoning Resolution **Z-2219**, changed the parcel's zoning from GU (General Use) to RR-1 (Rural Residential) in 1968. The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to five (5) acres.

There is a mixture of GU and RR-1 zoning classifications in the general area. There is an existing pattern of consistent zoning in the area surrounding the subject parcel. The closest parcel with AU zoning, as mentioned, is 641 feet north.

The proposed AU zoning may be considered to be consistent with RES 1 as AU has a minimum required lot area of 2.5-acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential development of spacious character. The classification is divided into two types, AU and AU(L). The AU is the standard agricultural residential classification, while the AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. To the north are two developed parcels, 1.58-acres and the other 3.16-acres with a single-family residence zoned RR-1. To the south are four (4) parcels (5.29-acre, 2.19-acre, 2.63-acre and 3.78-acre), each developed with a single-family residence and zoned RR-1. To the east is an undeveloped 4.7-acre parcel with RR-1 zoning. Also, to the east is a developed parcel with a single-family residence on 3.69-acres. Directly to the east from the easement, across Cox Rd., are what appear to be single-family residences but are under the City of Cocoa's jurisdiction and their confirmed zoning is RR-1. To the west are two (2) undeveloped utility owned 3.42-acre parcels zoned GU. To the southwest are four (4) undeveloped parcels zoned GU ranging from 0.63-acres – 0.88-acres.

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

Should the Board be concerned with compatibility and consistency of agricultural activities, on a commercial level, they may consider a lower intensity zoning classification such as AU(L) may consider a lower intensity zoning classification such as AU(L). It is a lower intensity sub-classification of AU. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities. Should the Board consider AU(L) zoning be a more appropriate zoning classification in order to protect the existing residential designation of the neighborhood.

Analysis of Administrative Policy #7 – Significant Adverse Environmental Impacts

The Environmental Constraints section of the reports identify several environment limitations effecting the development potential of the property. The top half of the property is in a flood zone. There is also Hydric Soil by Parcel in the north east corner of the property.

Surrounding Area

| | Existing Land Use | Zoning | Future Land Use |
|--------------|-------------------|--------|-----------------|
| North | SF Residences | RR-1 | RES 1 |
| South | SF Residences | RR-1 | RES 1 |
| East | SF Residences | RR-1 | RES 1 |
| West | Undeveloped | GU | RES 1 |

RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet.

City of Cocoa RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width of 125 feet and minimum lot depth of 200 feet. Their RR-1 classification permits as accessory uses horses, cattle and other farm animals for personal use provided there is a minimum of 20,000 sq. ft of land for each animal.

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification permits the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cox Rd., between SR 524 to James Rd., which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 14.32% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.76%. The

corridor is anticipated to operate at 15.08% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The closest City of Cocoa utilities service area for public water is 0.4 miles away at the intersection of SR 524 and Cox Rd. Potable water is available through the City of Cocoa and is servicing the immediate neighbors.

Environmental Constraints

- Wetlands/Hydric Soils
- Floodplain
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils, National Inventory Wetland (NWI) wetlands, and hydric pine flatwoods indicators that wetlands may be present. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-6700 for classification requirements.** If Bona Fide Agriculture classification is not established, then land clearing activities and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Section 62-3694(a)(1) states that non-bonafide agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any to any land clearing activities, site plan design or building permit submittal.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary**

Item # 22Z00036

Applicant: Mark & Rebecca Oostdyk

Zoning Request: RR-1 to AU

Notes: Applicant wants agricultural uses

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2405176

- 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/Hydric Soils
- Floodplain
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils, National Inventory Wetland (NWI) wetlands, and hydric pine flatwoods indicators that wetlands may be present. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Anclote sand), hydric pine flatwoods, and NWI wetlands (freshwater forested/shrub wetland) as shown on the USDA Soil Conservation Service Soils Survey and NWI Wetlands maps, respectively; indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or building permit application submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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Floodplain

Approximately half of the property is mapped as being within the isolated floodplain as identified by FEMA and as shown on the FEMA Flood Zones Map. The portion of the property located within the floodplain is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(3)(d). Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within an isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Land Clearing and Landscape Requirements

The entire parcel is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are likely found on the parcel. A tree survey of Protected and Specimen Trees is required prior to any land clearing activities, site plan design or building permit submittal. At time of building permit submittal, the applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

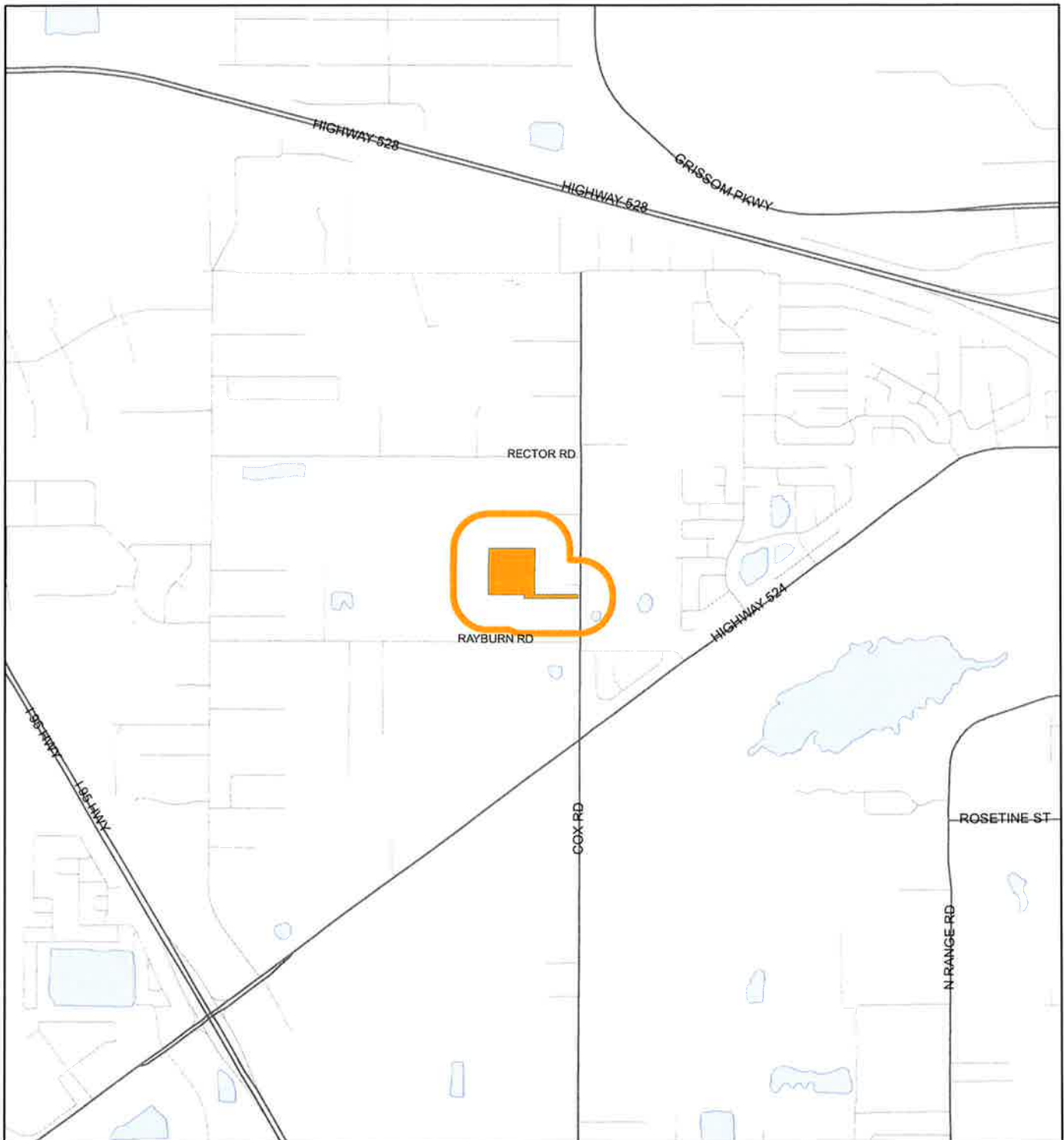
Protected Species

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

LOCATION MAP

OOSTDYK, MARK A

22Z00036





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: 7/15/2022

-  Buffer
-  Subject Property

ZONING MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

— Subject Property

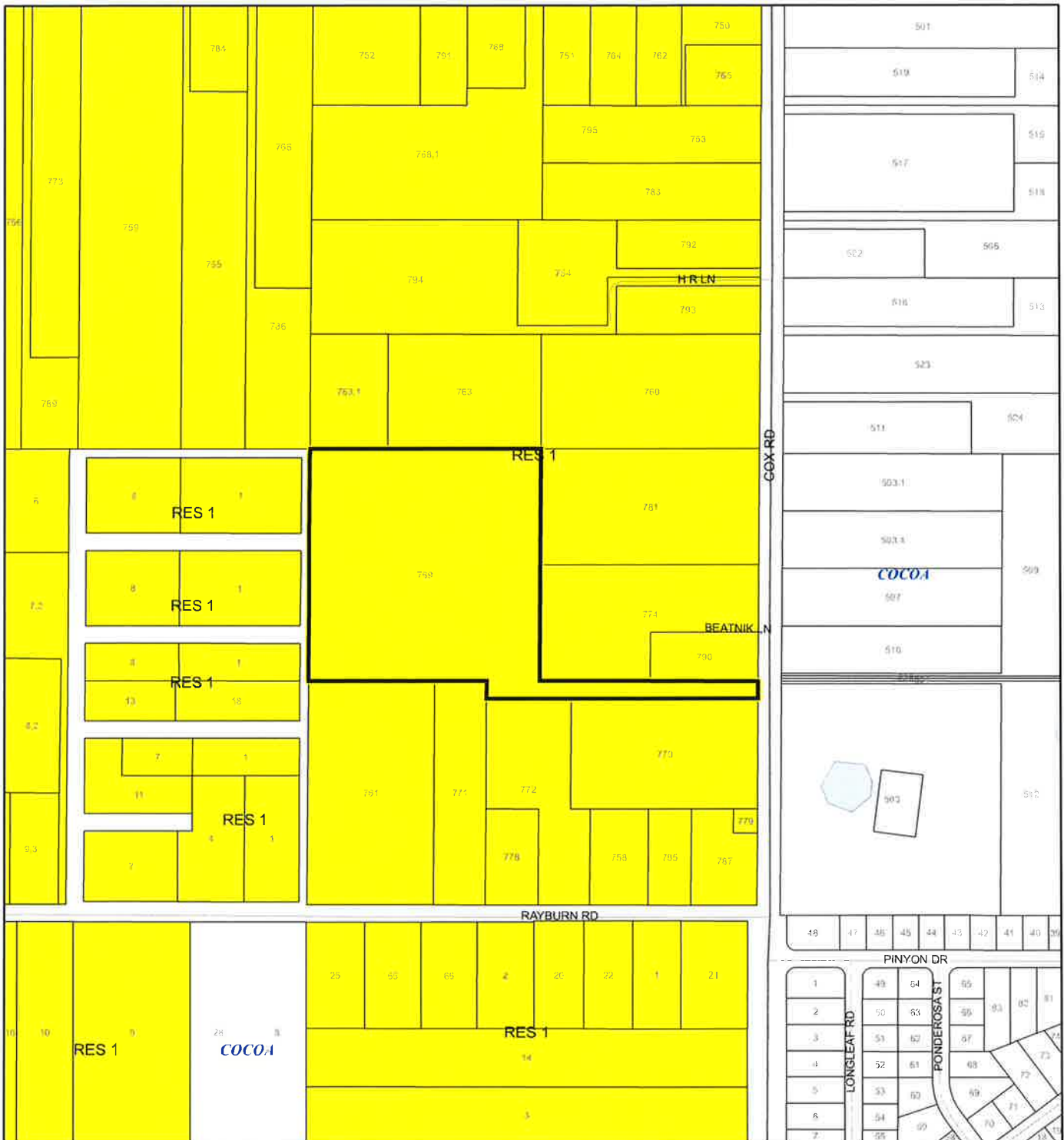
▬ Parcels

▬ Zoning

FUTURE LAND USE MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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AERIAL MAP

OOSTDYK, MARK A

22Z00036



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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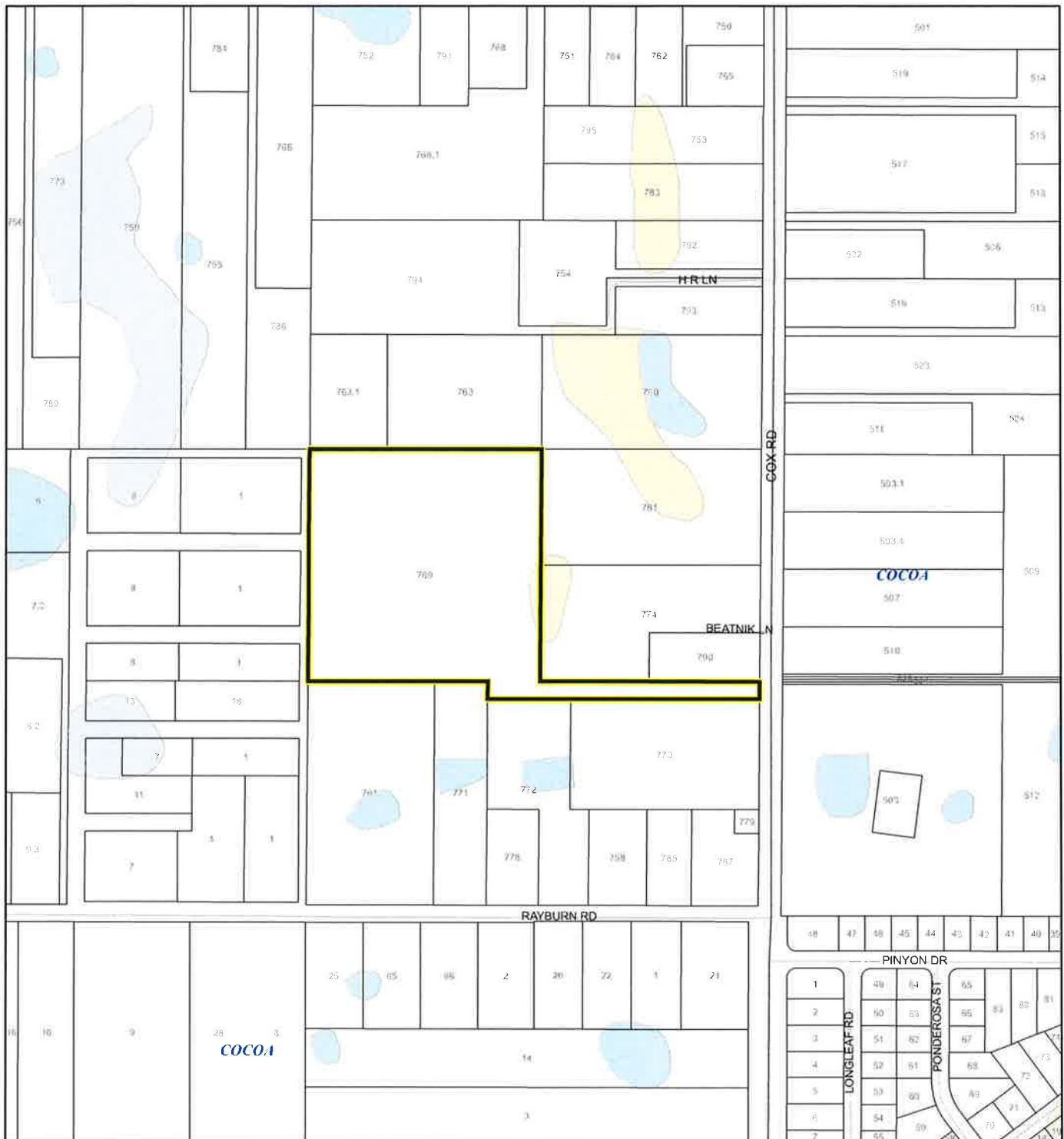
 Subject Property

 Parcels

NWI WETLANDS MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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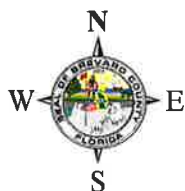
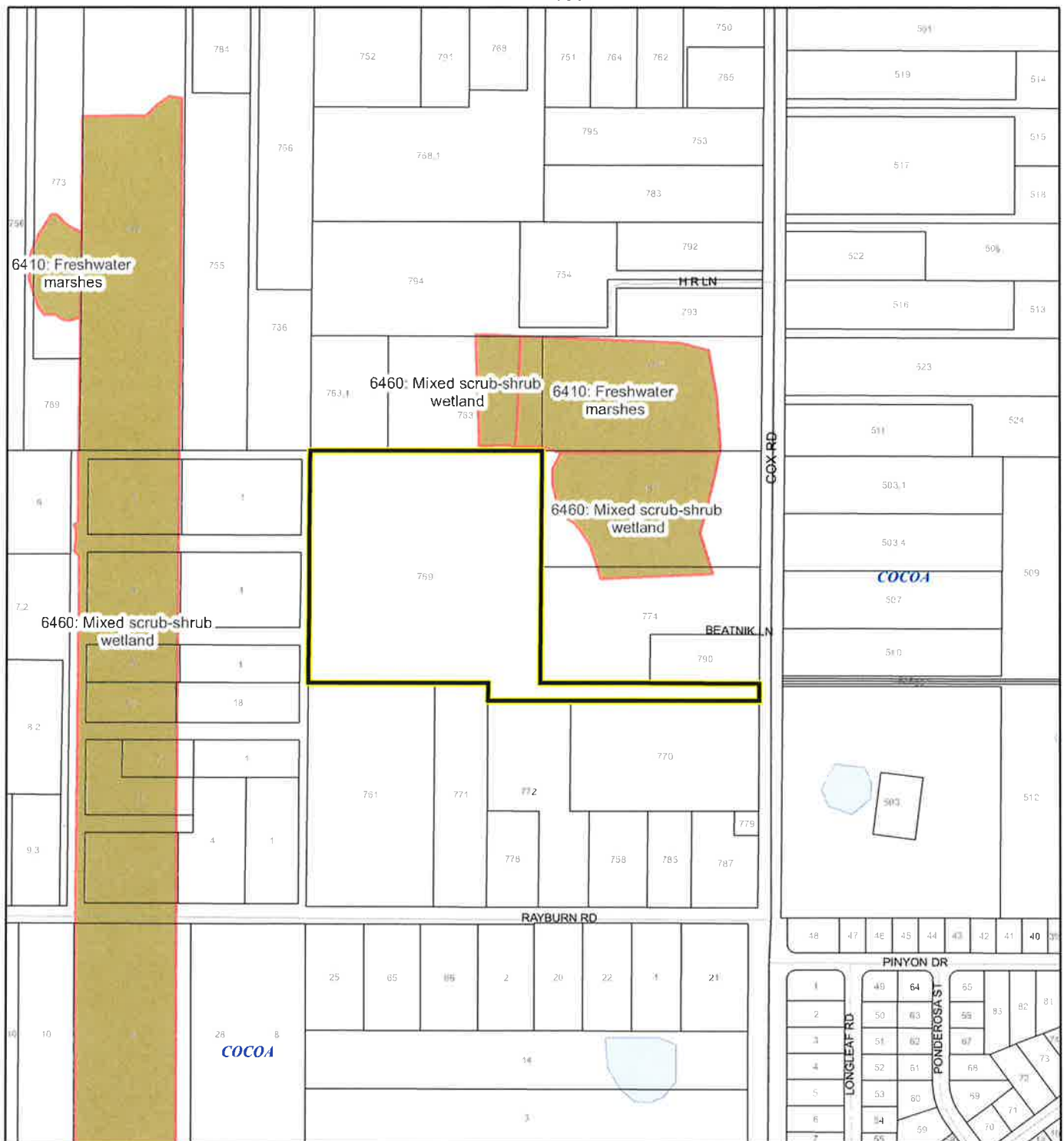
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

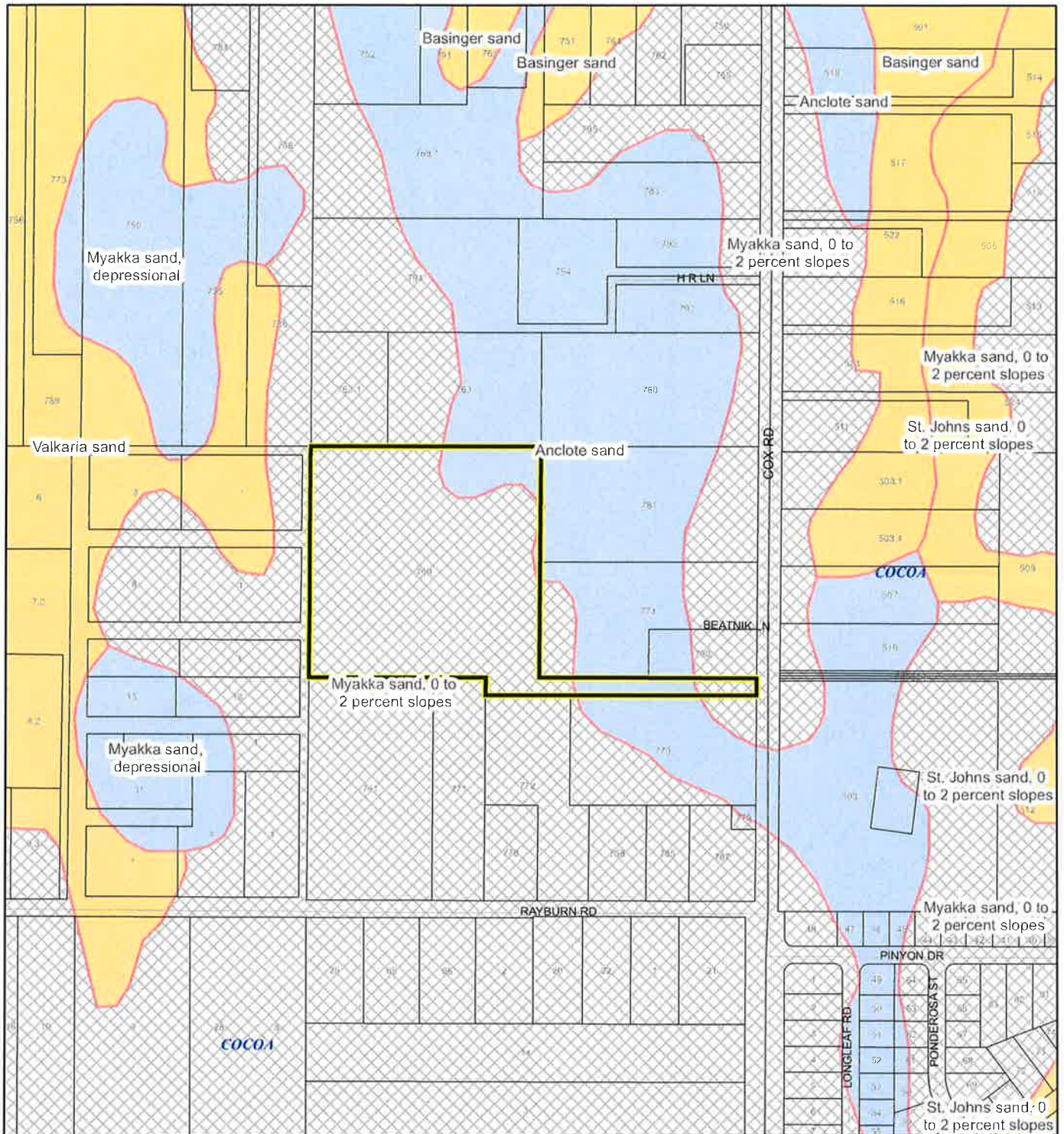
Subject Property

Parcels

USDA SCSSS SOILS MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

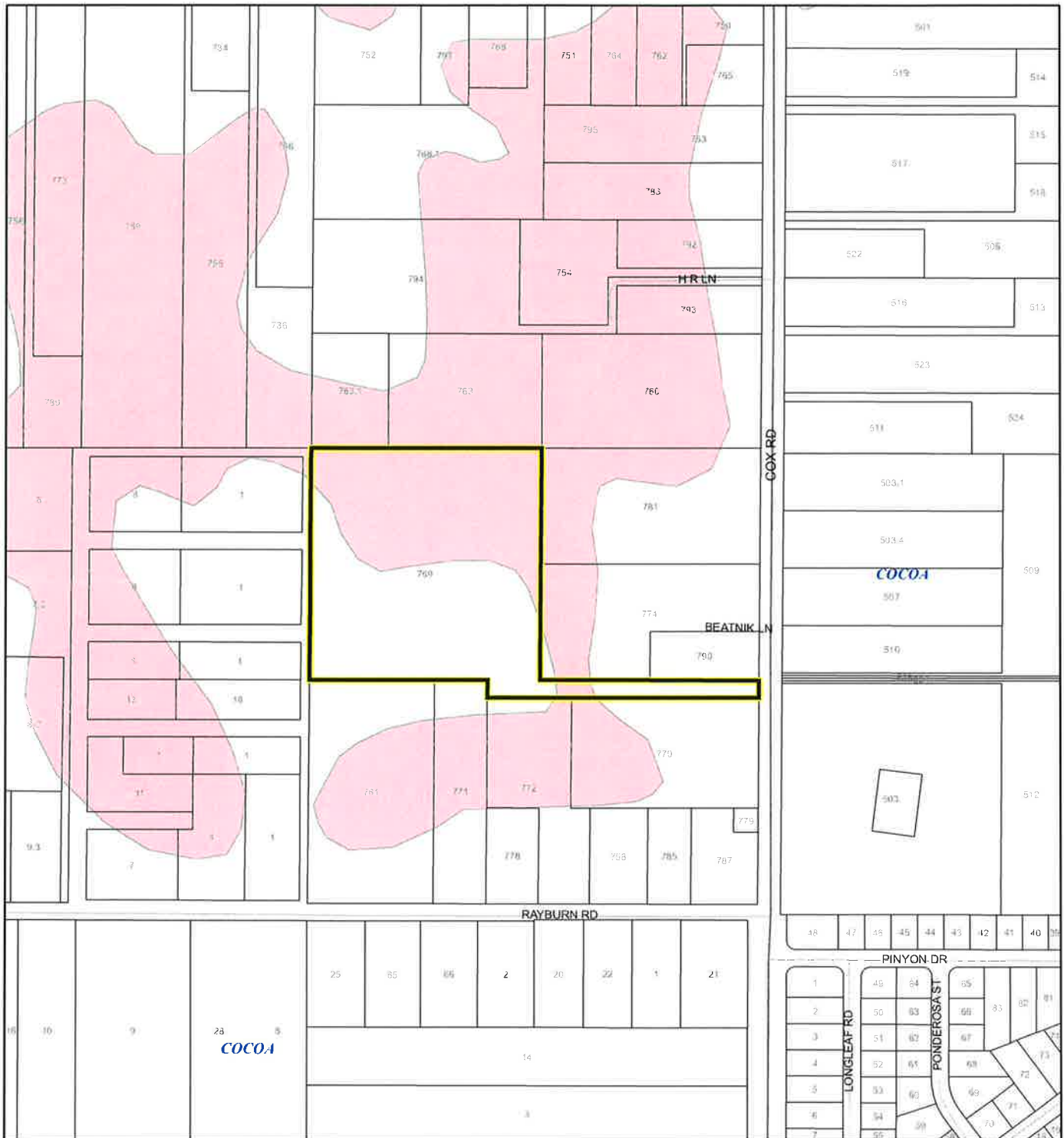
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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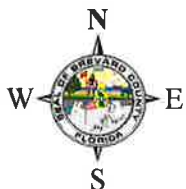
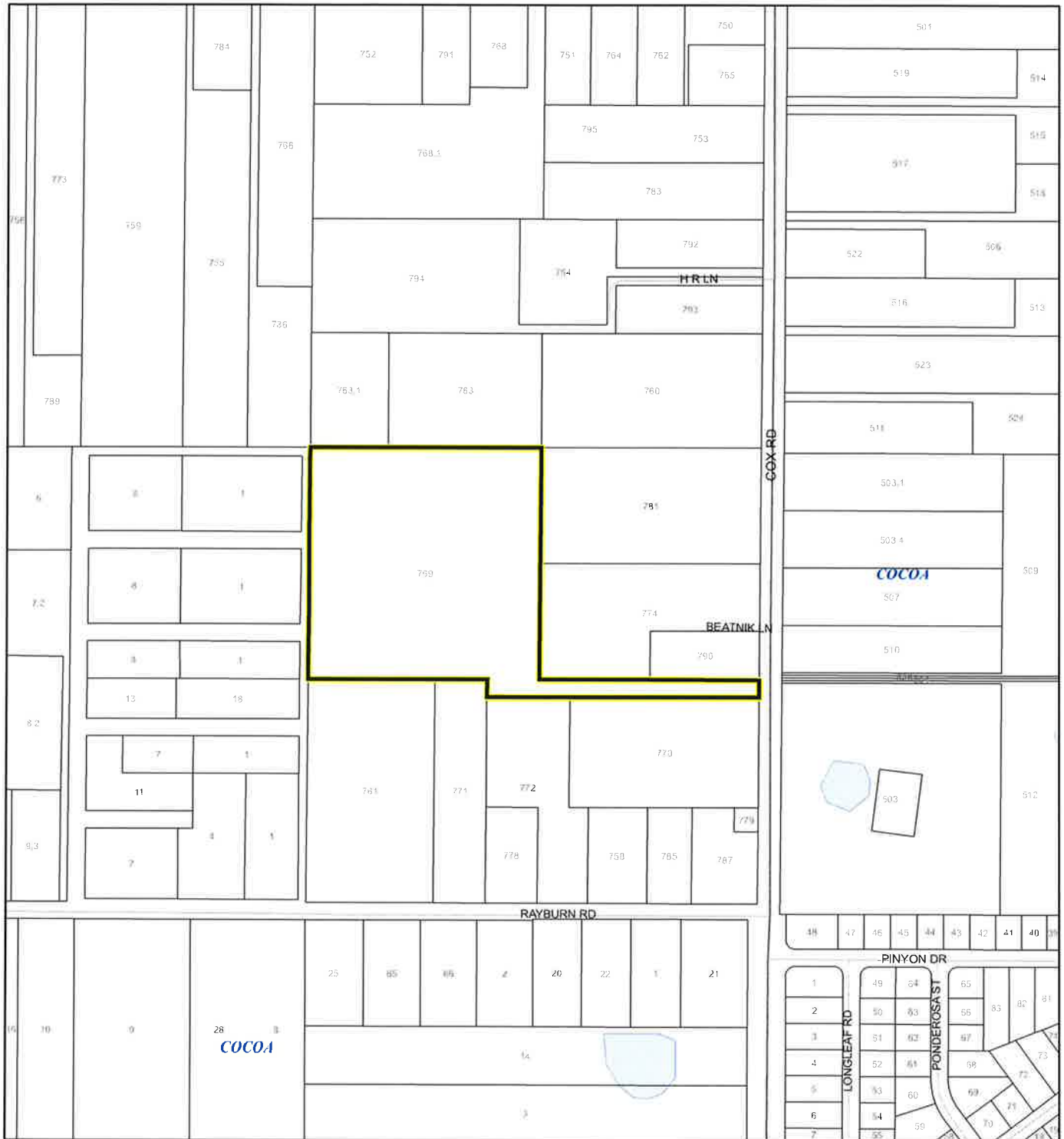
Produced by BoCC - GIS Date: 7/15/2022

FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

OOSTDYK, MARK A
22Z00036



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

OOSTDYK, MARK A
22Z00036



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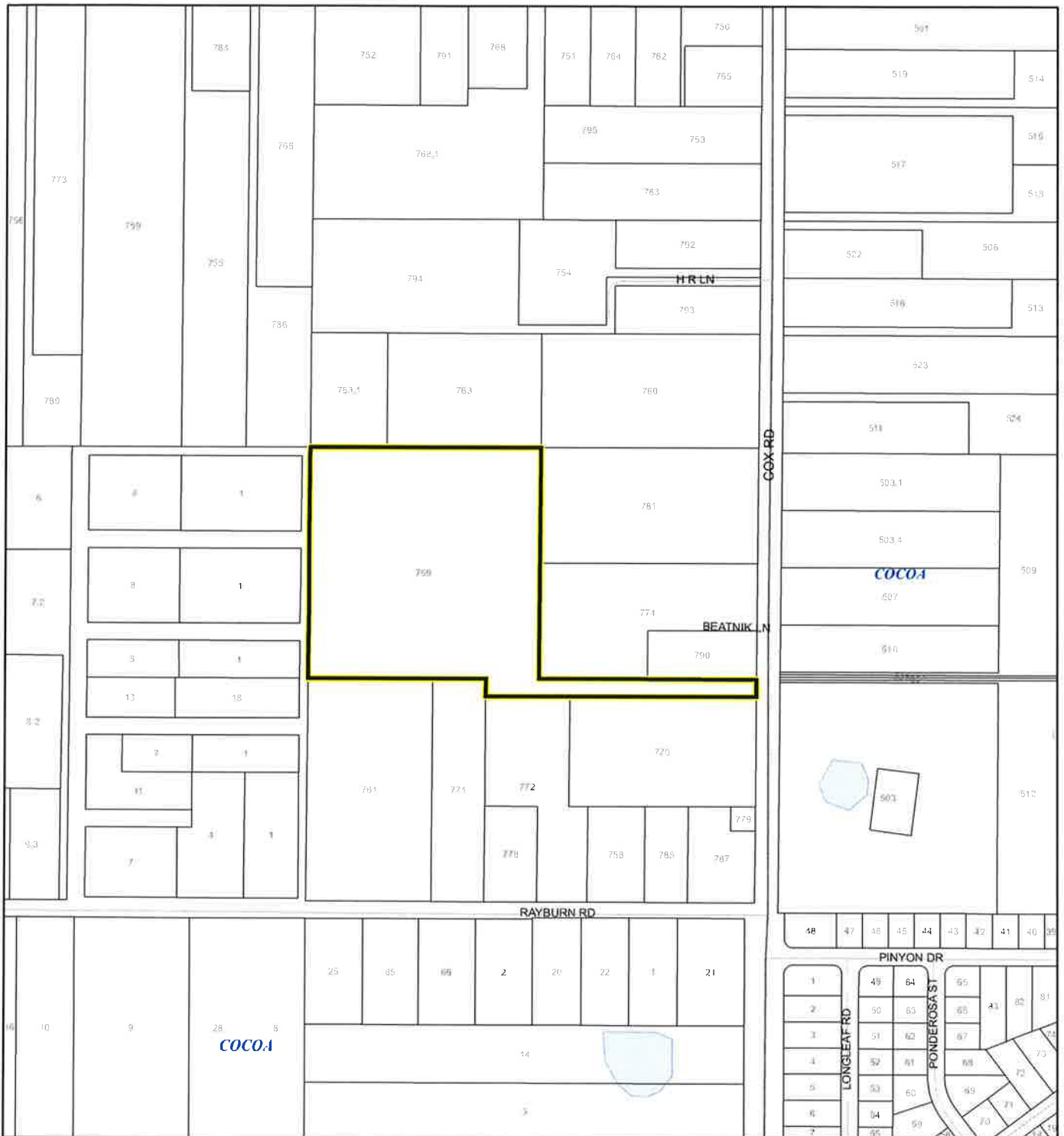
 Parcels

60 Meters

☐ All Distances

EAGLE NESTS MAP

OOSTDYK, MARK A
22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

 Subject Property

 Parcels

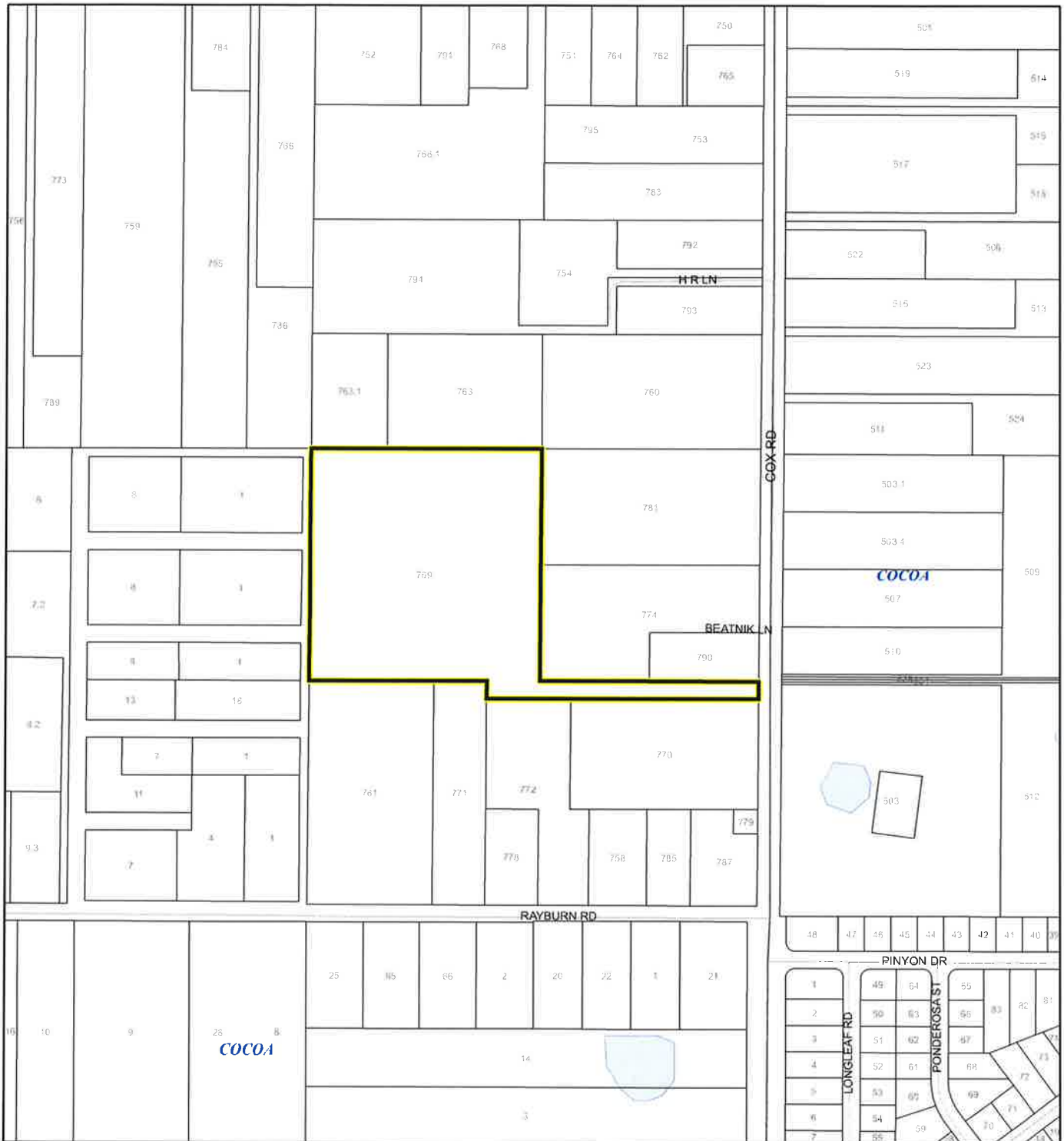


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

OOSTDYK, MARK A

22Z00036



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Produced by BoCC - GIS Date: 7/15/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

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 12, 2022, 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); Brian Hodgers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS). *Per Section 62-183(2), the District 2 Alternate member was not eligible to vote.*

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Jane Hart, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Mark A. and Rebecca L. Oostdyk

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 10.89 acres, located on the west side of Cox Rd., approx. 820 ft. north of Rayburn Rd. (2030 Cox Rd., Cocoa) (22Z00036) (Tax Account 2405176) (District 1)

Mark Oostdyk, 2030 Cox Road, Cocoa, stated he would like AU zoning in order to build a single-family home and have an agricultural business.

Mark Wadsworth asked if he would be selling from the property. Mr. Oostdyk replied yes, on a small scale. He said he has a commercial building in Cocoa that he sells goods out of, so there will not be an interruption to the residential area.

Ron Bartcher asked how many cattle and sheep would be on the property. Mr. Oostdyk replied it would be within a responsible limit, and would be mostly for educational purposes. He said he would probably have a maximum of three cows.

Mr. Bartcher asked if he works with schools. Mr. Oostdyk replied it would be education for his own children who are homeschooled.

Mr. Bartcher asked if he plans to do any slaughtering on the premises. Mr. Oostdyk replied if allowed, he would slaughter chickens.

No public comment.

Motion by Ron Bartcher, seconded by Henry Minneboo, to recommend approval the requested change of zoning classification from RR-1 to AU. The motion passed unanimously.