



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.12.

5/4/2023

Subject:

David D. Ramage and Cynthia R. Ramage Trust (Jack Kirschenbaum) requests a change of zoning classification from BU-1 to BU-2. (23Z00006) (Tax Account 2103340) (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 BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) to build a self-storage mini-warehouse facility along with outdoor storage for RV's and boats.

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square-foot lots. BU-2 is the most intense commercial zoning classification allowing for outdoor storage.

The existing commercial development to the north includes a 18,840 square-foot Tractor Supply Company. The abutting parcel to the south is zoned BU-1 and AU (Agricultural Residential) and developed with a single-family residence on the BU-1 portion. The closest BU-2 zoning classification is approximately 230 feet south, along the east side of U.S. Highway.

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

On April 17, 2023, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP retaining all BU-1 uses, limiting the BU-2 use to a mini-warehouse with outdoor RV and boat storage only, and limiting the storage of RV's and boats to the rear of the property.

Clerk to the Board Instructions:

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

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

23Z00006

David C. Ramage and Cynthia R Ramage Trust

BU-1 (General Retail Use) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2103340
Parcel I.D.: 21-35-06-00-774
Location: East side of Highway US-1 and approx. 1,240 feet north of Main Street.
(District 1)
Acreage: 4.83 acres

Planning & Zoning Board: 4/17/2023

Board of County Commissioners: 5/04/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	210,394.8 square feet	210,394.8 square feet
Can be Considered under the Future Land Use Map	Yes Community Commercial	Yes Community Commercial

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) to build a self-storage mini-warehouse facility along with outdoor storage for RV's and boats. The BU-1 zoning classification does not permit the outdoor storage of RV's and boats. BU-2 zoning classification requires a building of at least 300 sq. ft. as their principale structure.

Please note: The applicant has not provided a proposed site plan with the rezoning application. This is not a requirement for rezoning and a site plan has not been reviewed for compliance with the land development codes and other County departments.

The original zoning of the subject property was BU-2.

On May 31, 1967 zoning action Z-2090 Administratively rezoned the parcel from BU-2 to BU-1.

On April 09, 2009 zoning action Z-11482 rezoned the parcel from BU-1 and AU to all BU-1 and amended the Future Land Use (FLU) designation from Community Commercial (CC) and Residential 4 (RES 4) to all Community Commercial.

Land Use

The subject property contains the Community Commercial (CC) FLUM designation. Both the existing BU-1 and proposed BU-2 zoning classifications are consistent with the CC FLUM designation.

Applicable Land Use Policies

Role of Zoning Regulations in the Designation of Commercial Lands

FLU 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;

The BU-2 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.

B. Existing commercial zoning trends in the area;

There has been retail commercial zoning trends in the immediate area

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

This zoning classification change could be considered to be consistent with the immediate surrounding area as this is along a commercial corridor which includes both commercial use and residential use. The primary zoning classification in the surrounding area is BU-1 which is the current zoning classification of the subject property.

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

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

The subject property has access to Brevard County potable water 50 feet directly north along the east side of Highway US-1 and Brevard County sewer 575 feet to the south along the east side of Highway US-1. It is not anticipated to have an impact on the LOS for potable water service, sanitary sewer or solid waste disposal due to the proposal being for a mini-warehouse and storage facility.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and The following land use issues were identified:
- **Aquifer Recharge Soils**
 - **Protected and Specimen Trees**
 - **Protected Species**
- 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.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;

- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant's proposed use can be considered consistent with these commercial and residential uses.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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;

This request proposes a self-storage mini-storage with outdoor storage of RV's and boats, which may be in operation 24 hours a day, 7-days a week. Hours of operation, noise levels, and traffic operations will need to be addressed through site planning to minimize the potential effects upon the neighborhood and adjacent commercial activities.

- 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 (Member 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;

Over the past 60 years this area has been historically commercial.

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

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

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

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

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

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

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.

The subject property is located along a commercial corridor on the east side of Highway US-1. The abutting parcel to the south is developed with a single-family residence with BU-1 and AU (Agricultural Residence) zoning.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

- a. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area does have development of roads, open spaces, and similar existing features.

- b. 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.

Neighborhood commercial uses will not have an impact as the subject property is not located in a neighborhood.

- c. 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 in a corridor of commercial uses along Highway US-1 with residential uses to the east of the corridor.

The subject parcel is proposed to be rezoned from BU-1 to BU-2. As the immediate area is commercial, the proposed uses maintain the commercial integrity of the area. The difference in the current zoning to the requested change of zoning is due to the ability to have a mini-warehouse with outdoor storage. The existing commercial development to the north includes a 18,840 square foot Tractor Supply Company. The abutting parcel to the south is zoned BU-1 and AU (Agricultural Residential) and developed with a single-family residence on the BU-1 portion of the parcel.

The closest BU-2 zoning classification is located approximately 230-feet south, along the east side of Highway US-1. In the current zoning classification, you are not able to conduct commercial business having outdoor storage.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Commercial vacate land	BU-1	CC
South	Single-family residence	BU-1/AU	CC/RES 4
East	Vacate residential	AU	RES 4
West	Highway US-1	N/A	N/A

The developed character of the surrounding area is a mixture of commercial, and single-family residence along the east commercial corridor of Highway US-1 and residential to the east of the Corridor. To the north is a 18,840 sq. ft. commercial retail Tractor Supply Company with BU-1 zoning. To the east of the subject parcel is a vacant parcel with AU (Agricultural Residential) zoning. To the south of the subject property is a single-family residence with the BU-1 and AU zoning classification. To the west is Highway US-1; across the ROW is a school, and residential use with RU-1-9 (Single-Family Residential) zoning.

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

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot 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).

The AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

There have been three recent zoning actions within a half-mile of the subject property within the last three years.

- **20Z00026** was approved November, 4, 2021 to rezone a parcel from AU (Agricultural Residential) to SR (Suburban Residential).
- **21Z00025** was to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) approved on March 3, 2022.
- **Then 21Z00035** was a rezoning from RRMH-1 to TR-1 also approved on March 3, 2022.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between SR 46 and Lionel Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.93% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 25.95% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The parcel has access to Brevard County potable water on the east side of Highway US-1, 50 feet north of the parcel. The closest Brevard County sewer is located along the east side of Highway US-1, 575 feet south of the parcel.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

Aquifer Recharge Soils

The subject parcel contains mapped Paola fine sand, 0 to 8 percent slopes, an aquifer recharge soil as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~20 to 38 feet NAVD) indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

For Board Consideration

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

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

Item #23Z00006

Applicant: David C. Ramage Trust & Cynthia R. Ramage Trust

Land Use Request: BU-1 to BU-2

Note: Allow the construction and operation of a mini warehouse in excess of 30 feet, but not greater than 35 feet. Allow outdoor storage.

P&Z Hearing Date: 04/17/23; **BCC Hearing Date:** 05/04/202

Tax ID No: 2103340

- 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
- Protected and Specimen Trees
- Protected Species

Aquifer Recharge Soils

The subject parcel contains mapped Paola fine sand, 0 to 8 percent slopes, an aquifer recharge soil as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~20 to 38 feet NAVD) indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped Paola fine sand, 0 to 8 percent slopes, an aquifer recharge soil as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~20 to 38 feet NAVD) indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

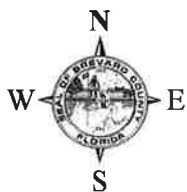
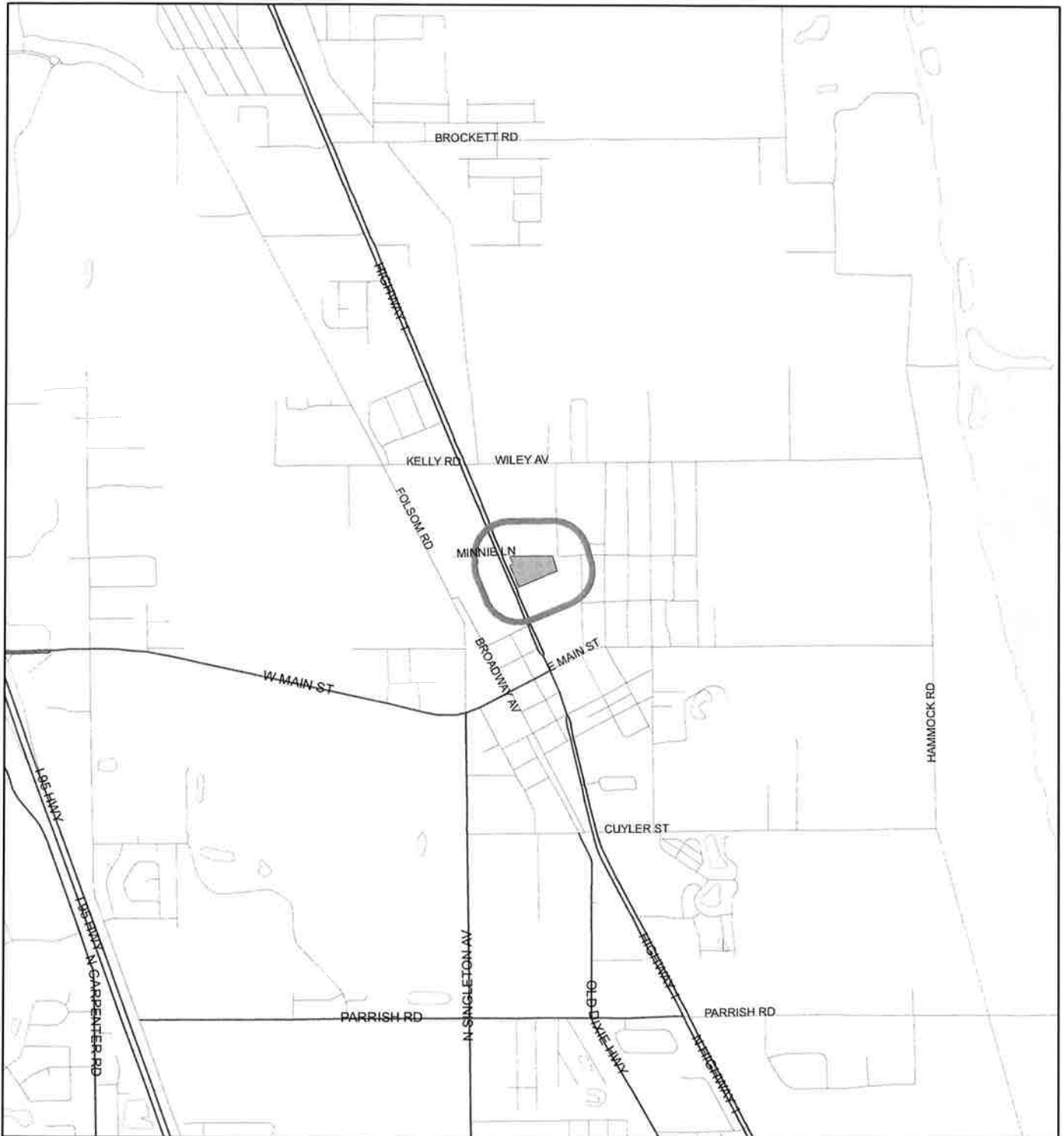
Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be utilize 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

DAVID C RAMAGE TRUST and CYNTHIA R RAMAGE TRUST
23Z00006



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

Buffer Distance: 500 feet

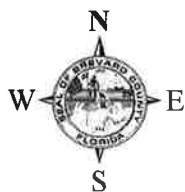
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/3/2023

— Buffer
■ Subject Property

ZONING MAP

DAVID C RAMAGE TRUST and CYNTHIA R RAMAGE TRUST
23Z00006



1:4,800 or 1 inch = 400 feet

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

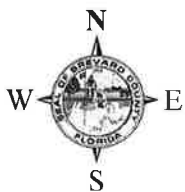
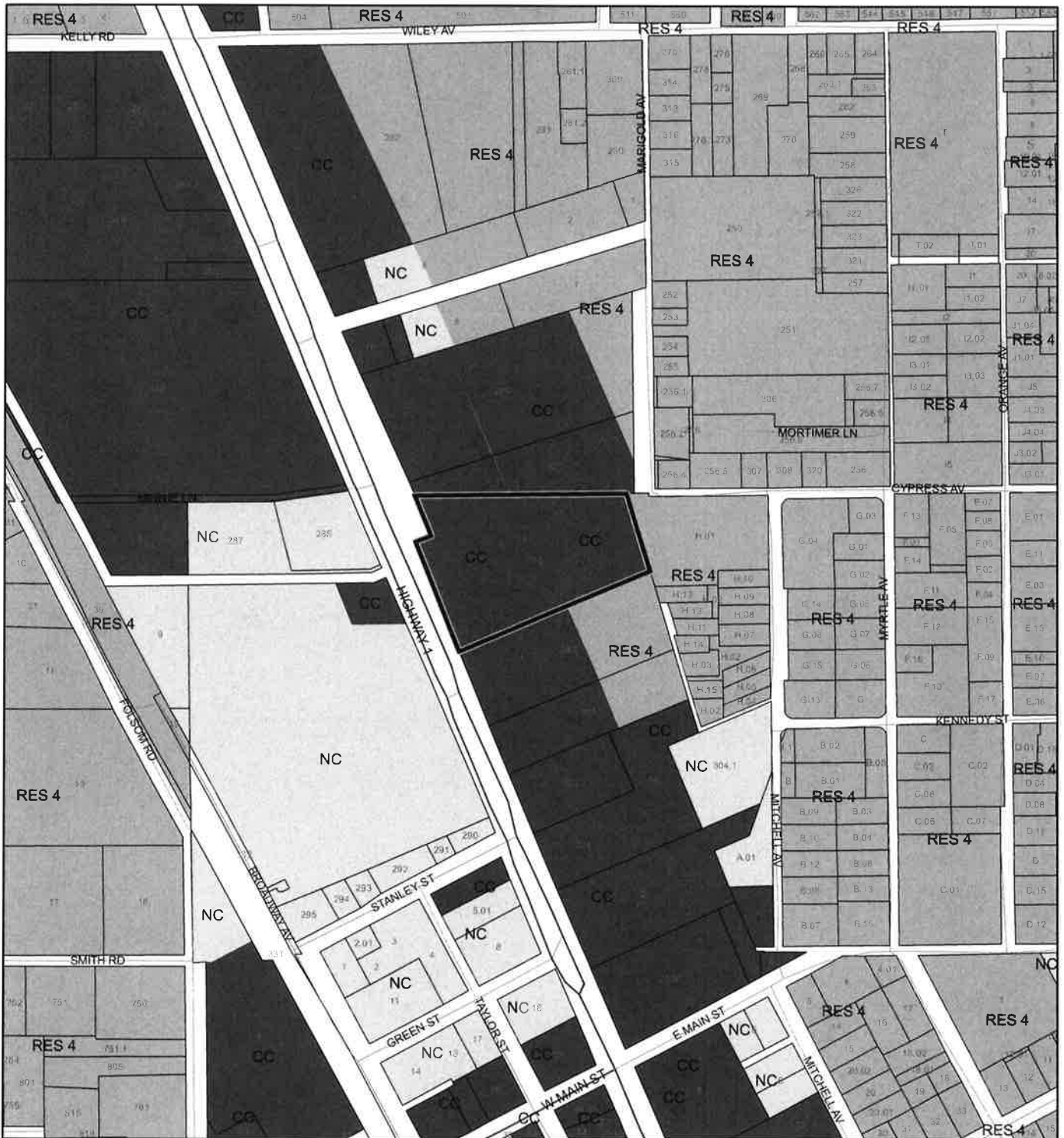
Produced by BoCC - GIS Date: 2/3/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

DAVID C RAMAGE TRUST and CYNTHIA R RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

— Subject Property

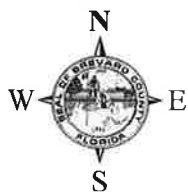
□ Parcels

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

Produced by BoCC - GIS Date: 2/3/2023

AERIAL MAP

DAVID C RAMAGE TRUST and CYNTHIA R RAMAGE TRUST
23Z00006



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

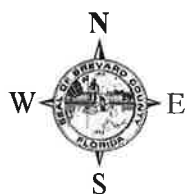
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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 Subject Property

 Parcels

23Z00006



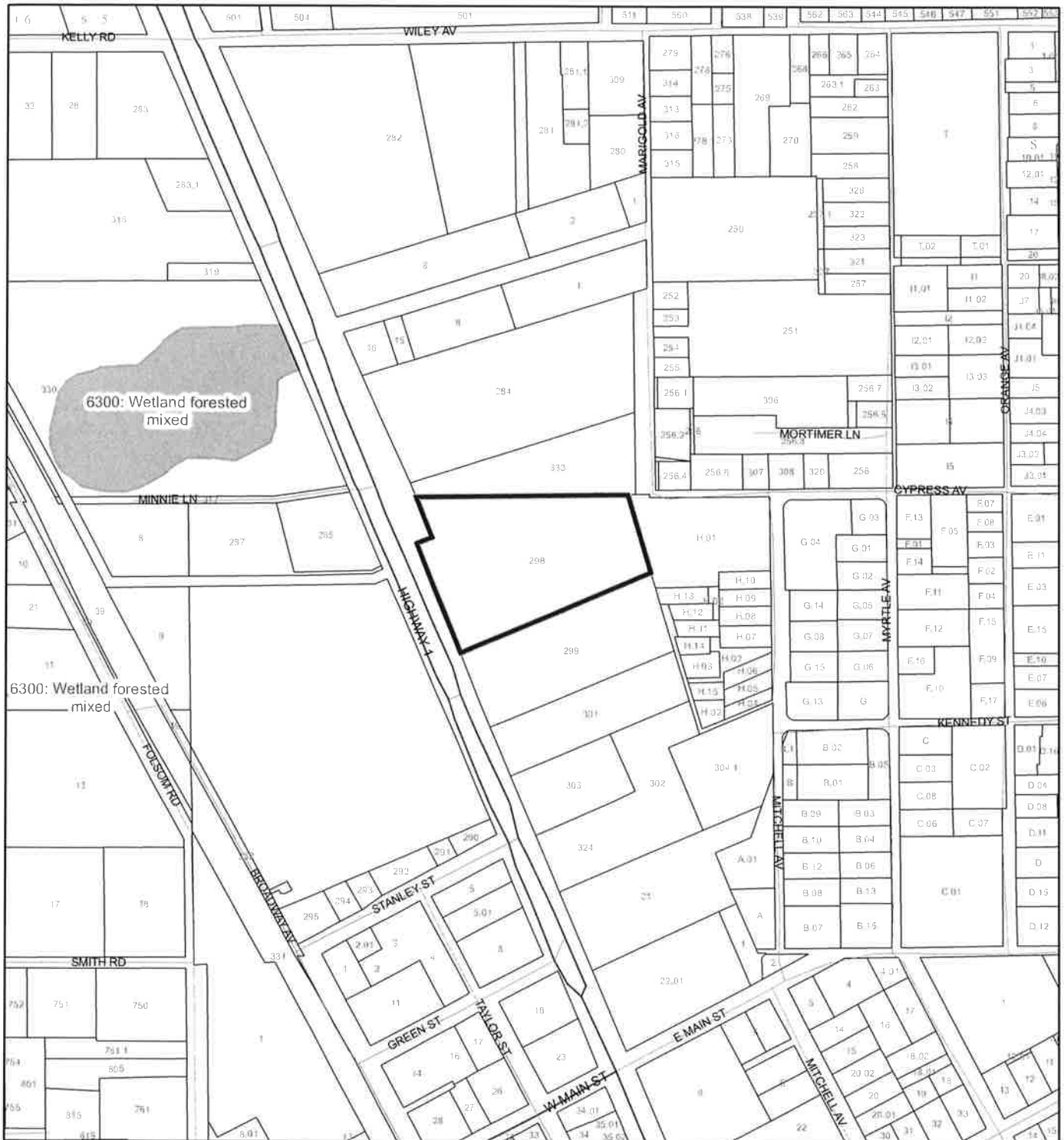
Produced by BoCC - GIS Date: 1/26/2023

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

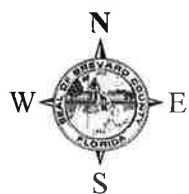
SJRWMD FLUCCS WETLANDS

- 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

23Z00006



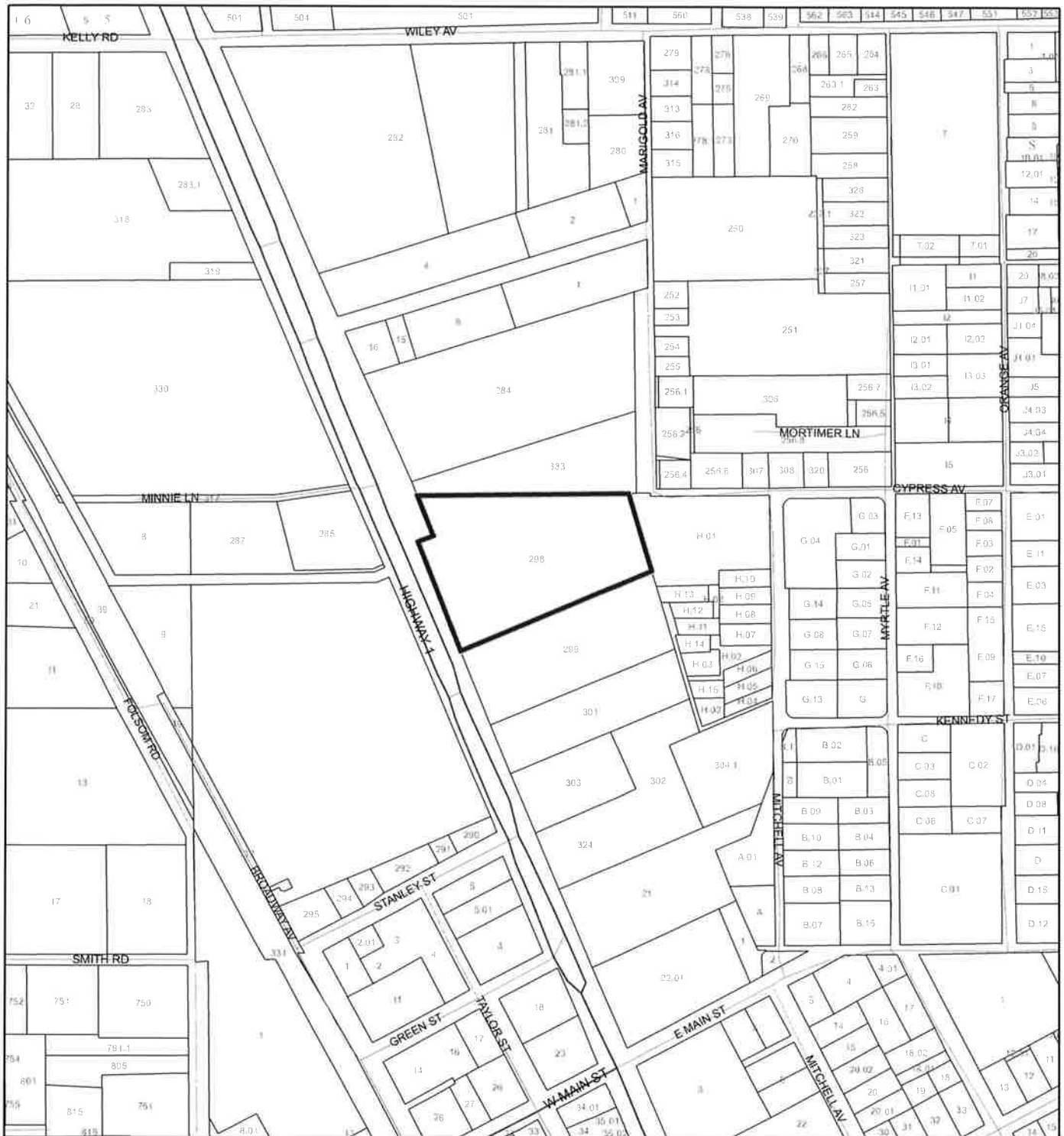
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

☐ None☐ Parcels

FEMA FLOOD ZONES MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

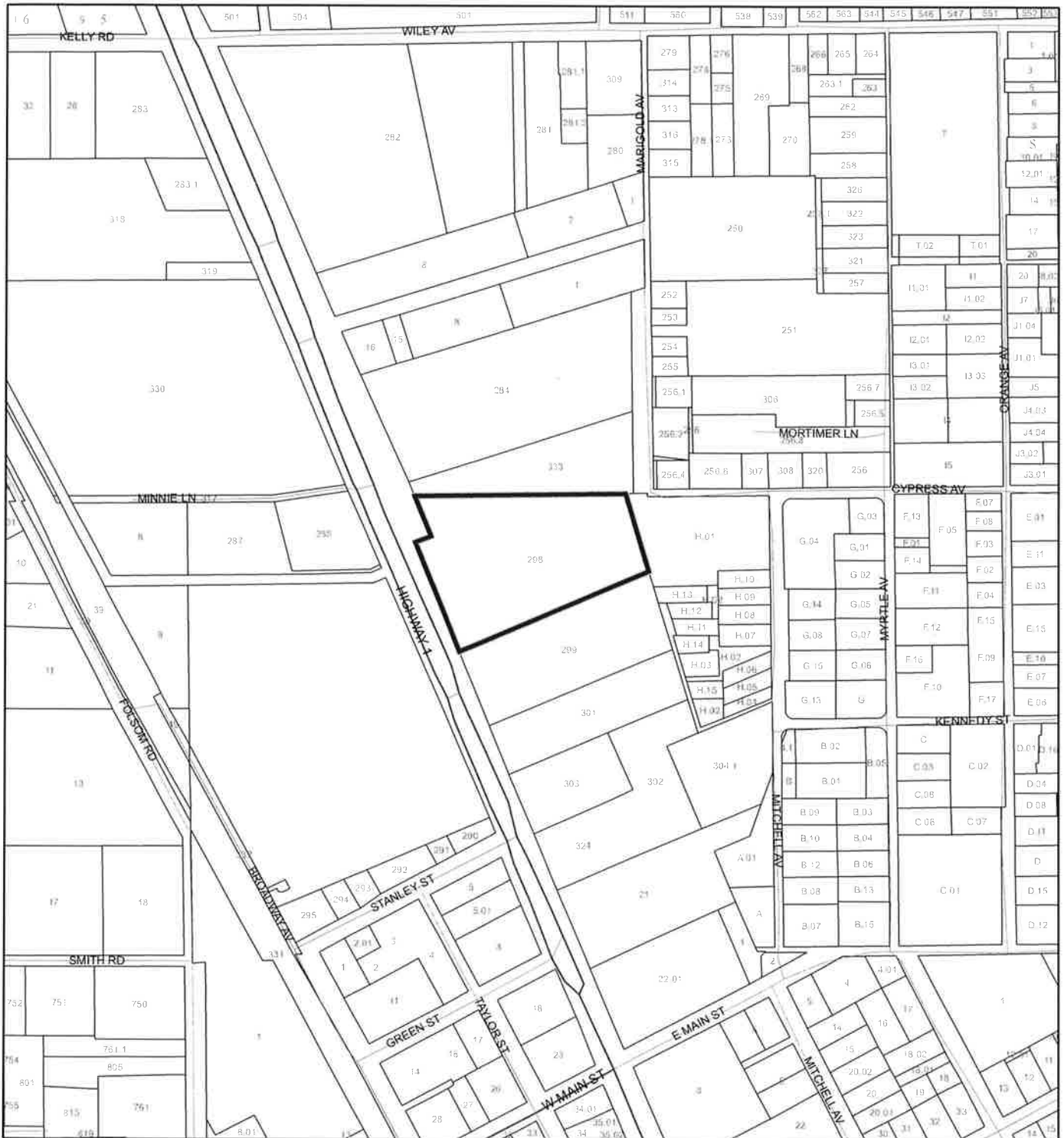
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

— Subject Property

□ Parcels

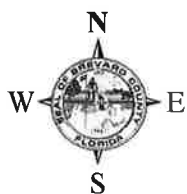
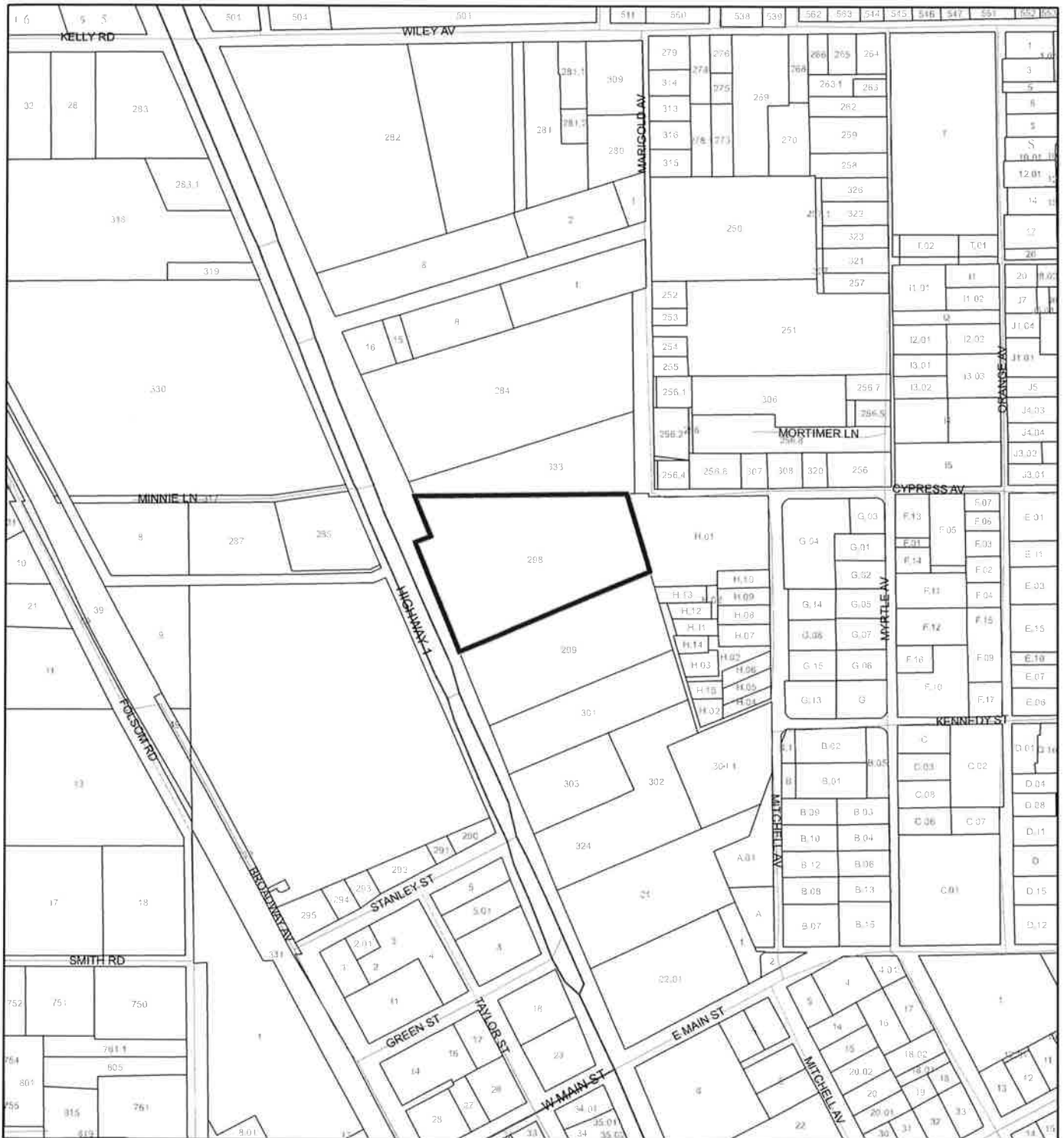
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

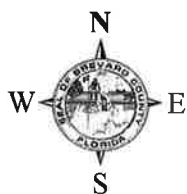
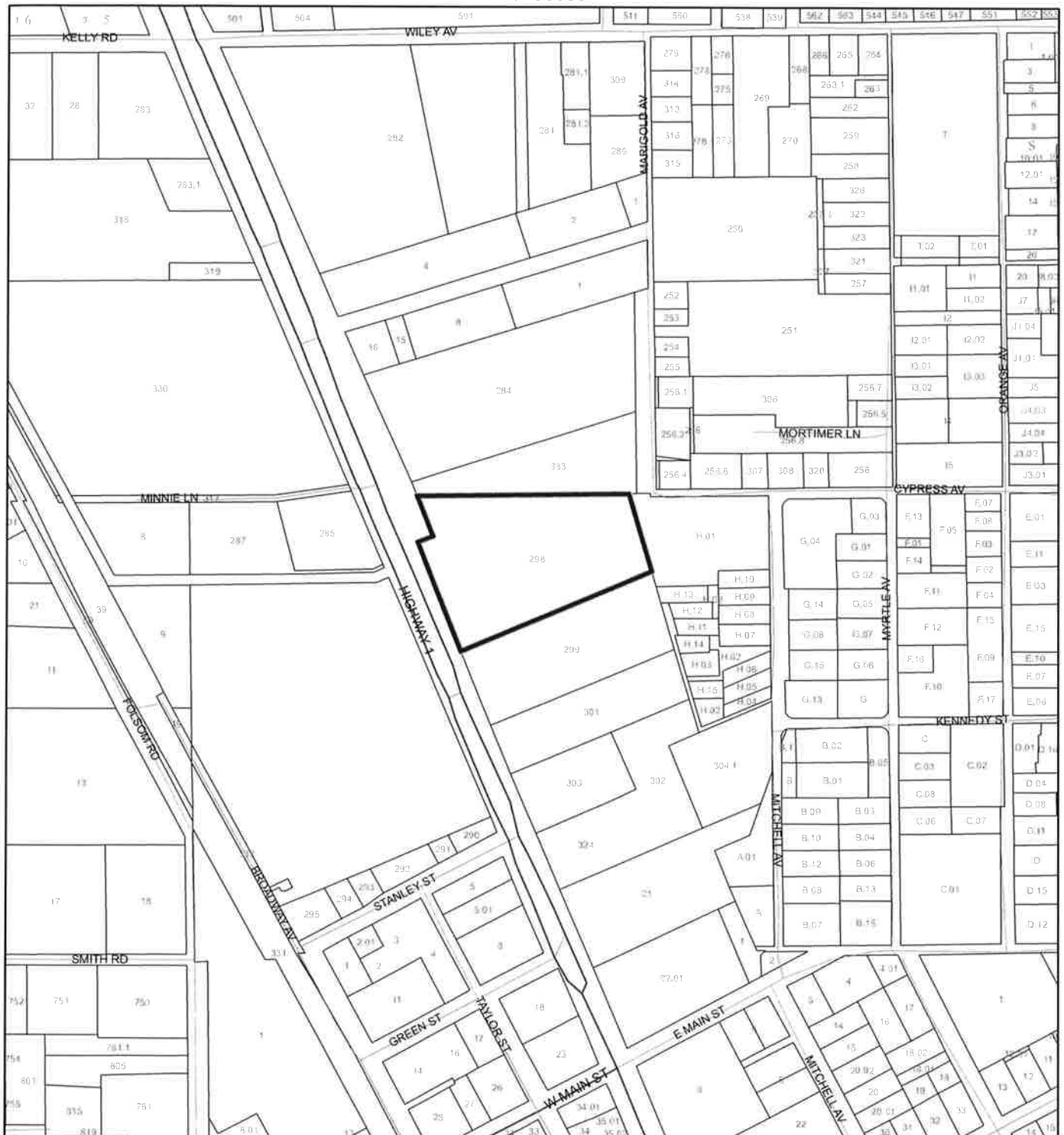
 60 Meters

 All Distances

EAGLE NESTS MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

 Subject Property

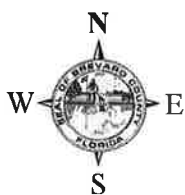
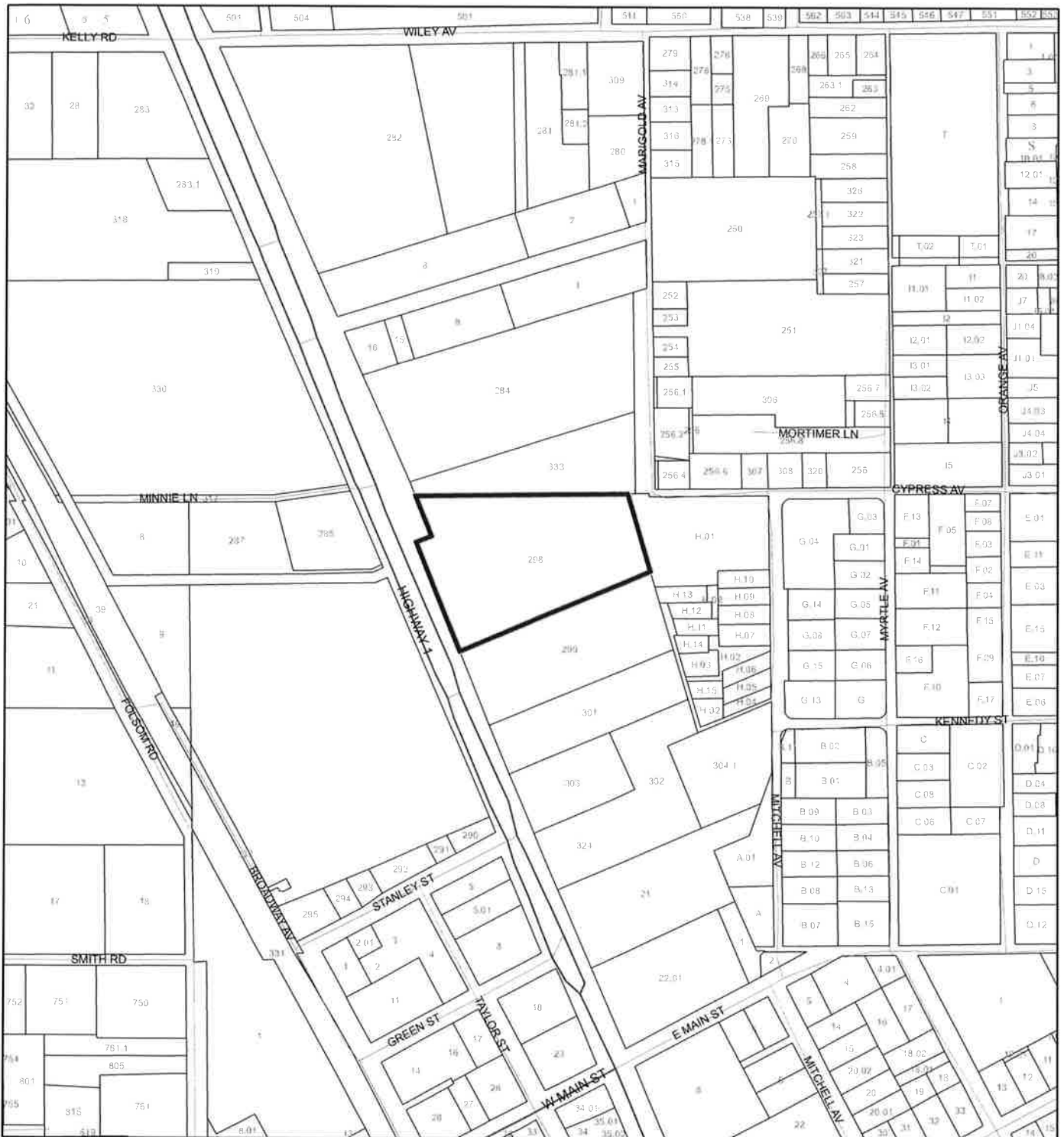
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

DAVID C RAMAGE TRUST




23Z00006



1:4,800 or 1 inch = 400 feet

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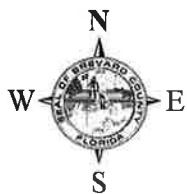
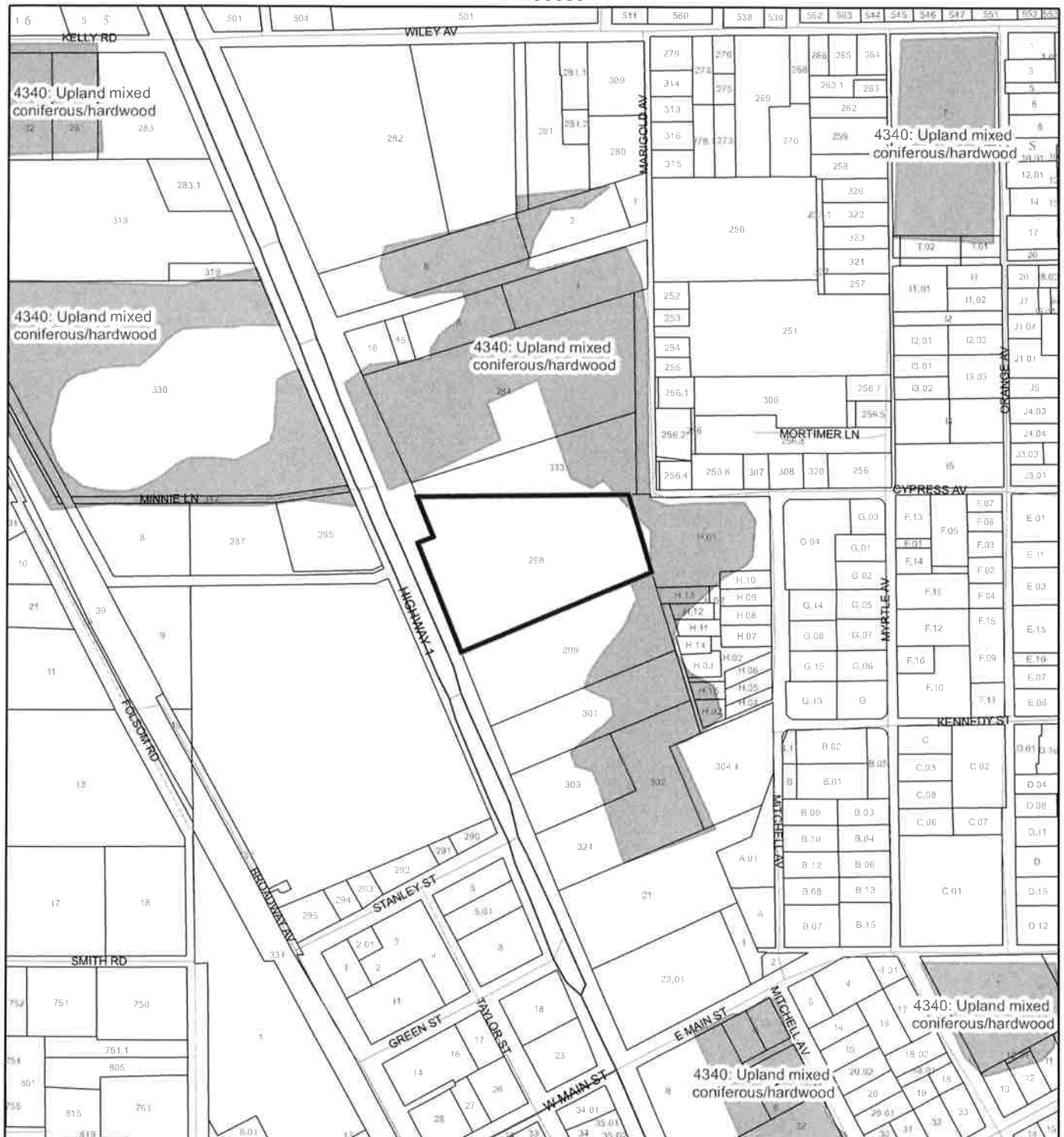
Produced by BoCC - GIS Date: 1/26/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DAVID C RAMAGE TRUST

23Z00006



1:4,800 or 1 inch = 400 feet

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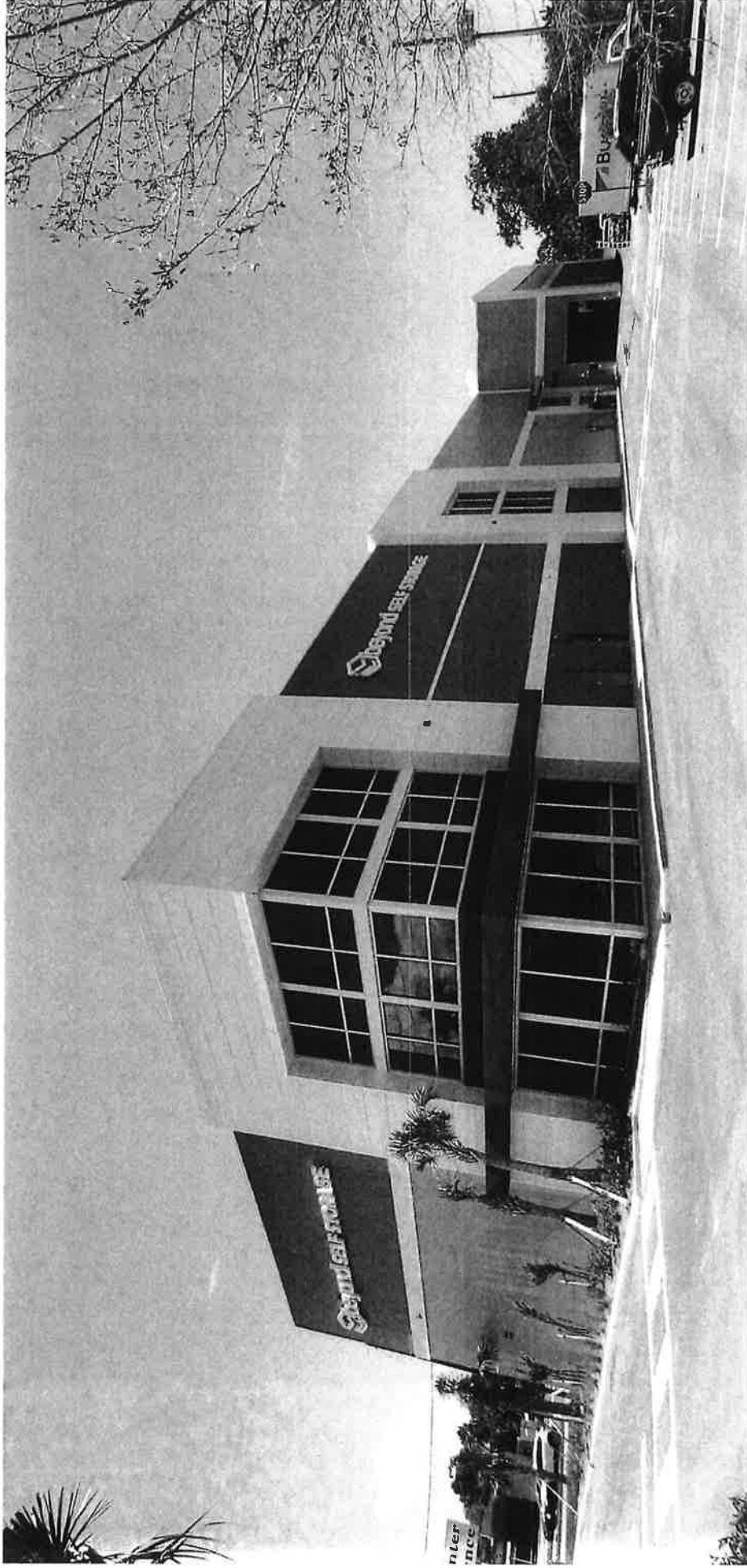
Produced by BoCC - GIS Date: 1/26/2023

SJRWMD FLUCCS Upland Forests

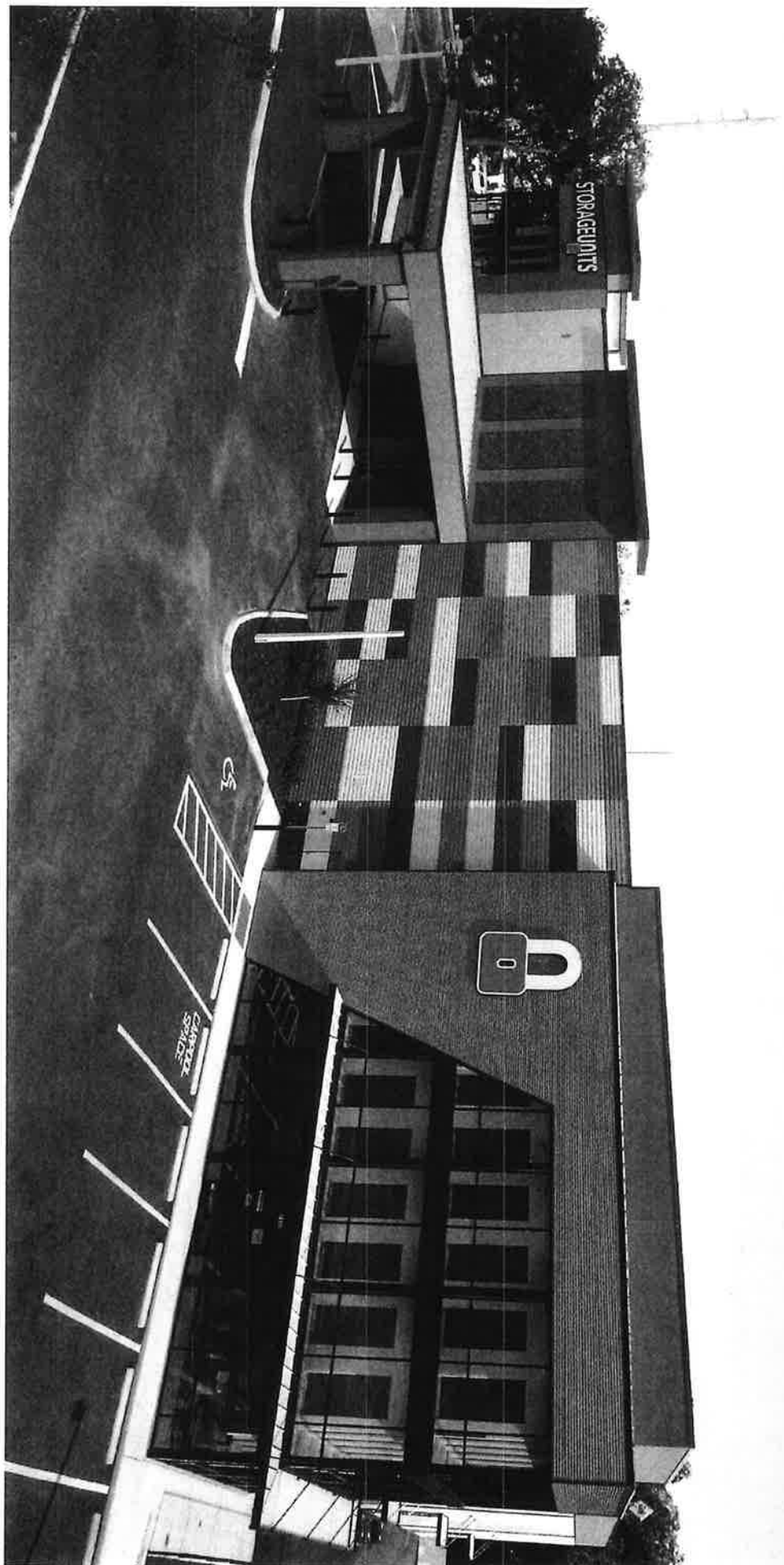
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels







PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 17, 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: Ron Bartcher (D1); Robert Sullivan (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); and John Hopengarten (BPS). Robert Brothers' presence was noted at 3:09 p.m.

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

Excerpt of Complete Agenda

David C. Ramage and Cynthia R. Ramage Trust (Jack Kirschenbaum)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on 4.83 acres, located on the east side of U.S. Highway 1, approx. 0.23 mile north of E. Main St. (2615 U.S. Highway 1, Mims) (23Z00006) (Tax Account 2103340) (District 1)

Shawn Demers, Gray Robinson Law Firm, 1795 W. Nasa Boulevard, Melbourne, stated the property owner is requesting a change of zoning classification from BU-1 to BU-2 in order to develop a self-storage center to include RV and boat storage. He noted the proposed self-storage facility would be next to a Tractor Supply store and it is consistent and compatible with the surrounding area.

Public comment.

Gerald Pattenwald, 3850 Miami Avenue, West Melbourne, asked the address of the subject property, and if it is off of Highway 192. Paul Body replied the property is in the Mims area.

John Hopengarten asked why was the property administratively rezoned in 1967. Mr. Body replied the reason was because the whole corridor had BU-1 zoning, and it was the whole block that was rezoned, not just the one lot.

Ron Bartcher stated Mims is a rural area, but the residents would rather have BU-1 and restrict the BU-2 uses, because there are some BU-2 uses the residents of Mims do not want in the area. He asked if the applicant would be willing to add a BDP to the zoning request to limit the BU-2 uses to only the self-storage mini-warehouse with outdoor storage, and still have all of the BU-1 uses available.

Mr. Demers replied yes, his client would agree to a binding development plan.

Mr. Bartcher asked if the applicant would also agree to put the boats and RVs on the rear of the property. Mr. Demers replied the plan is to keep the boats and RVs out of view from the main road; the facility will be a 'U' shape with the interior being the location for the outdoor storage.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of the change of zoning classification from BU-1 to BU-2, with a BDP retaining all BU-1 uses, limiting the BU-2 use to a mini-warehouse with outdoor RV and boat storage only, and limiting the storage of RV's and boats to the rear of the property. The motion passed unanimously.

From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#)
Subject: 23Z00006
Date: Wednesday, April 26, 2023 9:51:58 AM
Attachments: [RE a rezoning.msg](#)

Good morning Jennifer,

Re: 23Z00006

Attached is email correspondence between Mr. Kirschenbaum and D1 staff. Keith Alward spoke with him on the phone the week of Jan 2-6 and provided information from Planning and Development regarding height restrictions.

Kind Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Legislative Aide
Brevard County Commission, District 1
Commissioner Rita Pritchett
[321.607.6901](tel:321.607.6901) | Adrienne.Schmadeke@brevardfl.gov
7101 S. US Hwy 1
Titusville, FL 32780

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may, therefore, be subject to public disclosure.

From: [Jack A. Kirschenbaum](#)
To: [Commissioner, D1](#)
Cc: [Schmadeke, Adrienne](#); [Pritchett, Rita](#); [Alward, Keith A](#)
Subject: RE: a rezoning
Date: Wednesday, December 21, 2022 3:14:57 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thanks !!!!!

Jack A. Kirschenbaum
Of Counsel
Certified Circuit Civil Mediator | Certified Family Law Mediator

T 321.727.8100
F 321.984.4122



GrayRobinson, P.A. • 1795 West NASA Blvd., Melbourne, Florida 32901



From: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Sent: Wednesday, December 21, 2022 2:25 PM
To: Jack A. Kirschenbaum <Jack.Kirschenbaum@gray-robinson.com>
Cc: Schmadeke, Adrienne <Adrienne.Schmadeke@brevardfl.gov>; Pritchett, Rita <Rita.Pritchett@brevardfl.gov>; Alward, Keith A <Keith.Alward@brevardfl.gov>
Subject: Re: a rezoning

This message originated outside of GrayRobinson.

Good afternoon Mr. Kirschenbaum,

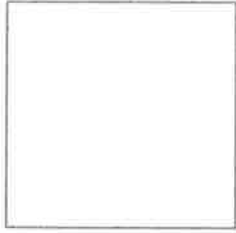
On behalf of Commissioner Pritchett, I want to acknowledge receipt of your email. It will be shared with Commissioner and Keith has been copied in this reply as you had specifically mentioned him in your voicemail. One of us will be in touch within the next couple weeks.

Hope you have a Merry Christmas and Happy New Year!

Kind Regards,

Adrienne Schmadeke

Adrienne Schmadeke
Legislative Aide
Brevard County Commission, District 1
Commissioner Rita Pritchett
[321.607.6901](tel:321.607.6901) | Adrienne.Schmadeke@brevardfl.gov
7101 S. US Hwy 1



Titusville, FL 32780

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From: Jack A. Kirschenbaum <Jack.Kirschenbaum@gray-robinson.com>

Date: Wednesday, December 21, 2022 at 2:12 PM

To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>

Cc: Jack A. Kirschenbaum <Jack.Kirschenbaum@gray-robinson.com>

Subject: a rezoning

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett: I trust this finds you well and enjoying the holidays.

I see Keith is with you now. We go way back. I met him when he was a year old in a bassinette on my Dad's bar.....well that's another story.

I represent a contract buyer of a parcel in the County near Mims at 2615 Highway Mims. (Parcel 2103340)

It is zoned BU-1 and has a designation of CC.

He would like to seek a rezoning to BU-2 to allow the attached to be built and operated.

I would like to speak with you or one of your staff about it.

Please let me know if you (or they) have a few minutes and when.

Thank you very much.

My cell number is 321.258.6356.

Merry Christmas !

Jack A. Kirschenbaum

Of Counsel

Certified Circuit Civil Mediator | Certified Family Law Mediator

T 321.727.8100
F 321.984.4122



GrayRobinson, P.A. • 1795 West NASA Blvd., Melbourne, Florida 32901



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<https://www.dropbox.com/s/f80j2dsvbbptcca/21-14915-%20416%20Stor4Dayz%20Elevation%20Design%20-%2010072022.pdf?dl=0>

Jones, Jennifer

From: Commissioner, D4
Sent: Thursday, May 4, 2023 4:20 PM
To: Jones, Jennifer
Subject: Disclosure- David D. Ramage & Cynthia R. Ramage Trust (Jack Kirschenbaum) 23Z00006

Good afternoon Jennifer,

On behalf of Commissioner Feltner, the Commissioner had a conversation with Mr. Kirschenbaum concerning item H.12 on the May 4th Zoning Agenda. The conversation occurred on May 4, 2023 at 4:00 pm and lasted approximately 3 minutes.



Carol Mascellino, Chief of Staff
County Commissioner Rob Feltner, District 4
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Building C, Suite 214

Viera, FL 32940
PH: 321-633-2044
www.brevardfl.gov

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