



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

2/3/2022

Subject:

Bruce Fernandez requests a change of zoning classification from RRMH-2.5 to RRMH-1. (21700019) (Tax Account 2005100) (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 RRMH-2.5 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RRMH-2.5 to RRMH-1 for the purpose of splitting the lot and creating a flag lot. The flag lot process is an administrative process that the applicant will need to demonstrate appropriate access to a county-maintained roadway. The site currently contains one single-family manufactured home. The property is 3.48 acres and therefore, could not be split into two parcels unless the zoning and the companion SSCPA are approved to allow for one-acre lots. The RRMH-1 zoning classification permits single-family mobile homes and detached dwellings on 1 acre lots, with a minimum lot width and depth of 125 feet, and a minimum house size of 600 square feet.

To the east of the subject property is an RRMH-2.5 lot with a single-family dwelling that is also owned by the applicant. To the north is a single-family detached dwelling unit zoned RRMH-2.5. To the south is a 69.44 acre lot used as grazing land zoned AU. Zoning in the immediate area are: RRMH-2.5, RRMH-1, GU (General Use), and AU (Agricultural Residential). Lots in the area range from one acre in size to ten acres.

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

On January 10, 2022, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 21Z00019

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

WHEREAS, Bruce Fernandez, has requested a change of zoning classification from RRMH-2.5 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential Mobile Home), on property described as Lot 15.02, Block MK, Indian River Park Re-Subdivision, as recorded in ORB 3284, Pages 2389 - 2390, of the Public Records of Brevard County, Florida. **Section 21, Township 20G, Range 34.** (3.48 acres) Located on the east side of Springfield Ave., approx. 0.42 mile south of Aurantia Rd. (4705 Springfield Ave., Mims.); 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 RRMH-2.5 to RRMH-1, 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 February 3, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Curt Smith, Vice Chair
Brevard County Commission

As approved by the Board on February 3, 2022.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – January 10, 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 staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

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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(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

21Z00019

Bruce Fernandez

RRMH-2.5 (Rural Residential Mobile Home – 2.5 Acres) to RRMH-1 (Rural Residential Mobile Home – 1 Acre)

Tax Account Number: 2005100
Parcel I.D.: 20G-34-21-MK-15.02
Location: East side of Springfield Avenue, approximately 2,222 feet south of Aurantia Road (District 1)
Acreage: 3.48 acres
Planning and Zoning Board: 1/10/2022
Board of County Commissioners: 2/3/2022

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	RRMH-2.5	RRMH-1
Potential*	1 Single Family Unit	2 Single Family Units
Can be Considered under the Future Land Use Map	YES Residential 1:2.5	YES Residential 1**

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **A companion application, **21PZ00032**, if approved would change the Future Land Use designation from RES 1:2.5 to RES 1

Background and Purpose of Request

The applicant is requesting a change of zoning classification from Rural Residential Mobile Home (RRMH-2.5) to Rural Residential Mobile Home (RRMH-1) for the purpose of splitting the lot and creating a flag lot. The flag lot process is an administrative process that the applicant will need to demonstrate appropriate access to a county-maintained roadway. The site currently contains one single-family manufactured home. The property is 3.48 acres and therefore, could not be split into two parcels unless the zoning and the companion SSCPA (**21PZ00038**) are approved to allow for one-acre lots.

The subject property is required to have access to a county-maintained road per Sec. 62-102 for the purposes of obtaining a single-family building permit. Springfield Avenue is a county-maintained road.

The subject property retains the FLU designation of RES 1:2.5 since the 2008 adoption of comprehensive plan amendments implemented from recommendations of the Mims Small Area Study. Amendment 2008-A.4 resulted in the designation of over 2,107 acres within the study area as RES 1: 2.5. The subject parcel originally retained a future land use designation of RES 1 at the adoption of the FLU map in 1988.

The original zoning of the lot was General Use (GU), adopted May 22, 1958. On May 3, 1993, the property was rezoned to RRMH-2.5 by zoning action **Z-9150**. An easement to access the property was granted on June 24, 1993 by zoning action **AA-773**. Regardless of this easement, the proposed lot will need to demonstrate access to the county-maintained portion of Springfield Avenue.

Land Use

The property retains the RES 1:2.5 (Residential 1:2.5) Future Land Use (FLU) designation. The existing zoning classification RRMH-2.5 is consistent with the RES 1:2.5 FLU designation. The proposed zoning classification, RRMH-1, is not consistent with the current FLU designation, but is consistent with the proposed FLU designation of RES 1 being requested concurrently with this application.

Applicable Land Use Policies

The applicant has submitted a Small-Scale Comprehensive Plan Amendment application to change the FLUM from RES 1:2.5 to RES 1 under **20PZ00090**. Should the proposed FLU designation of RES 1 be approved, then this request to RRMH-1 can be heard.

FLUE Policy 1.9 - The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

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 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:

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

- 1. historical land use patterns;

The general area is suburban and rural residential in character with a mix of undeveloped land, site-built single-family homes and mobile homes on two and

half (2.5) acre lots or larger. Suburban can be classified as 1 to 2.5 acre lots and rural as greater than 5 acres.

The subject property is located within the study area boundaries of the 2007 Mims Small Area Study. Recommendations resulting from the Study proposed reducing residential Future Land Use (FLU) densities in much of the study area. In 2008, a Comprehensive Plan Amendment was adopted to reduce FLU densities in Mims and included the designation of 2,107 acres within the study area as RES 1:2.5 (Amendment 2008-A.4). The adoption of Amendment 2008-A.4 changed the subject parcel's FLU designation to RES 1:2.5. Prior to the 2008, the subject parcel had originally retained a future land use designation of RES 1 at the adoption of the FLU map in 1988.

A FLU of RES 1 lies to the west across the county-maintained right-of-way (Springfield Avenue) and a second RES 1 FLU is located approximately 212 feet to the north of this lot. This request could be considered an expansion of the RES 1 area. The proposed single-family residential use is compatible with the single-family dwelling units in the surrounding area.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is suburban/rural residential and can be classified as a mix of vacant and single-family residential developed parcels that range from one acre to five acres or more in size. RRMH-2.5, RRMH-1, GU, and AU zoning classifications are all present in the area, resulting in a mix of site-built and mobile homes.

Surrounding Area

This lot abuts a roadway on its west perimeter. To the east is an RRMH-2.5 lot with a single-family dwelling that is also owned by the applicant. To the north is a single-family detached dwelling unit zoned RRMH-2.5. To the south is a 69.44 acre lot used as grazing land zoned AU. Zoning in the immediate area are: RRMH-2.5, RRMH-1, GU, and AU. Lots in the area range from one acre in size to ten acres.

The RRMH-1 zoning classification permits single-family mobile homes and detached dwellings on 1 acre lots, with a minimum lot width and depth of 125 feet. The minimum house size in RRMH-1 is 600 square feet.

The RRMH-2.5 zoning classification permits single-family mobile homes and detached dwellings on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in RRMH-1 is 600 square feet.

The GU zoning classification permits single-family detached dwellings on 5 acre lots, with a minimum width and depth of 300 feet.

The AU zoning classification permits single-family detached dwellings and agricultural pursuits on 2.5 acre lots, with a minimum width and depth of 150 feet.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The parcel is not serviced by public water or sanitary sewer. The closest available Brevard County potable water line is approximately 3 miles southeast of the subject property on Lionel Road at Old Dixie Highway (approximately 300 feet east of Highway US-1). The closest Brevard County sanitary sewer line is approximately 5.5 miles southeast of the subject property on Highway US-1 at Stanley Street. No school concurrency information has been provided as the development potential is considered de minimis and is below the minimum number of new residential lots that would require a formal review.

Environmental Constraints

Preliminary review of mapped resources indicates four (4) noteworthy land use issues:

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

Please refer to the attached comments provided by the Natural Resources Management Department.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT Zoning Review & Summary

Item # 21Z00019

Applicant: Fernandez

Zoning Request: RRMH - 2.5 to RRMH - 1

Note: Applicant wants to split the lot for 2 single-family homes.

P&Z Hearing Date: 01/10/22; **BCC Hearing Date:** 02/03/22

Tax ID No: 2005100

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains mapped hydric soils, an indicator that wetlands may be present on the property. 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 as defined in Section 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. The applicant is encouraged to contact NRM at 321-633-2016.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Myakka sand depression), an indicator that wetlands may be present on the property. 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 as defined in Section 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Floodplain

The entire parcel is mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property 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 the isolated floodplain greater than one third (1/3) acre in size.

Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Protected and Specimen Trees

The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4340 – Upland Mixed Coniferous/Hardwood trees. Aerials indicate that Protected (greater than or equal to 14 inches in diameter for pines) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and 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.

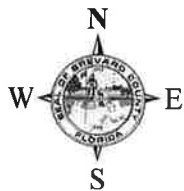
Protected Species

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

FERNANDEZ, BRUCE

21Z00019



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.

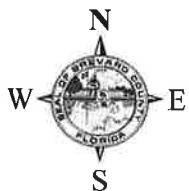
Produced by BoCC - GIS Date: 11/18/2021

— Buffer
■ Subject Property

ZONING MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

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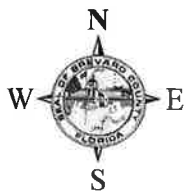
Produced by BoCC - GIS Date: 11/18/2021

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

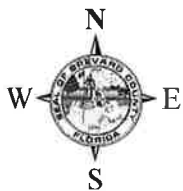
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AERIAL MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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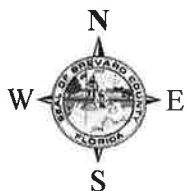
 Subject Property

 Parcels

NWI WETLANDS MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

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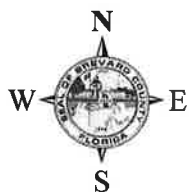
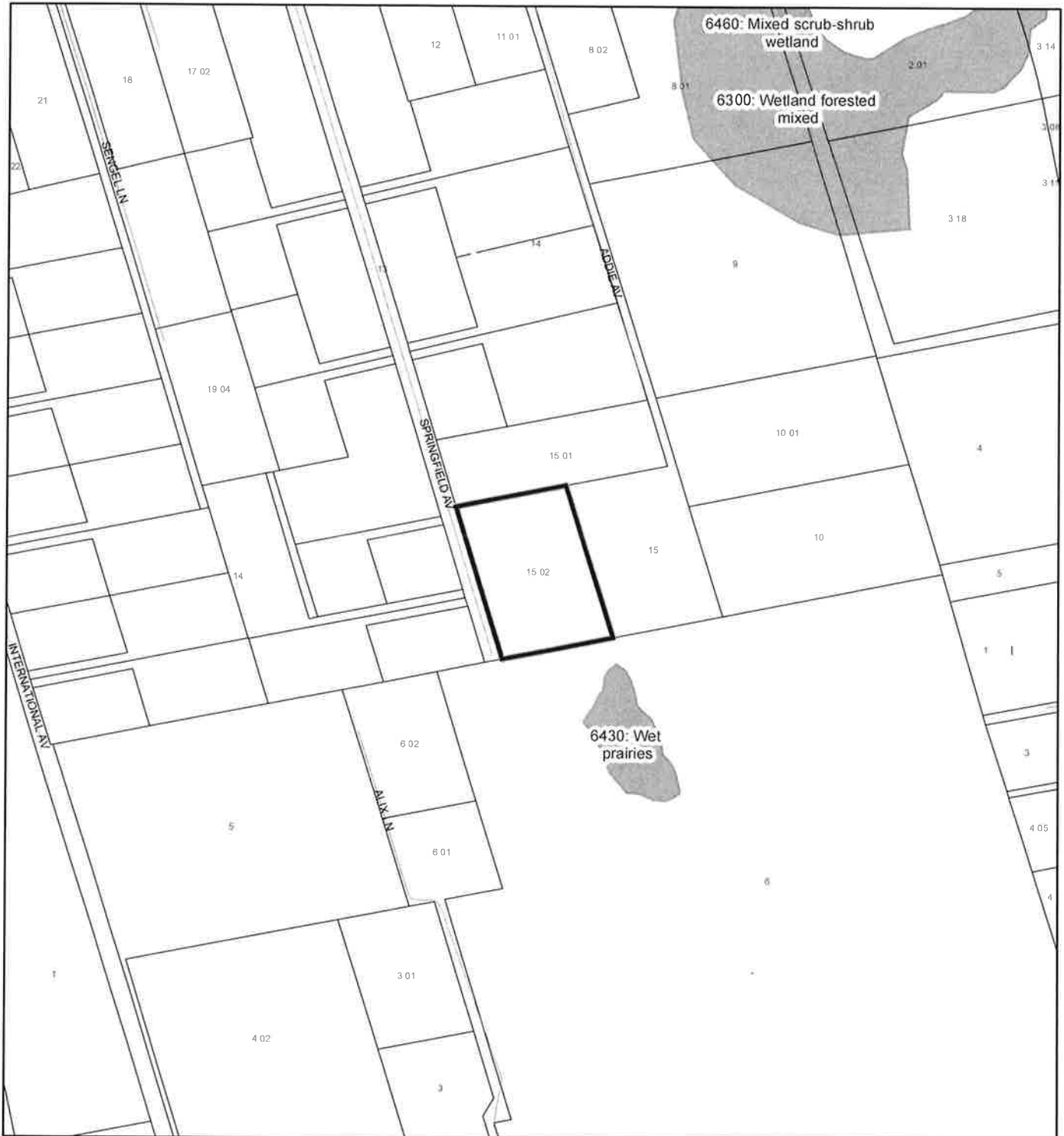
National Wetlands Inventory (NWI)

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

FERNANDEZ, BRUCE

21Z00019



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

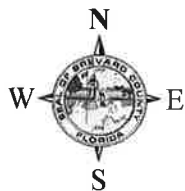
Subject Property

Parcels

USDA SCSSS SOILS MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/18/2021

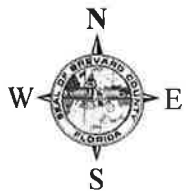
USDA SCSSS Soils

- | | | | |
|--|--------------------|--|------------------|
| | Aquifer and Hydric | | Subject Property |
| | Aquifer | | Parcels |
| | Hydric | | |
| | None | | |

FEMA FLOOD ZONES MAP

FERNANDEZ, BRUCE

21Z00019



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FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 11/18/2021

 Subject Property

 Parcels

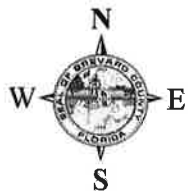
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/18/2021

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

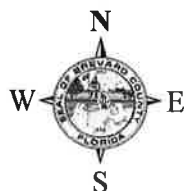
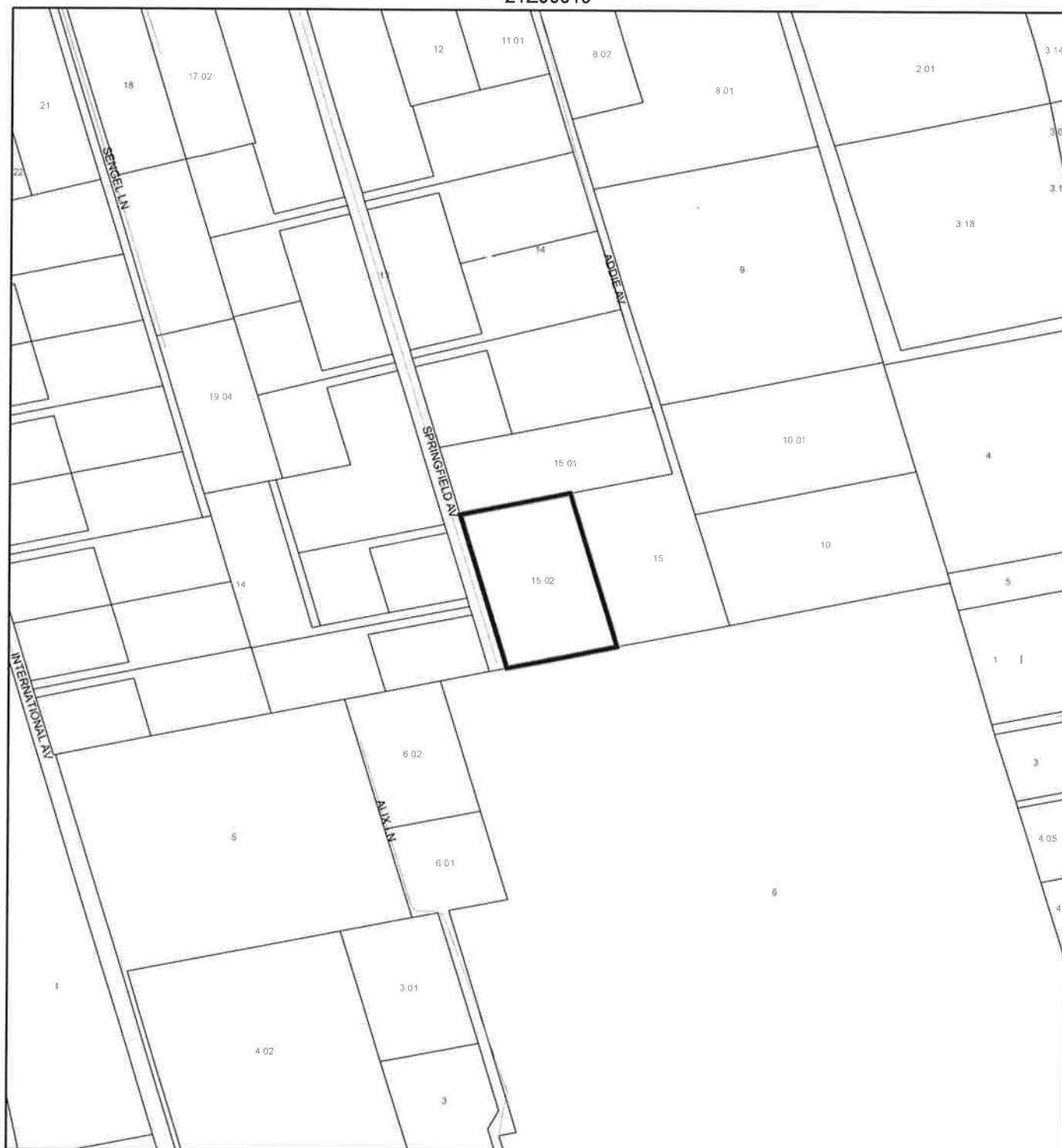
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

FERNANDEZ, BRUCE

21Z00019



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Produced by BoCC - GIS Date: 11/18/2021

Subject Property

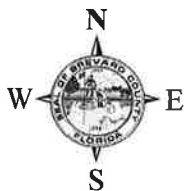
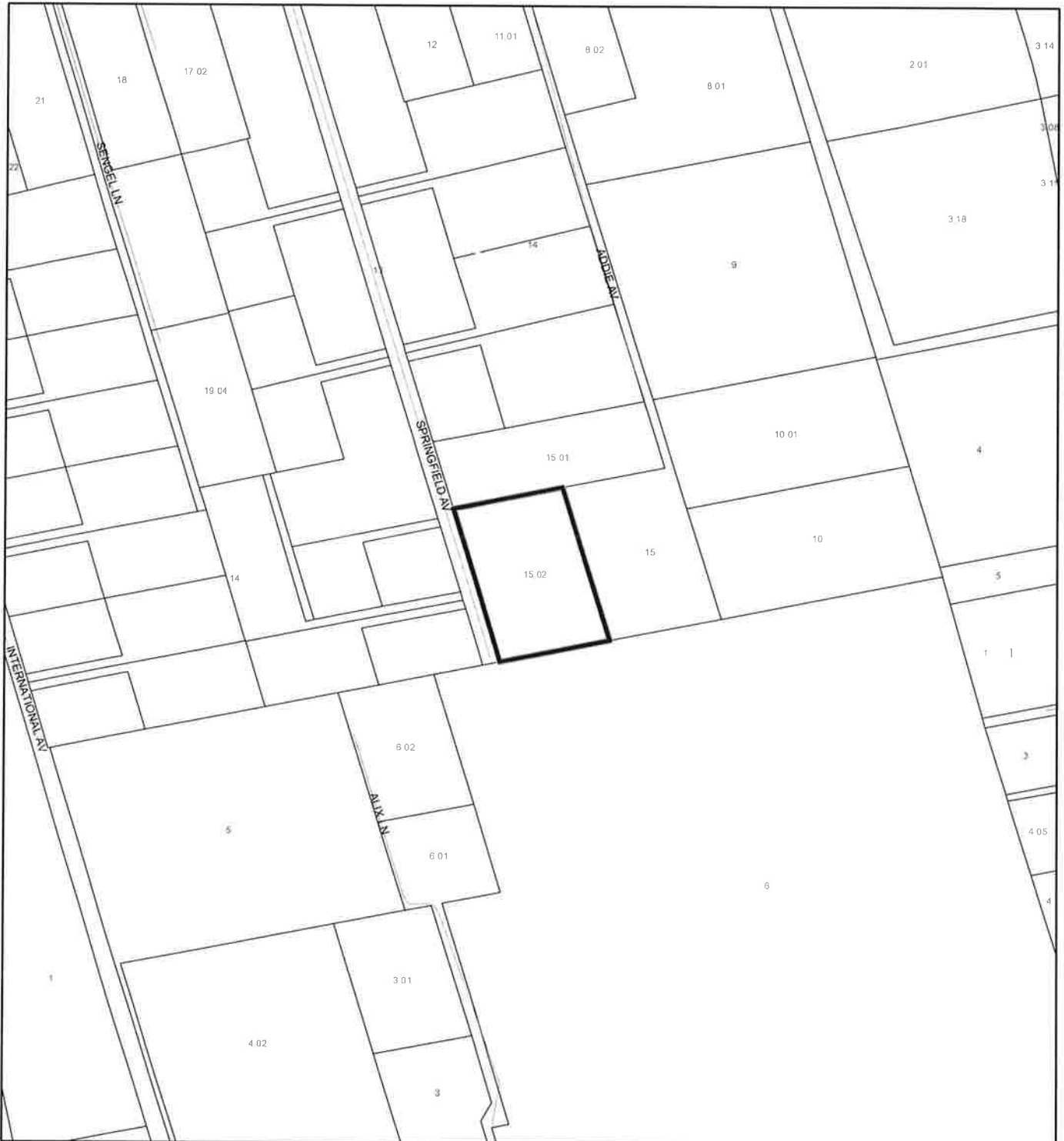
Parcels

Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

FERNANDEZ, BRUCE




21Z00019



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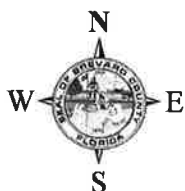
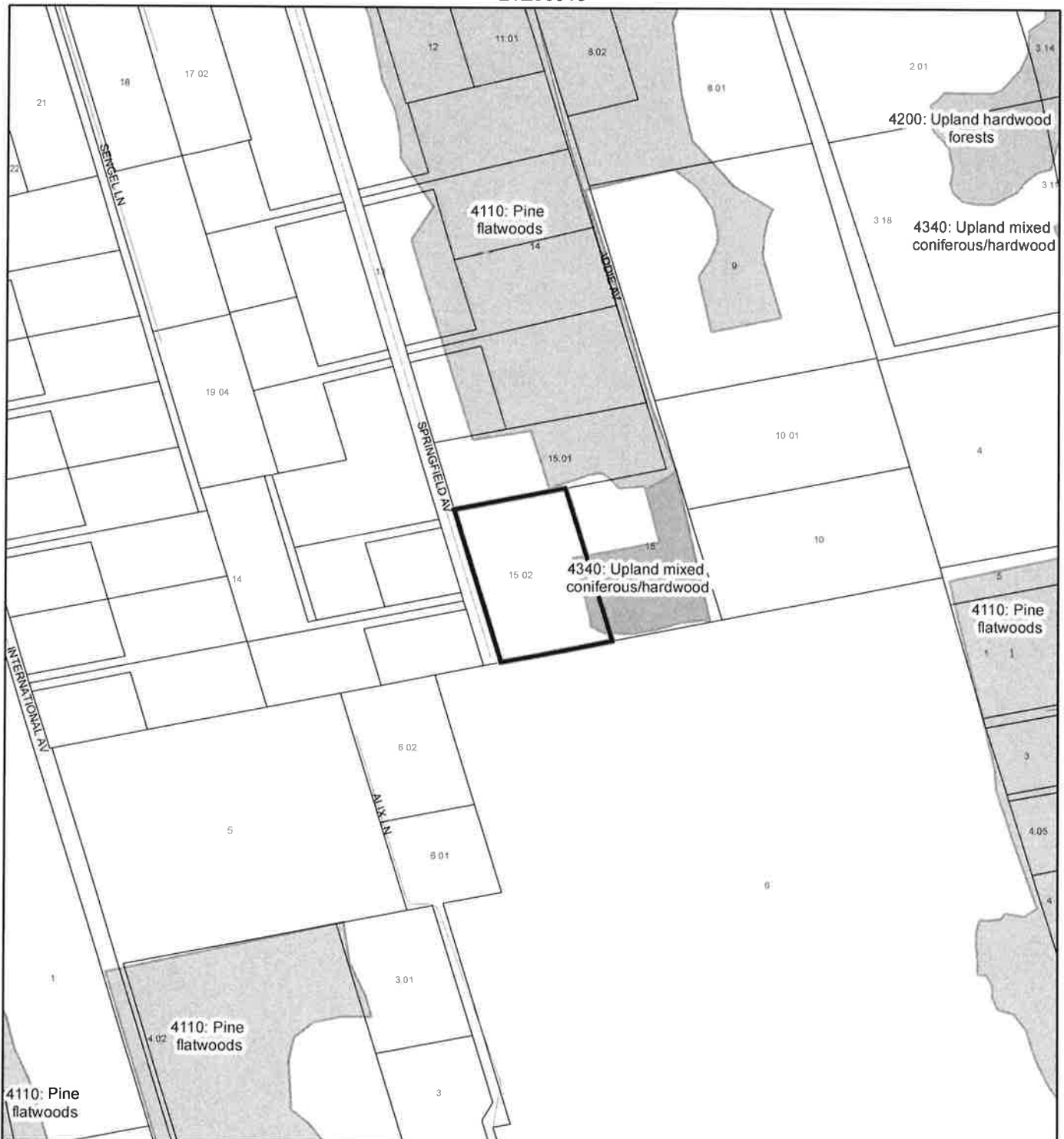
Produced by BoCC - GIS Date: 11/18/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FERNANDEZ, BRUCE

21Z00019



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/18/2021

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, January 10, 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.

At the outset of the meeting, nine Board members were present and voted on all items on the agenda: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Peter Filiberto, Vice Chair (D5); and John Hoppengarten (BPS).

Bruce Moia (D5) was present for Items H.14 & H.15 only.

Lorraine Koss (D2 - Alt) was present, but did not participate from the dais.

Staff members present were: Tad Calkins, Planning & Development Director; Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Kyle Harris, Associate Planner; Virginia Barker, Natural Resources Management Director; Amanda Elmore, Natural Resources Management Deputy Director; Darcie McGee, Natural Resources Management Assistant Director; Alex Esseeese, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt From Complete Minutes

Bruce Fernandez

A Small Scale Comprehensive Plan Amendment (21S.06) to change the Future Land Use designation from RES 1:2.5 to RES 1. The property is 3.48 acres, located on the east side of Springfield Ave., approx. 0.42 mile south of Aurantia Rd. (4705 Springfield Ave., Mims) (Tax Account 2005100) (District 1)

Bruce Fernandez

A change of zoning classification from RRMH-2.5 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential Mobile Home). The property is 3.48 acres, located on the east side of Springfield Ave., approx. 0.42 mile south of Aurantia Rd. (4705 Springfield Ave., Mims) (Tax Account 2005100) (District 1)

Bruce Fernandez, 4598 Addie Avenue, Mims, stated there is a 30-year old mobile home on the 3.48 acres; it is the last house at the end of Aurantia Road. He said his son would like to build a 3,000 to 4,000 square foot house on the rear of the property in order to take care of foster children.

Public comment.

Joe Gutierrez stated he owns the property next to Mr. Fernandez and he would like to know the reason for the change.

Mr. Fernandez stated he would like to rezone in order to build a 3,000 to 4,000 square-foot house at the end of Springfield, on 3.5 acres. He said the property is part of the original 11 acres that his family owned.

Peter Filiberto asked how the new house will be accessed. Mr. Fernandez replied, the pavement ends, but the road itself goes to the end; the gravel road was only paved up to a point. He said he can either break up the property into two even rectangles, or he has to create legal rights of way.

Jeffrey Ball stated Mr. Fernandez will have to meet the code for access before he can get a building permit. He will have to split the property with the appropriate access on the county-maintained portion of the road. If he does not have that, then he will not be able to get a building permit.

Motion by Ben Glover, seconded by Peter Filiberto, to recommend approval of the Small Scale Comprehensive Plan Amendment from RES 1:2.5 to RES 1. The motion passed unanimously

Motion by Ben Glover, seconded by William Capote, to recommend approval of a change of zoning classification from RRMH-2.5 to RRMH-1. The motion passed unanimously.