



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

8/7/2025

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### Subject:

Emerald Plaza Development, Inc (Louis Riposta) requests a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar in Units 1-5. (25Z00014) (Tax Account 2419246) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar in Units 1-5 (General Retail Commercial) zoning classification.

### Summary Explanation and Background:

The applicant is seeking to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license on Units 1-5 containing an area of (4,800 square feet) of the Emerald Plaza shopping center. This location is the eastern 5 units within the building complex. The current approval for Units 1-5 was approved by the Board of County Commissioners on June 26, 1997, under zoning action Z-9904. The applicant has been operating his business (Smoke Rings 72 Cigar and Pipe) at this location since 2020.

Staff analysis finds that the alcoholic beverage use is near an existing worship center within the complex. Within Unit 19 (NW interior corner of the shopping center - 214 feet west of Unit 5) is The Well Ministry. Services are held on Saturday and Sunday. Section 62-1906(3), Brevard County Code of Ordinances, states: "Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes." As the subject property and church lie on the same property, the Board may consider whether this Section applies and if the request is consistent with this section.

The subject property has been previously utilized as a billiard facility (Chalky's) and a bar (Hubb's Pub). The proposed use is for a cigar bar expanding sales of alcoholic beverages from a 2COP to a 4COP license to serve full liquor, beer, and wine. The applicant states they have been in operation for four (4) years as Smoke Rings 72 Cigar and Pipe and anticipate increased business sales with the approval of an upgraded alcohol license. The suite has 36 seats with a maximum occupancy of 135 people.

At its regular meeting on May 22, 2025, the MIRA Board of Directors reviewed the proposed Conditional Use Permit (CUP) application, 25Z00014. The MIRA Board is supportive of this CUP application, with an added recommendation that the CUP will no longer be in effect should the space be leased to another tenant, or if the use of the property is modified. Upon review of the application and supporting documentation, the Board voted unanimously (7-0) to recommend approval, with the additional stipulation referenced above

North of the subject property is a 0.93-acre parcel, undeveloped/unimproved, zoned BU-1 with CC FLU. South of the subject property are two parcels and a retention pond, 0.33 & 0.4 acres, commercial property developed with commercial services, zoned BU-1 with CC FLU. East of the subject property is N. Courtenay Pkwy., a State maintained Right of Way. West of the subject property are four (4) parcels ranging from 0.17 to 0.23 acres, each developed as a single-family residential homesite, zoned RU-1-9 with Neighborhood Commercial FLU.

The Board may wish to consider the following:

1. The compatibility of the proposal to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license
2. As the subject property and the church lie on the same property, the Board may consider whether the request is consistent with Section 62-1906(3)
3. Whether to impose additional operational requirements pursuant to Section 62-1906(5). Such requirements may include, but are not limited to, maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations

On June 16, 2025, the Planning and Zoning Board considered the request and voted 11:1 to recommend approval.

On July 17, 2025, the Board of County Commissioners continued this item to the August 7, 2025 Board of County Commissioners' Zoning Meeting.

### **Clerk to the Board Instructions:**

Upon receipt of resolution, please execute and return a copy to Planning and Development.

**Resolution 25Z00014**

On motion by Commissioner Goodson, seconded by Commissioner Adkinson, the following resolution was adopted by a unanimous vote:

**WHEREAS, Emerald Plaza Development, Inc** (Louis Riposta) requests a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar in Units 1-5, and a CUP for mitigating a nonconforming alcoholic beverage consumption use near a place of worship (religious services) for Units 1-5, on property described as Tax Parcel 44.03, as recorded in OR Book 3481, Pages 2230 and 2231 of the Public Records of Brevard County, Florida. **Section 26, Township 24, Range 36.** (3.17 acres) Located on the west side of N. Courtenay Pkwy., west of Catalina Isle Drive. (925 N. Courtenay Pkwy, Merritt Island); and

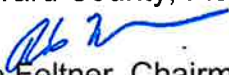
**WHEREAS**, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested CUP for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar in Units 1-5, 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 August 07, 2025.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
Rob Feltner, Chairman  
Brevard County Commission  
As approved by the Board on August 07, 2025.

ATTEST

  
RACHEL M. SADOFF, CLERK

(SEAL)

P&Z Board Hearing – June 16, 2025

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**25Z00014**

**Emerald Plaza Development Inc.**

**A Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption  
accessory to a cigar bar in Units 1-5**

Tax Account Number: 2419246  
Parcel I.D.s: 24-36-26-BX-\*-44.03 (Units 1-5)  
Location: 925 N. Courtenay Pkwy. West side of N. Courtenay Pkwy. across Catalina  
Isle Dr. (District 2)  
Acreage: 3.17 acres  
  
MIRA Board: 05/22/2025  
Planning & Zoning Board: 06/16/2025  
Board of County Commissioners: 07/17/2025

**Consistency with Land Use Regulations**

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

|                                                        | <b>CURRENT</b>                                     | <b>PROPOSED</b>                                                  |
|--------------------------------------------------------|----------------------------------------------------|------------------------------------------------------------------|
| <b>Zoning</b>                                          | BU-1 with CUP for 2COP for On-Premises Consumption | BU-1 with CUP for 4 COP for On-Premises Consumption in Units 1-5 |
| <b>Potential*</b>                                      | FAR 1.0                                            | FAR 1.0                                                          |
| <b>Can be Considered under the Future Land Use Map</b> | YES<br>Community Commercial                        | YES<br>Community Commercial                                      |

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

**Background and Purpose of Request**

The applicant's first request is to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license on Units 1-5 containing an area of (4,800 square feet) of the Emerald Plaza shopping center. This location is the eastern 5 units within the building complex. The current approval for Units 1-5 was approved by the Board of County Commissioners on June 26, 1997, under zoning action **Z-9904**. The applicant has been operating his business (Smoke Rings 72 Cigar and Pipe) at this location since 2020.

Staff analysis finds that the alcoholic beverage use is near an existing worship center within the complex. Within Unit 19 (NW interior corner of the shopping center – 214 feet west of Unit 5) is The Well Ministry. Services are held on Saturday and Sunday. This close proximity lies within the 300-foot spacing distance noted in Section 62-1906 (3).

The subject property has been previously utilized as a billiard facility (Chalky's) and a bar (Hubb's Pub). The proposed use is for a cigar bar expanding sales of alcoholic beverages from a 2COP to a 4COP license to serve full liquor, beer, and wine. The applicant states they have been in operation for four (4) years as Smoke Rings 72 Cigar and Pipe and anticipate increased business sales with the approval of an upgraded alcohol license. The suite has 36 seats with a maximum occupancy of 135 people.

Section 62-1906 (3) expressly states: "Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes." As the subject property and church lie on the same property, the Board may consider whether this Section applies and if the request is consistent with this section.

At its regular meeting on May 22, 2025, the MIRA Board of Directors reviewed the proposed Conditional Use Permit (CUP) application, 25Z00014. The MIRA Board is supportive of this CUP application, with an added recommendation that the CUP will no longer be in effect should the space be leased to another tenant, or if the use of the property is modified. Upon review of the application and supporting documentation, the Board voted unanimously (7-0) to recommend approval, with the additional stipulation referenced above.

## **ZONING HISTORY:**

On November 4, 1999, the Board denied a CUP for Alcoholic Beverages for On-Premises Consumption (**DNZ-10318**) (for units 6 - 10).

On August 4, 2005, the Board approved a 2COP license for beer and wine accessory to a restaurant under zoning action **Z-11096** for Units 8 & 9.

On April 3, 2008, the Board approved a 4COP (full liquor, beer and wine) limited to the current billiard operation under zoning action **Z-11415** for Units 6-8. Incidentally, the billiard use is no longer in operation.

The parcel is currently zoned BU-1 with Community Commercial (CC) FLU designation.

The site has access to N. Courtenay Pkwy, a State Maintained Right-of-Way.

## **Surrounding Area**

|              | Existing Use                                           | Zoning | Future Land Use |
|--------------|--------------------------------------------------------|--------|-----------------|
| <b>North</b> | Unimproved                                             | BU-1   | CC              |
| <b>South</b> | Onsite retention,<br>Testing lab and<br>office complex | BU-1   | CC              |
| <b>East</b>  | N. Courtenay Pkwy.                                     | N/A    | N/A             |
| <b>West</b>  | Single-family lots                                     | RU-1-9 | NC              |

North of the subject property is a 0.93-acre parcel, undeveloped/unimproved, zoned BU-1 with CC FLU.

South of the subject property are two parcels and a retention pond, 0.33 & 0.4 acres, commercial property developed with commercial services, zoned BU-1 with CC FLU.

East of the subject property is N. Courtenay Pkwy., a state-maintained right-of-way.

West of the subject property are four (4) parcels ranging from 0.17 to 0.23 acres, each developed as a single-family residential homesite, zoned RU-1-9 with Neighborhood Commercial FLU.

RU-1-9 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

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

### **Land Use**

The subject property is currently designated CC (Community Commercial). The BU-1 zoning classification can be considered consistent with the CC FLU designation.

### **Applicable Land Use Policies**

#### **FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands**

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;

***Staff analysis: The owner proposes to expand his license from a 2COP to a 4COP license for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar.***

***The Board should consider the compatibility of the proposed CUP with the surrounding area. There appears to be a place of worship (The Well Ministry) within the shopping center that holds services. That location is noted within Unit 19 (NW interior corner of the complex). Services are held on Saturday and Sunday.***

B. Existing commercial zoning trends in the area;

**Staff analysis:** The subject property was developed as a shopping center in 1997. Located North of the subject property is an unimproved BU-1 zoned commercial property. Abutting south of the subject property are two commercial properties, developed with a lab facility and a small commercial business complex. East of the subject property is N. Courtenay Pkwy. and to the west, there are multiple single-family zoned/developed lots.

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

**Staff analysis:** The subject property needs to comply with the Brevard County Performance Standard defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, noise levels, traffic, and site activity to not cause any violations with the residential areas.

**This CUP request, if approved, can be considered compatible based on the subject property being in a commercial area of character and not in a residential neighborhood. Based on staff analysis, the expansion of a 2COP to a 4 COP (Full Liquor) conditional use could be considered compatible with the character of the adjacent properties. The Board will need to determine whether Section 62-1906 (3) applies and if the request is consistent with this section.**

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

**Staff analysis:** Based on a preliminary review, there is no anticipated increase in LOS for road capacity, potable water service, sanitary sewer service, and solid waste disposal.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

**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;

**Staff analysis:** Regarding the hours of operation, lighting, odor, noise levels, traffic, or site activity, the proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The Board may require additional conditions and/or limitations.

**Brevard County Code of Ordinances states within Chapter 6, Section 6-3 Hours of sale:** Unless otherwise prohibited, in the unincorporated area of the county, alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division of alcoholic beverages and tobacco 24 hours a day, seven days a week.

- 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.

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

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

1. historical land use patterns;

**There are six (6) FLU designations within a half-mile radius of the subject property. They include RES 6, RES 15, Recreation (REC), Public facilities (PUB), Community Commercial (CC), and Neighborhood Commercial (NC). Res 4 is the predominant FLU designation in the area.**

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

**There has been no new development within a half-mile radius of the subject property within the last three (3) years.**

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

**Staff Analysis:** There have been three zoning approvals in the past three (3) years.

- **22Z00058 changed zoning from AU to RU-1-9 on a 0.24-acre parcel located on the west side of Koch St., approx. 225 ft. south of Lucas Rd. on February 2, 2023. Lot is located in a NW direction, lying west a distance of 1,250 feet. That lot remains unimproved.**
- **24Z00009 changed zoning from AU to RU-1-9 on a 0.31-acre parcel located on the south side of Bevis Rd. approx. 370 ft. south of Lucas Rd. and 730 ft. east of N. Tropical Tr. on December 12, 2024. Lot is located in a NW direction, lying west a distance of 2,390 feet. That lot has been converted into the access road for a 22-unit single-family residential subdivision reviewed under 25SD00003 for the Tropical Palms Subdivision. Plan under review.**

- **24Z00027 changed zoning from AU to RU-1-11 on a 0.31-acre parcel located on the SE corner of Lucas and Bevis Roads on September 5, 2024. Lot is located in a NW direction lying west a distance of 2,420 feet. That lot remains unimproved.**

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

**Staff analysis: No material violation of relevant policies has been identified.**

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

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

##### **Criteria:**

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

**The property was site-planned under the name Emerald Plaza Commercial Center. The site plan number was SP# 94-12-009. This property was developed in 1997, according to the Brevard County Property Appraiser's website. On June 26, 1997, under zoning action Z-9904, the Board of County Commissioners approved the first alcoholic beverage use on this parcel for Hubb's Pub.**

**The applicant has been operating his business (Smoke Rings 72 Cigar and Pipe) at this location since 2020. Based on staff analysis, the requested CUPs are not anticipated to materially or adversely affect the surrounding developments.**

- 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.

**The area has well-established boundaries, roads, and open spaces. The subject property is not located in a residential neighborhood or subdivision but is located between N. Courtenay Pkwy., which is a commercial corridor, and the Rose Hill Estates Unit 1 residential subdivision to the west.**

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

**Staff analysis indicates that the area is not residential in character. The westside of N. Courtenay Pkwy. surrounding the subject property has a commercial nature as there is an Ace Hardware and commercial Arts and Supply store to the north, and to the south, a Quest lab facility with commercial offices to the west. On April 16<sup>th</sup>, 2025, the applicant stated that Quest has moved into the complex west of his leased spaces.**

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.

**Staff analysis has determined the subject parcel is located directly on N. Courtenay Pkwy. which primarily has commercial uses abutting the roadway.**

**Administrative Policy #5 - the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.**

The proposed CUP will access N. Courtenay Pkwy. (S.R.3) segment between Needle Blvd. to Lucas Rd. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.0%. The N. Courtenay Pkwy. (S.R.3) corridor is anticipated to operate at 74.68% of capacity daily. The request is not anticipated to create a deficiency in LOS.

**Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Pkwy. (S.R.3) between Needle Blvd. and Lucas Rd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 74.68% of capacity daily. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.0%. The N. Courtenay Pkwy. (S.R.3) corridor is anticipated to operate at 74.68% of capacity daily. The request is not anticipated to create a deficiency in LOS.

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

The parcel is serviced by the City of Cocoa Utilities for public water. The property is serviced by Brevard County utilities for sewer.

**Special Considerations for CUP (Conditional Use Permit)**

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1936, Land Alteration.

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the

distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

**Staff analysis:** The owner/applicant has provided a survey which states that there are no churches or schools within 300 feet from the bar to the lot line of a school or church and 400 feet between the front door of the proposed place of business and all property lines of any church or school within the area of this CUP request.

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

**Staff analysis:** The applicant has been operating a beer and wine 2COP license over the last four (4) years and now seeks a CUP for a full liquor, beer, and wine (4COP) license for Alcoholic Beverages for On-Premises Consumption to potentially expand the number of visiting customers.

### **General Standards of Review**

Section 62-1901(c)(1)(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.

*Applicant's Response:* He has been in business for the last four (4) years. He anticipates better sales with alcohol and hopes for more customers. Notes the site will not be a nuisance.

**Staff analysis:** The proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The request is not anticipated to create a deficiency in N. Courtenay Pkwy. traffic Level of Service (LOS).

Section 62-1901(c)(1)(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.

*Applicant's Response:* No difference in area since prior billiard parlor with alcohol license and live entertainment was the tenant.

**Staff analysis:** The parcel is located in a commercial area and is not adjacent to any residential development. Section 62-1906 (6) requires that the expansion of a beer and/or wine use to include intoxicating liquor requires a new application.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. Note: A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable 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 a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

*Applicant's Response: The abutting property is probably maintaining or escalating in value. The taxes have risen in the property I rent, 2 of the past 3 years.*

**Staff analysis:** Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(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.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent 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 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.

*Applicant's Response: Nothing significant has changed; Ingress/egress in the last 5 years I've been a tenant even as the plaza has filled with new tenants over the past 3 years.*

**Staff analysis:** This property has ingress and egress directly on N. Courtenay Pkwy.

Section 62-1901(c)(2)(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.

*Applicant's Response: I've been in the existing space since 2021. The plaza was half empty. Now its full yet nothing has changed regarding this paragraph.*

**Staff analysis:** The proposed must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code requirements, or a violation will be created.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

*Applicant's Response: Everything we do is inside. We rarely have entertainment. When we do its usually 1 or 2 persons. Low key music.*

**Staff analysis:** The proposed CUP does not include outdoor areas. The site must comply with the noise ordinance.

Section 62-1901(c)(2)(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.

*Applicant's Response: Nothing much should change. We sell beer/wine. Typically, these sales will fall off or be replaced by alcohol sales.*

**Staff analysis:** The adopted level of service for solid waste disposal is not anticipated to be affected.

Section 62-1901(c)(2)(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.

*Applicant's Response: We hope for an increase in customer traffic, but our capacity is 135. We've never approached that level.*

**Staff analysis:** The CUP should not exceed the adopted level of service for potable water or wastewater. The establishment is connected to public sewer system.

Section 62-1901(c)(2)(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.

*Applicant's Response: Nothing will change. On premise consumption now and in the future. No outside seating now or in the future.*

**Staff analysis:** The property was developed in 1997, according to the Brevard County Property Appraiser's website. On June 26, 1997, under zoning action Z-9904, the Board of County Commissioners approved the first alcoholic beverage use on this parcel. The property has to ensure it meets the Brevard County Performance Standards.

Section 62-1901(c)(2)(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.

*Applicant's Response: No additional lighting or signage is anticipated.*

**Staff analysis:** Any new signage would need to meet the current Brevard County Code.

Section 62-1901(c)(2)(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.

*Applicant's Response: Hours will remain the same 10AM – 11PM.*

**Staff analysis: The hours of operation appear to be in line with the historical use of the property. The Board may determine that additional measures may be necessary, and the Board may require additional stipulations as part of the request.**

Section 62-1901(c)(2)(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.

*Applicant's Response: No additional building modifications will be performed.*

**Staff analysis: The establishment is a single-story building and meets the height requirements.**

Section 62-1901(c)(2)(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.

Note: 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.

*Applicant's Response: No change to plaza parking.*

**Staff analysis: The establishment was developed in 1997. The applicant states it will operate in the same historical manner. Any new additions and alterations to increase patronage will have to meet the current Brevard County Code.**

### **Environmental Constraints**

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

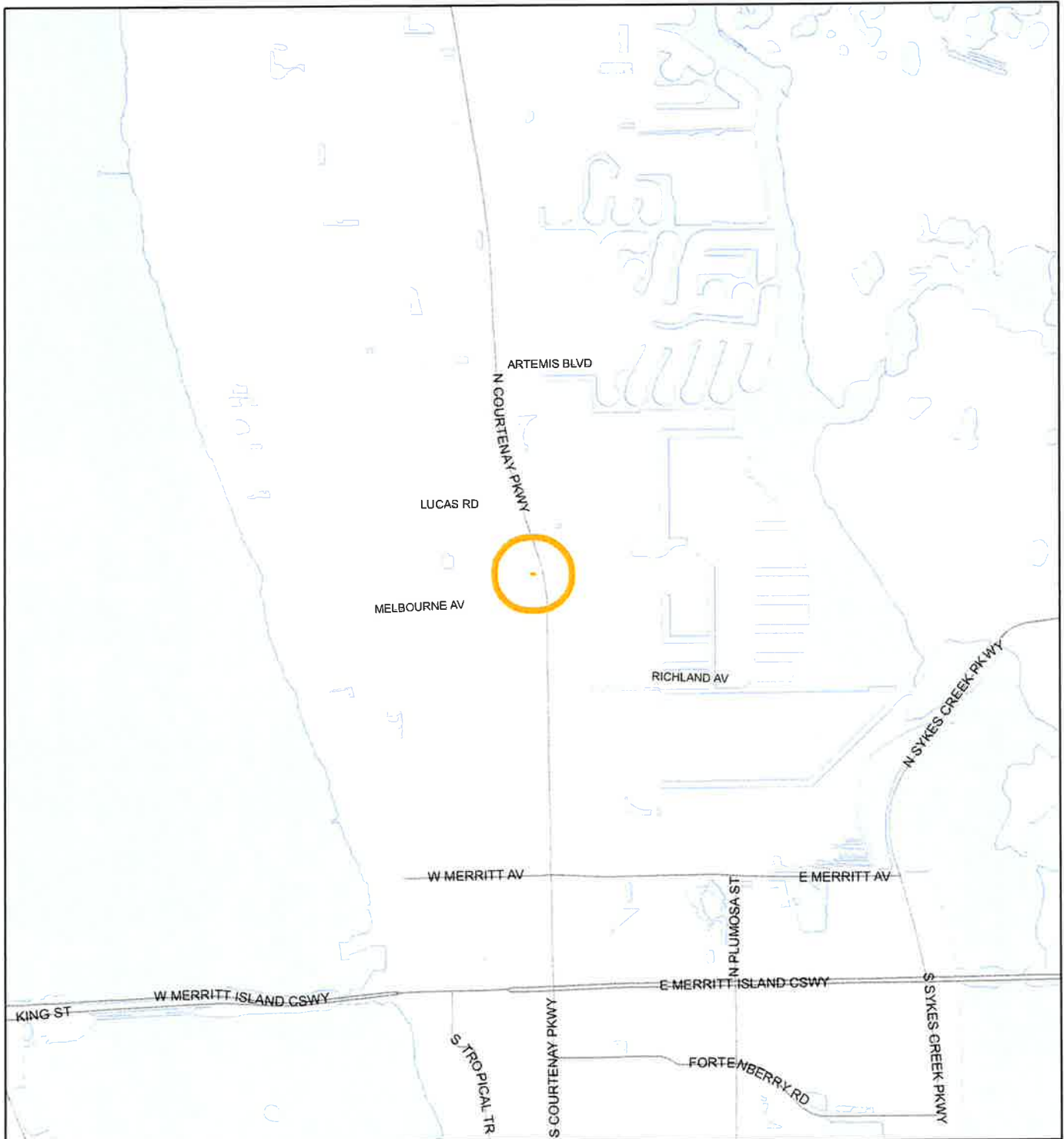
### **For Board Consideration**

The Board should consider (1) the compatibility of the proposed to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license and (2) as the subject property and the church lie on the same property, the Board may consider whether the request is consistent with Section 62-1906(3).



# LOCATION MAP

EMERALD PLAZA DEVELOPMENT INC  
25Z00014



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: 4/7/2025

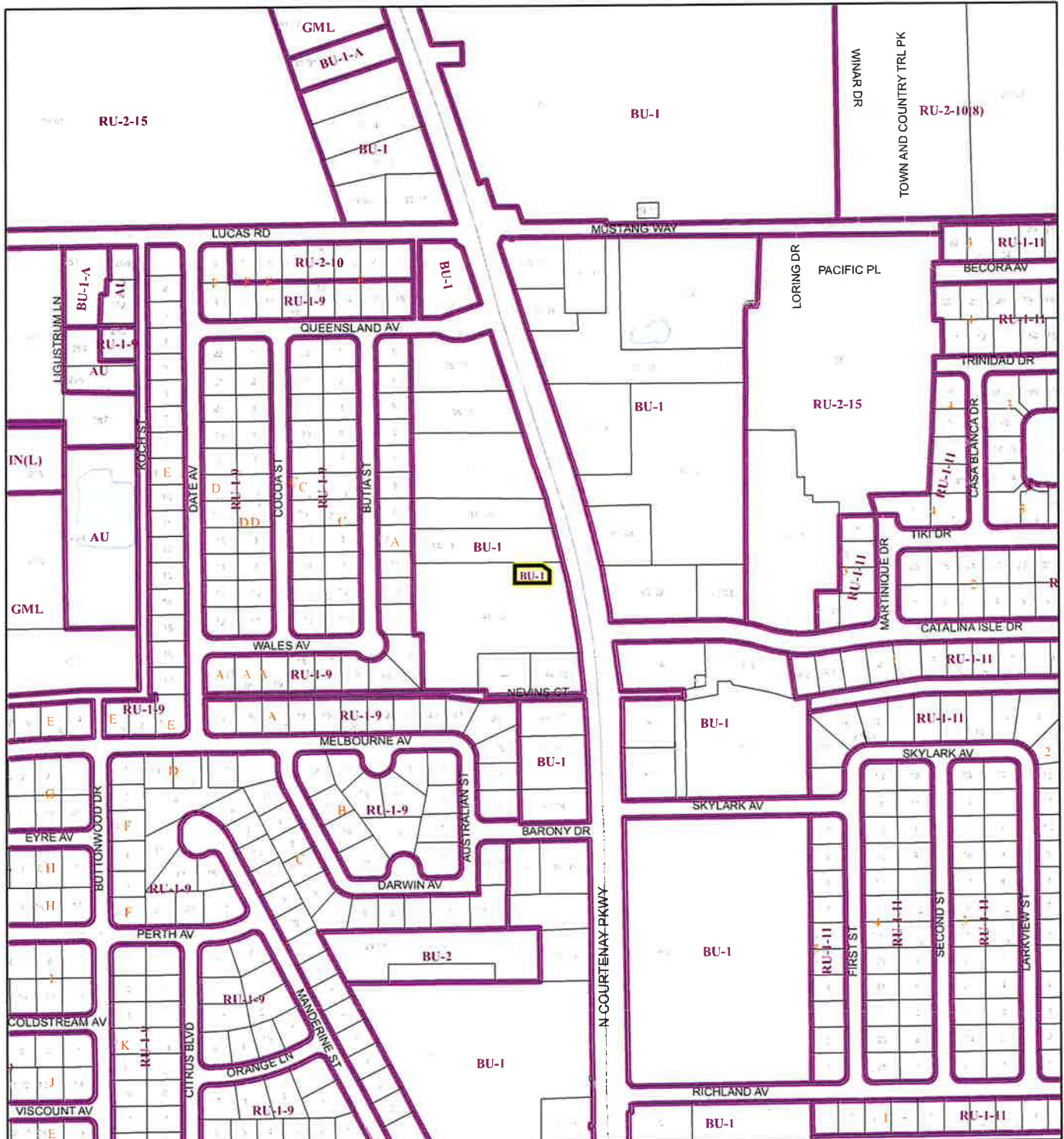
— Buffer

— Subject Property

# ZONING MAP

## EMERALD PLAZA DEVELOPMENT INC

### 25Z00014



1:4,800 or 1 inch = 400 feet

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Subject Property

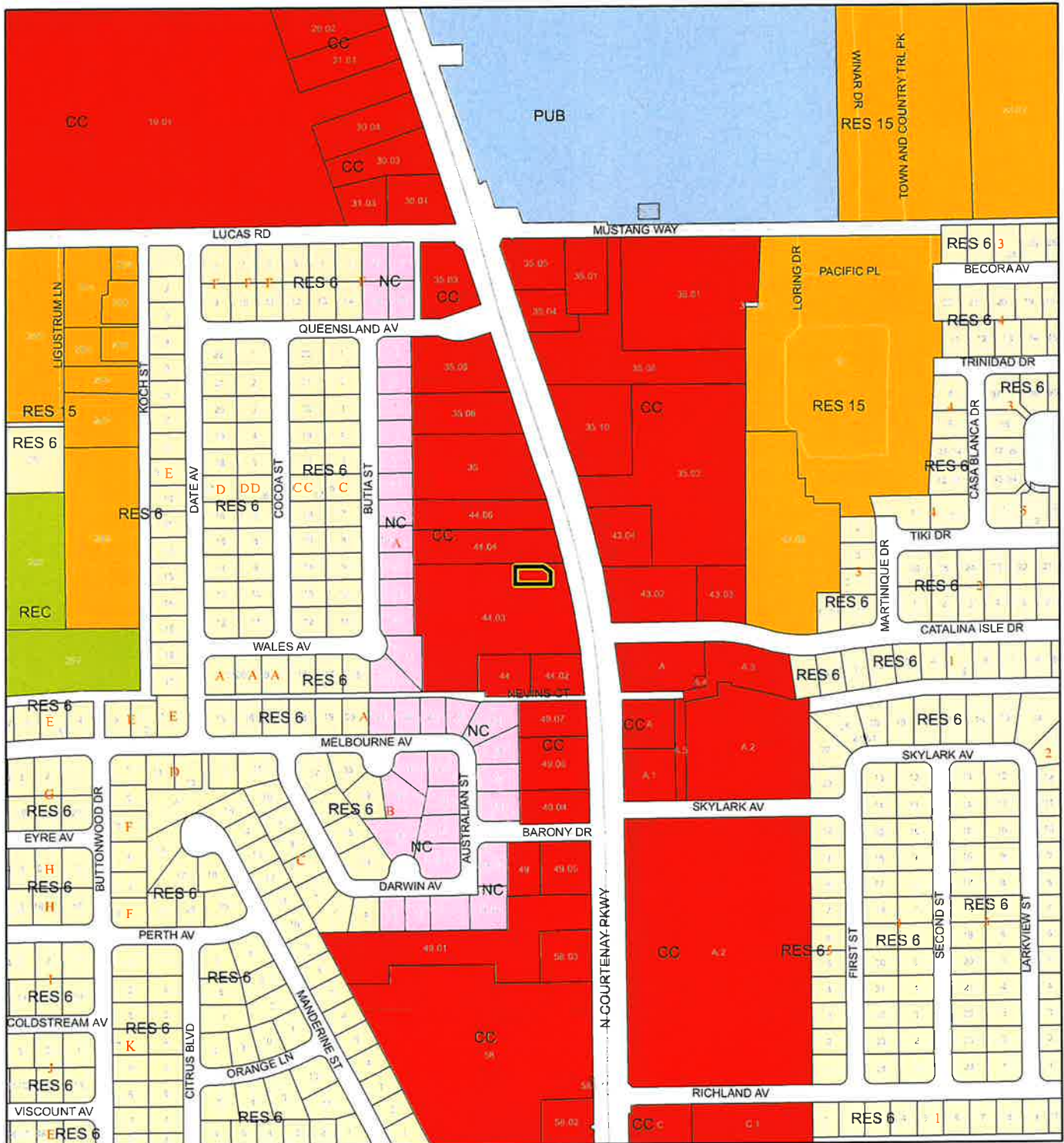
Parcels

Zoning

# FUTURE LAND USE MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

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# AERIAL MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2024

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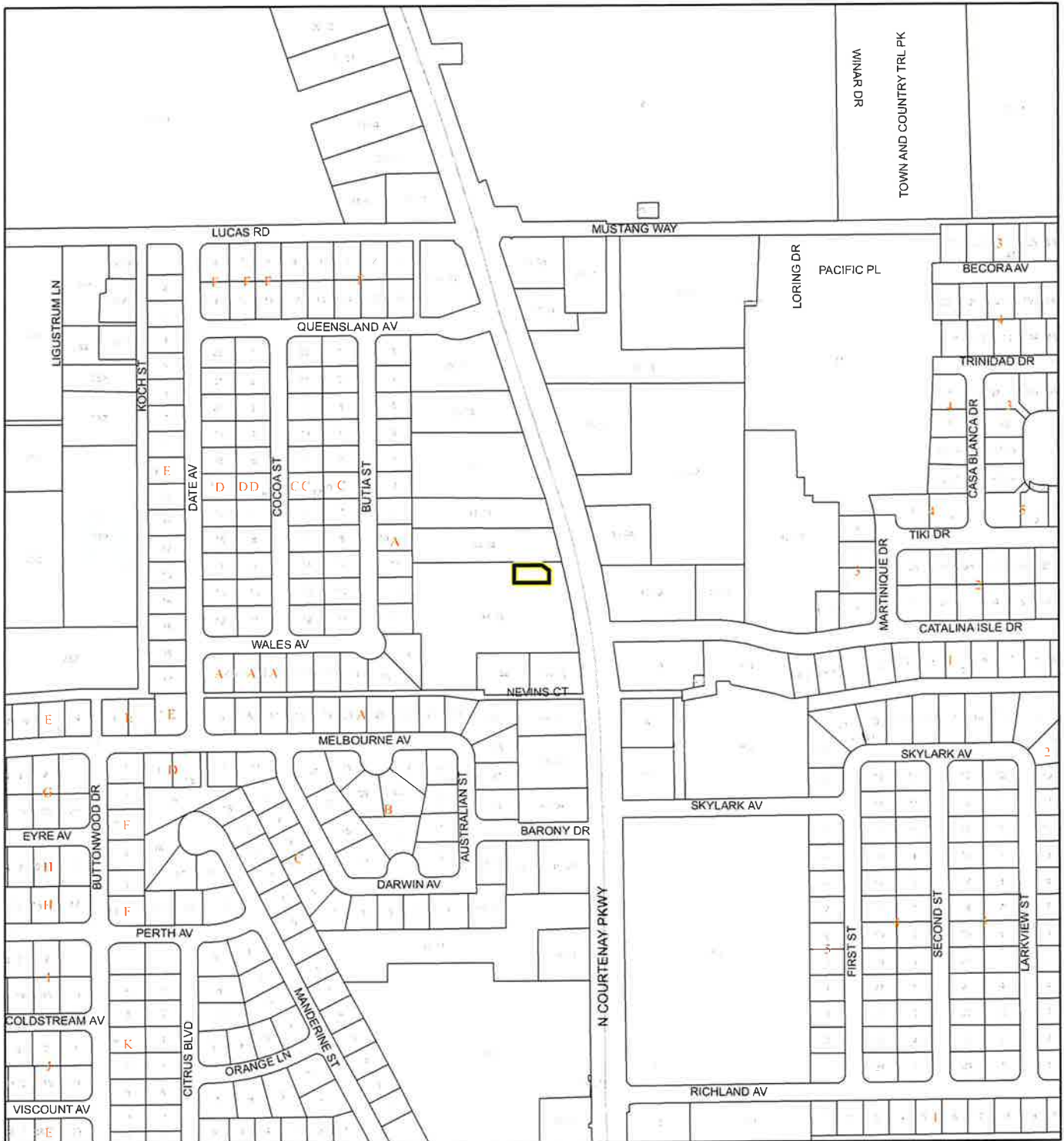
 Subject Property

 Parcels

# NWI WETLANDS MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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## National Wetlands Inventory (NWI)

Estuarine and Marine Deepwater

Estuarine and Marine Wetland

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Lake

Other

Riverine

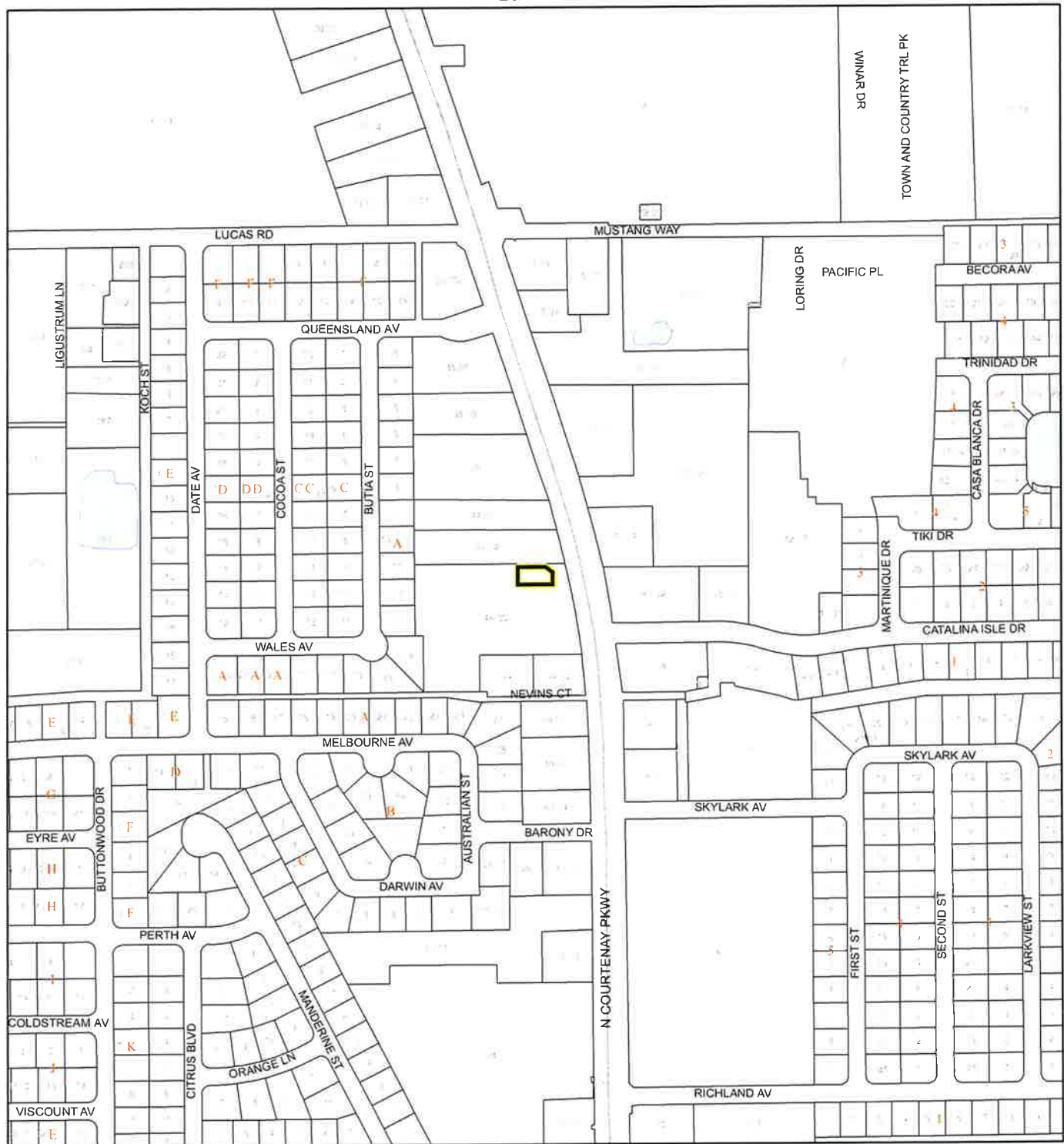
Subject Property

Parcels

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



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

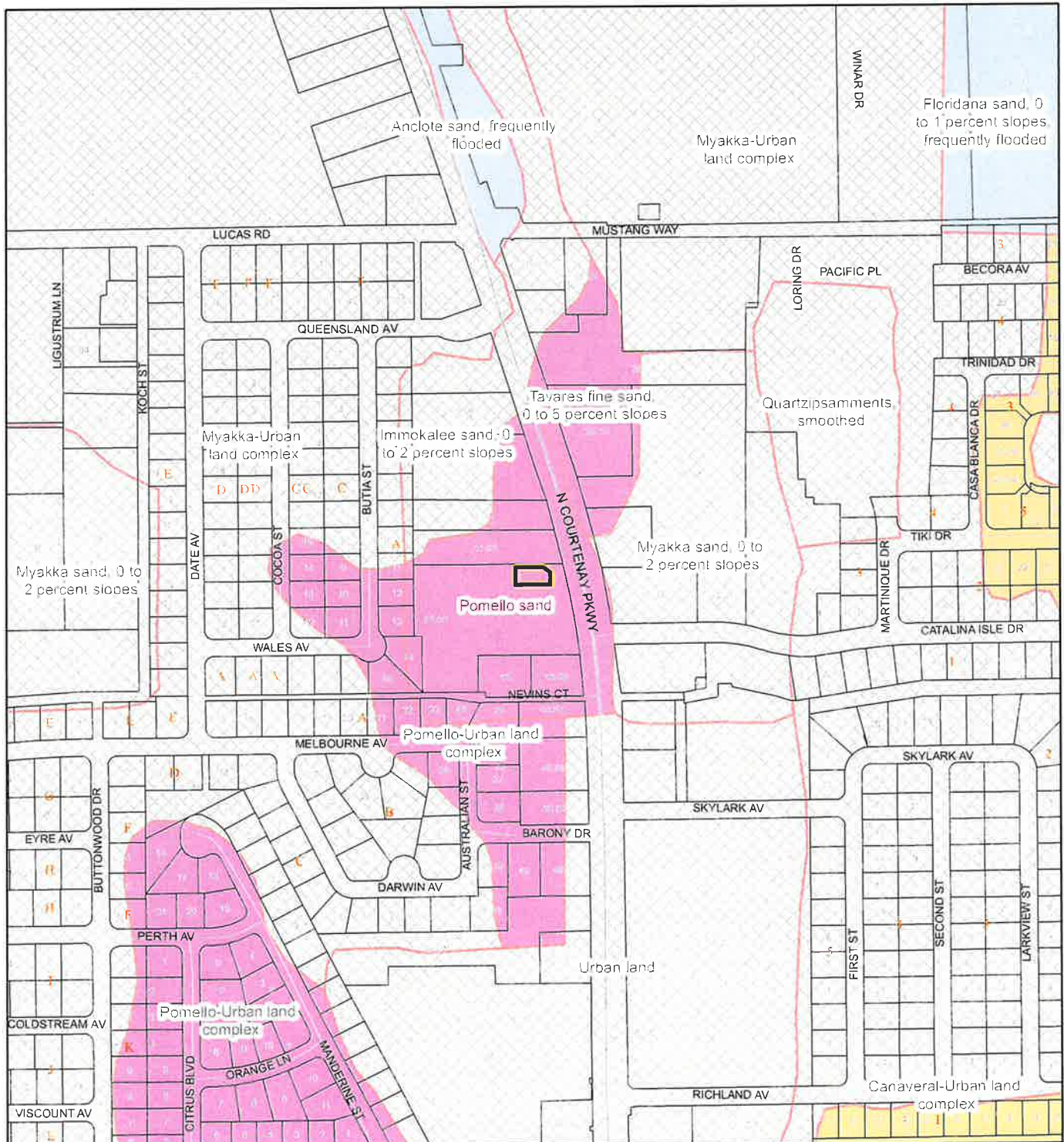
Subject Property

Parcels

# USDA SCSSS SOILS MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



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.

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## USDA SCSSS Soils

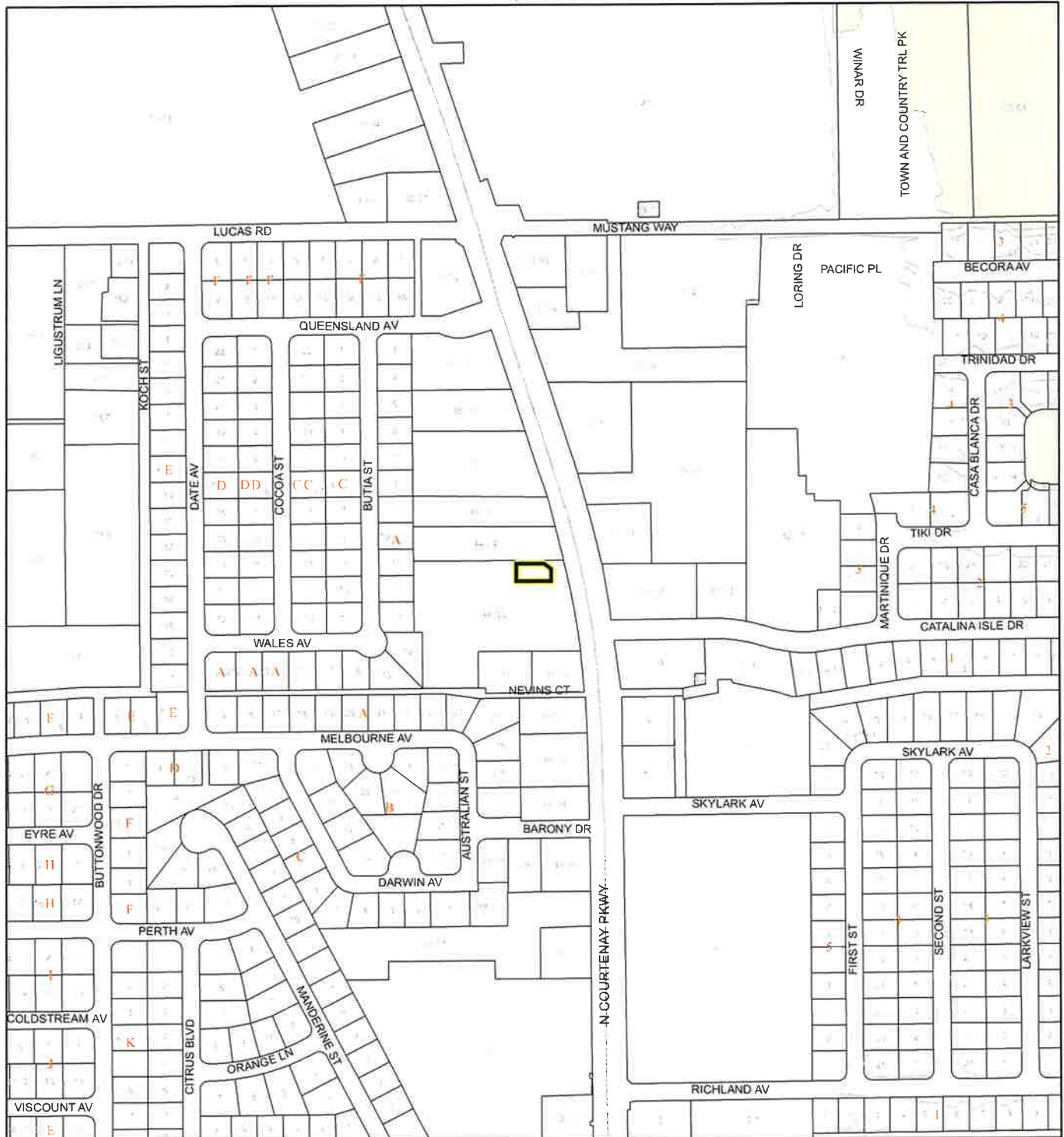
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/7/2025

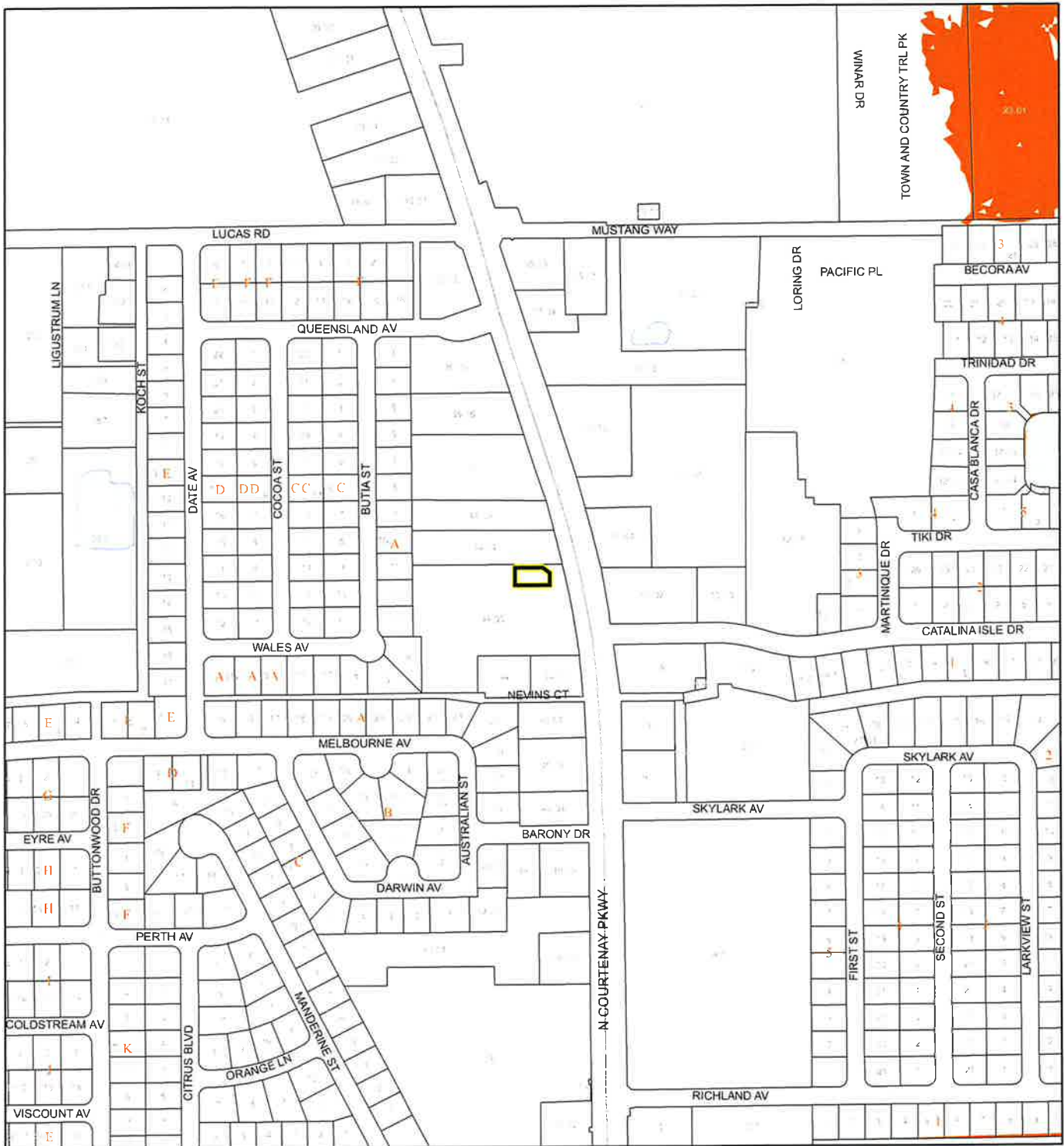
## FEMA Flood Zones

|                  |            |   |
|------------------|------------|---|
| A                | AO         | x |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |

# COASTAL HIGH HAZARD AREA MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/7/2025

— Subject Property

□ Parcels

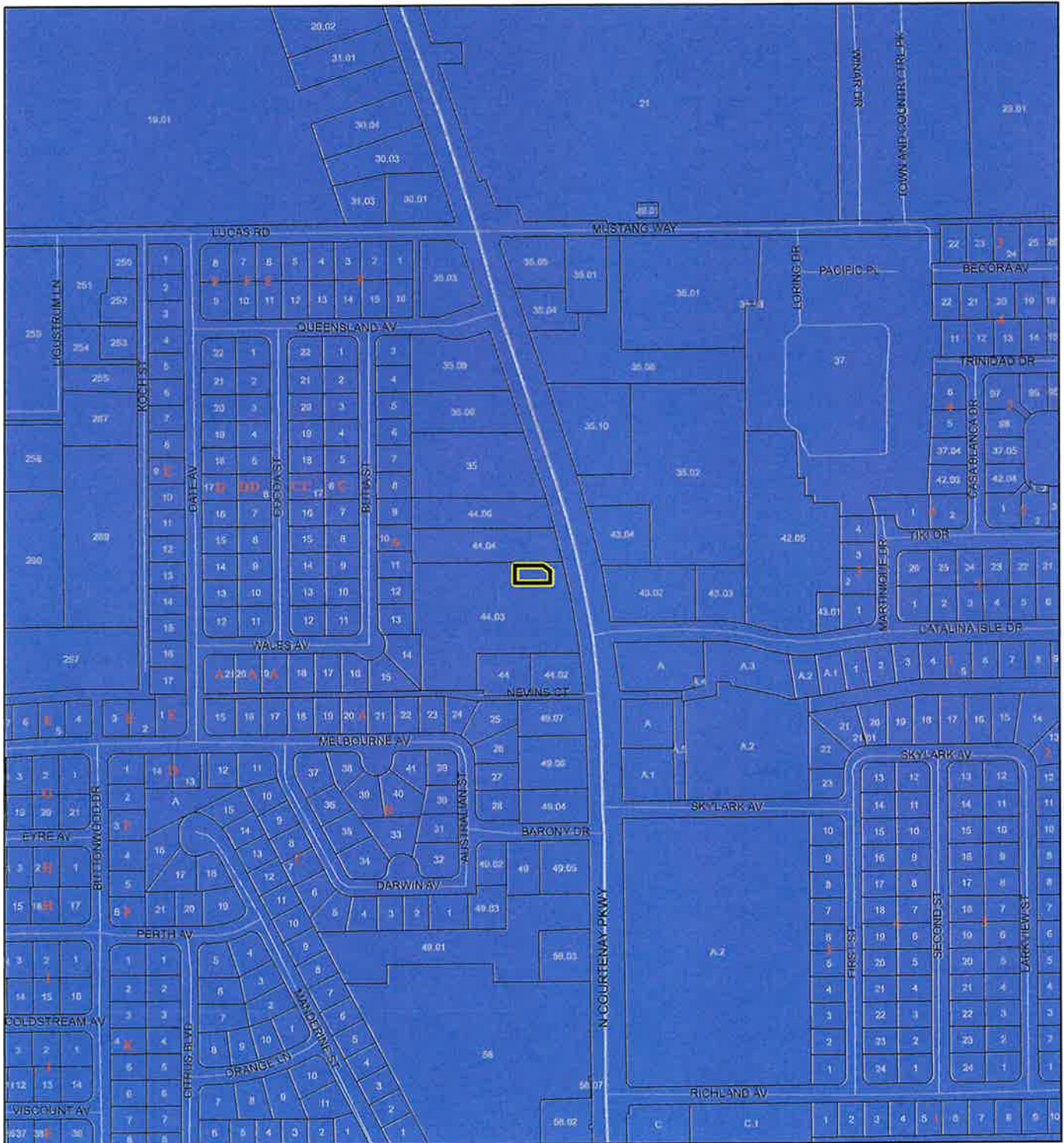
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

**Septic Overlay**

40 Meters

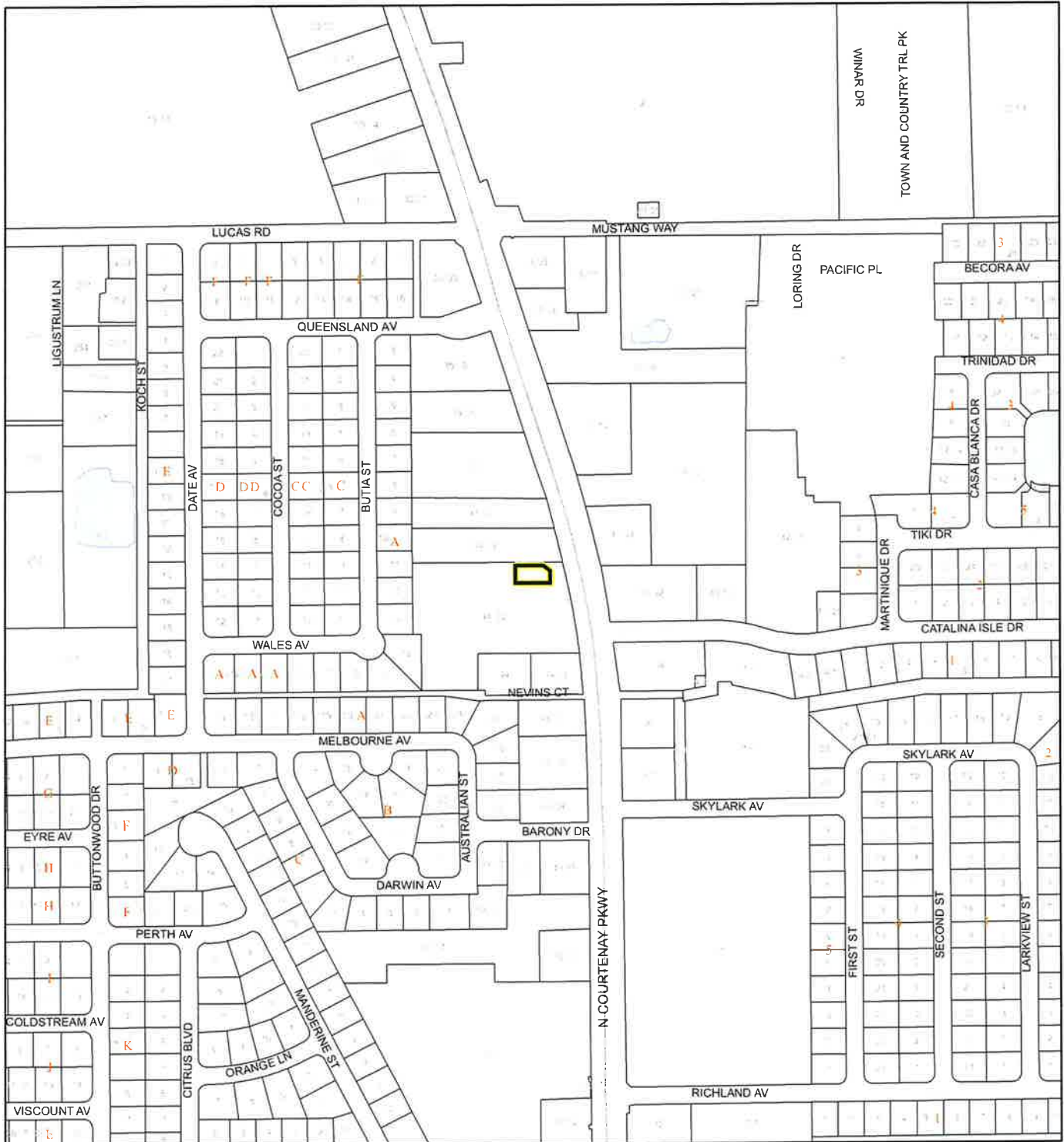
60 Meters

All Distances

# EAGLE NESTS MAP

## EMERALD PLAZA DEVELOPMENT INC

### 25Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/7/2025

 Subject Property

 Parcels

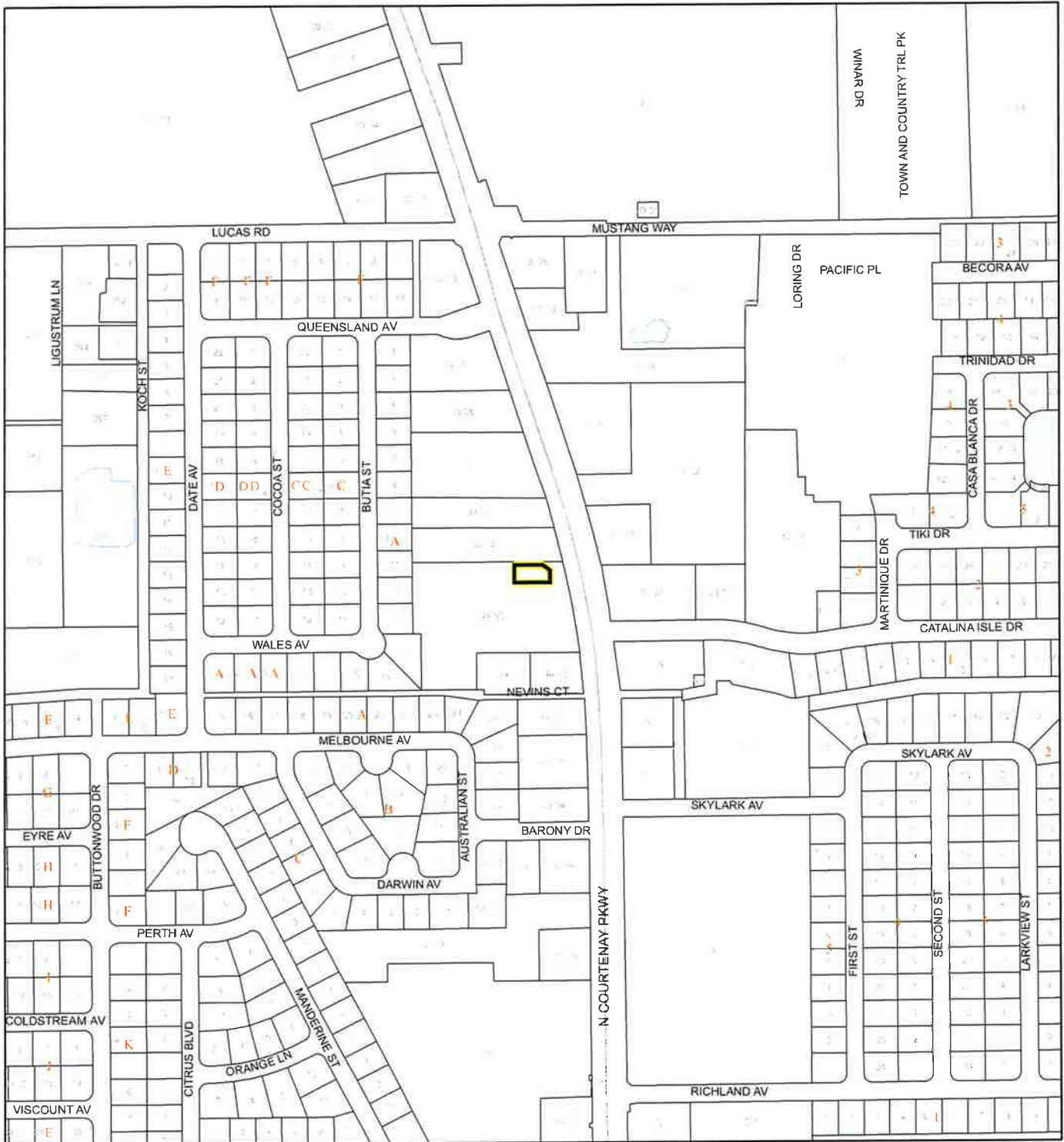


**Eagle Nests  
FWS**

# SCRUB JAY OCCUPANCY MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/7/2025

 Subject Property

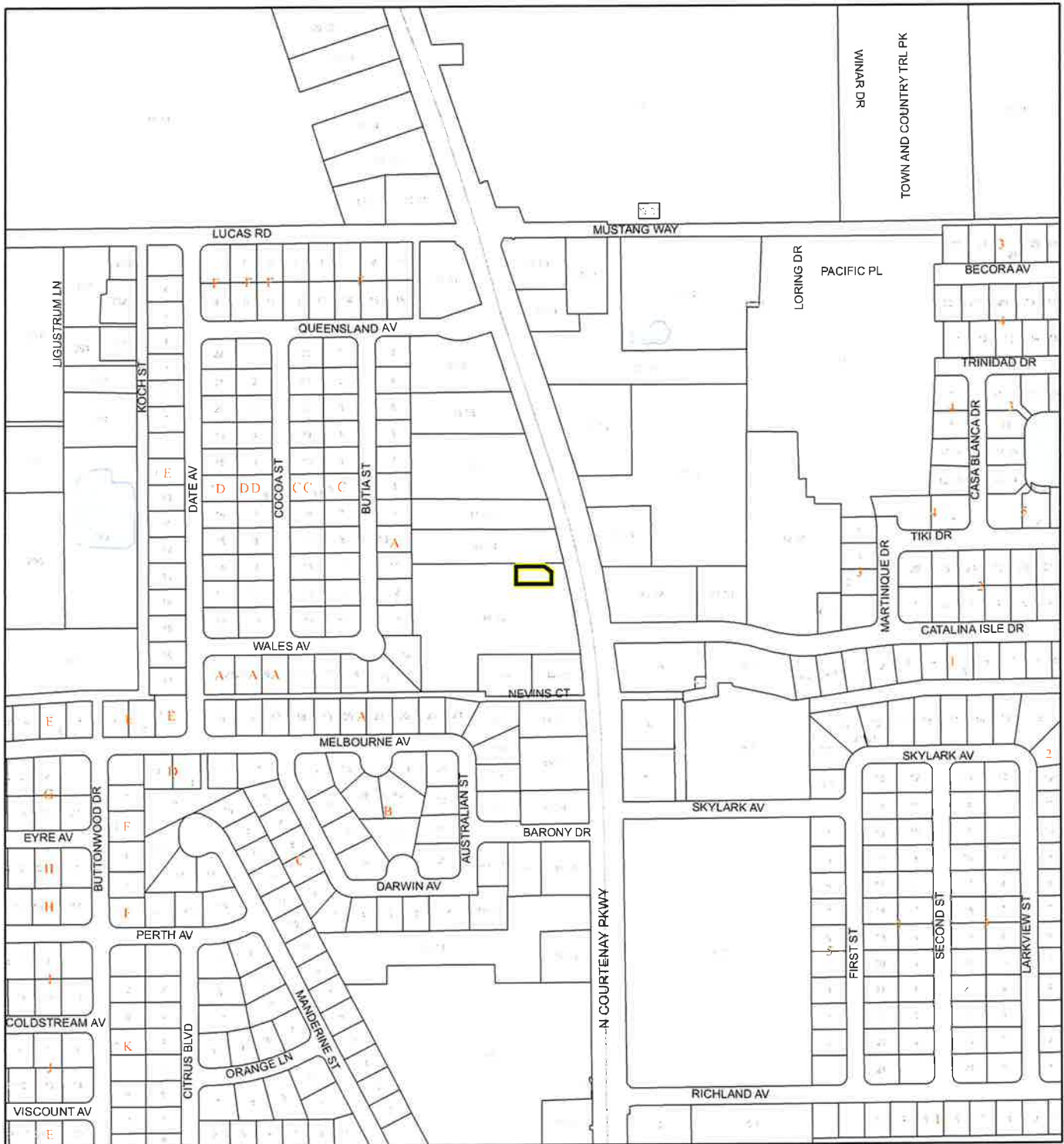
 Parcels

 Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

EMERALD PLAZA DEVELOPMENT INC

25Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/7/2025

## SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels



**MERRITT ISLAND REDEVELOPMENT AGENCY**

**INTER-OFFICE MEMORANDUM**

**DATE:** May 23, 2025

**TO:** Billy Prasad, Planning & Development Director  
Trina Gilliam, Interim Planning & Zoning Manager  
Paul Body, Planner I  
Jacqueline Gonzalez, Planner II  
George Ritchie, Planner III  
Alice Randall, Operations Support Specialist

**FROM:** Lisa Nicholas, Community Development Manager, on behalf of the  
Merritt Island Redevelopment Agency Board of Directors

**RE:** **MIRA Board of Directors Conditional Use Permit Application Review**  
**Smoke Rings 72 Cigar Lounge – Application #25Z00014**  
**Emerald Plaza – 925 North Courtenay Parkway – Units 1 through 5**

Sec. 62-2114 of the Brevard County Code states that *When an application is made to the planning and zoning board for a change in zoning or approval of a **conditional use permit**, or to the board of adjustment for a variance, for property located in the Merritt Island redevelopment area, the application shall be forwarded to the Merritt Island redevelopment agency prior to the applicable public hearing before the planning and zoning board or the board of adjustment.*

At its regular meeting on May 22, 2025, the MIRA Board of Directors reviewed the proposed Conditional Use Permit (CUP) application, #25Z00014, which is being requested to address two conditions – to provide a full-liquor bar/license, which, at present, is for the sale of beer and wine only; and to mitigate a nonconforming alcoholic beverage location that is within 300 feet from an existing church.

The MIRA Board is supportive of this CUP application, with an added recommendation that the CUP will no longer be in effect should the space be leased to another tenant, or if the use of the property is modified. Upon review of the application and supporting documentation, the Board **voted unanimously (7-0) to recommend approval, with the additional stipulation referenced above,** of the Conditional Use Permit application for Smoke Rings 72 Cigar Lounge, Emerald Plaza, 925 North Courtenay Parkway, Units 1 through 5.

## **PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 16, 2025**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Eric Michajlowicz (D3); Greg Nicklas (D3); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); and Robert Brothers (D5).

Staff members present were Trina Gilliam, Zoning Manager; Paul Body, Planner; Alex Esseesse, Deputy County Attorney; Billy Prasad, Planning and Development Director; Darcie McGee, Natural Resources; Rachel Gerena, Public Works; John Scott, Emergency Management Office; Edward Fontanin, Utility Service Director; Lucas Siegreid, Utility Services; Alice Randall, Operations Support Specialist; and Jordan Sagosz, Operations Support Specialist.

### **Excerpt of complete agenda**

**H.8. Emerald Plaza Development, Inc (Louis Riposta) requests a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar in Units 1-5. (25Z00014) (Tax Account 2419246) (District 2)**

Trina Gilliam read Item H.8. into the record.

Louis Riposta spoke to the application. He said we've been in business four and a half years, built a good quality business. We currently have beer and wine. In the past year and a half there's been three other cigar bars that opened in the county within 15 miles of me and basically, it's eroded a little bit of my business. It was always my plan to get liquor when I could afford it and now's the time to try and protect our position in the County as the top cigar bar that people want to go to, but they want that liquor. It's going to help me to maintain number one.

No Public Comment

Mr. Minneboo stated this gentleman's the only guy that doesn't have a CUP in Merritt Island for liquor. He's entitled. Everybody on North Tropical Trail or North Courtney has one so this gentleman certainly deserves it.

Mr. Hopengarten asked how close they are to the high school.

Mr. Riposta responded footage wise I couldn't tell you.

Mr. Minneboo commented 800 feet.

Mr. Riposta stated It's down the road beyond, you must get in a car to get there. It's not across the street. Arby's is across the street; an abandoned car wash is across the street.

Mr. Hopengarten said you're not close to the school so the students can go and partake.

Mr. Riposta responded with no they even solicit us for donations. We do have a coffee bar with great milkshakes and stuff but that's not who we are. We're cigars.

Ms. Amato asked how it works with it being within 300 feet of a church.

Mr. Riposta responded that's why I'm here. When I was granted the business license with the beer and wine for almost 5 years ago the ministry was there. They're open four hours a week on Sunday from 10:00 a.m. to 2:00 p.m. I had to pay the surveyor here recently \$1,500 to affirm the distance between the schools and the churches. He didn't even know it was there it's so nondescript. So that's why we're going for I guess as the notice in my front yard is a variance in understanding that I'm applying for this application.

Ms. Gilliam added at the MIRA meeting the board of directors reviewed this proposal. They approved it 7 to 1. Their recommendation is that the CUP will no longer be in effect should the space be leased to another tenant or if the use of the property is modified. So, Myra understood the situation with the church. I believe the church maybe moved in afterward.

Mr. Riposta responded in my research they came in 2011, and it's changed hands once or twice since then. It was much more active back in the day but now there's tumble weeds in front of the door.

Ms. Gilliam responded so the reason why we're submitting this application is for the board to decide of whether it should be approved knowing that there is a church that's in the same plaza.

Mr. Riposta added there's a marijuana dispensary next to the church, with a marijuana doctor. We're all trying to get along but that's the reality.

Mr. Hopengarten asked did they need a CUP for the beer and wine.

Ms. Gilliam responded you do.

Mr. Hopengarten then said so this will be their second CUP.

Ms. Gilliam replied Yes. Because he's expanding the use beer and wine to full alcohol that's why he must apply for another CUP.

Mr. Minneboo asked if it was a 4COP license.

Mr. Riposta responded yes. It's a quarter license. I had sold my house to get the money to put down on it.

Motion to recommend approval of Item H.8. by Henry Minneboo, seconded by Debbie Thomas.  
Motion passed with a vote of 11:1.

## Board Meeting Date

Item Number: H.4

Motion By: TG

Second By: KA

Nay By: \_\_\_\_\_

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