



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

3/2/2023

Subject:

Brian and Dana Scholz (Stuart Buchanan) request a change of zoning classification from AU to RR-1. (22Z00064) (Tax Account 2004785) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from AU to RR-1 on a 3.91-acre parcel developed with a single-family residence for the purpose of subdividing the parcel into three single-family lots. The RR-1 zoning classification permits single-family residential uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet, and a minimum living area of 1,200 square feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence.

To the north are two 2.27-acre parcels with AU zoning, each developed with single-family residences. To the east is a 10-acre parcel zoned AU and developed with a single-family residence. To the south, across Orlando Avenue, is a 0.99-acre parcel and a 1.07-acre parcel with AU zoning, each developed with single-family residences. To the west is a 1.01-acre parcel with RR-1 zoning, developed with a single-family residence, and a 2.26-acre parcel with AU zoning, developed with a single-family residence.

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

On February 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00064

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

WHEREAS, Brian and Dana Scholz have requested a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Lot 7.03, Block 6, Indian River Park, as recorded in ORB 9045, Pages 1291 - 1292, of the Public Records of Brevard County, Florida. **Section 20, Township 20G, Range 35.** (3.91 acres) Located on the north side of Orlando Ave., approx. 0.25 mile east of U.S. Highway 1 (3620 Orlando 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 as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RR-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 March 2, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on March 2, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – February 13, 2023

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00064

Brian and Dana Scholz (Stuart Buchanan)

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

Tax Account Number: 2004785
Parcel I.D.: 20G-35-20-21-AI-7.03
Location: North side of Orlando Avenue approximately 1,320 feet east of Highway
US-1 (District 1)
Acreage: 3.91 acres
Planning & Zoning Board: 2/13/2023
Board of County Commissioners: 3/02/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RR-1
Potential*	1 SF units	3 SF unit
Can be Considered under the Future Land Use Map	YES RES 1	YES RES 1

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) on a 3.91-acre parcel developed with a single-family residence for the purpose of subdividing the parcel into three single family lots. Subdivision of a parcel into three or more lots shall obtain approval from the Board of County Commissioners as part of the subdivision process in section 62-2805. The subject property retains the original AU zoning classification.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU (Future Land Use). The existing AU zoning can be considered consistent with the existing RES 1 FLU designation.

The proposed RR-1 zoning can be considered consistent with the existing RES 1 FLU designation.

Applicable Land Use Policies

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

The applicant's request of RR-1 zoning can be considered consistent with the existing RES 1 Future Land Use.

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

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

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

Criteria:

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

The applicant proposes subdivide the parcel into three lots to develop two additional single-family residences. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI 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;

The surrounding area has a FLU designation of RES 1 within 500 feet of the subject site.

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

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

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

While there has not been any actual development within this area in the preceding three (3) years and there has not been any zoning actions approved within one-half mile in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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

The developed character of the surrounding area is AU (Agricultural Residential) with one lot zoned RR-1 (Rural Residential) with lots of one (1) acre in size or larger with single-family residential uses. This request could be considered as recognizing the FLU classification allocation.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	SF residences	AU	RES 1
South	SF residence	AU	RES 1
East	SF residence	AU	RES 1
West	SF residence	AU/RR-1	RES 1

To the north, are two 2.27-acre parcels with AU zoning and each is developed with a single-family residence. To the east is a 10-acre parcel with AU zoning and developed with a single-family residence. To the south across Orlando Avenue is a 0.99-acre parcel and a 1.07-acre parcel with AU zoning and each is developed with single-family residence. To the west is a 1.01-acre parcel with RR-1 zoning and developed with a single-family residence and a 2.26-acre parcel with AU zoning and developed with a single-family residence.

The current AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

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

1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US-1, from Lionel Road to Burkholm Road, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 23.47% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.08%. The corridor is anticipated to operate at 23.55% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The closest Brevard County utilities service area for public water lies approximately 5,050 feet south of the parcel along the south side of Lionel Road. The closest Brevard County sewer line is approximately 7,400 feet southwest of the parcel at the north end of Sanctuary Drive.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge
- Protected and Specimen Trees
- Protected Species

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

For Board Consideration

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

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

Item #22Z00064

Applicant: Stuart Buchanan (on behalf of Brian and Dana Scholz)

Zoning Request: AU to RR-1

Note: Applicant wants to subdivide the property into three parcels in excess of 1.0 acre each.

Zoning Hearing Date: 02/13/23; **BCC Hearing Date:** 03/02/2023

Tax ID Nos: 2004785

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes, Candler fine sand and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements.

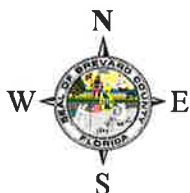
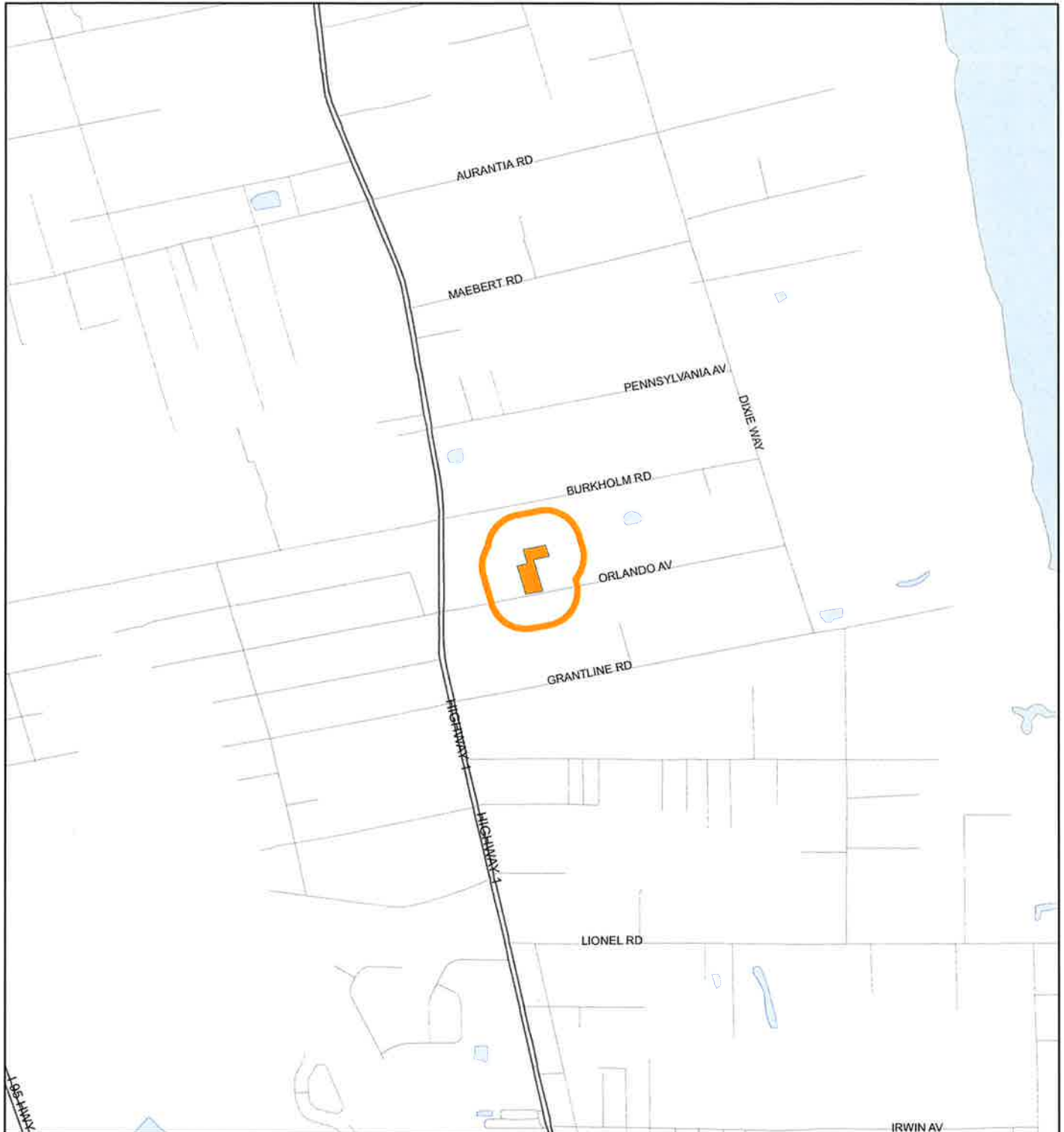
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. 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

SCHOLZ, BRIAN

22Z00064



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: 12/2/2022

Buffer
Subject Property

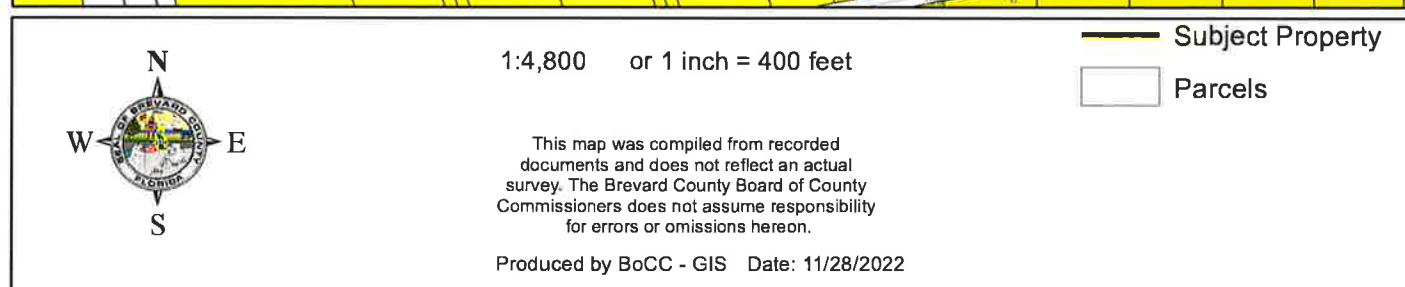
22Z00064



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 Subject Property
 Parcels
 Zoning

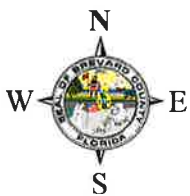
22Z00064



AERIAL MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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

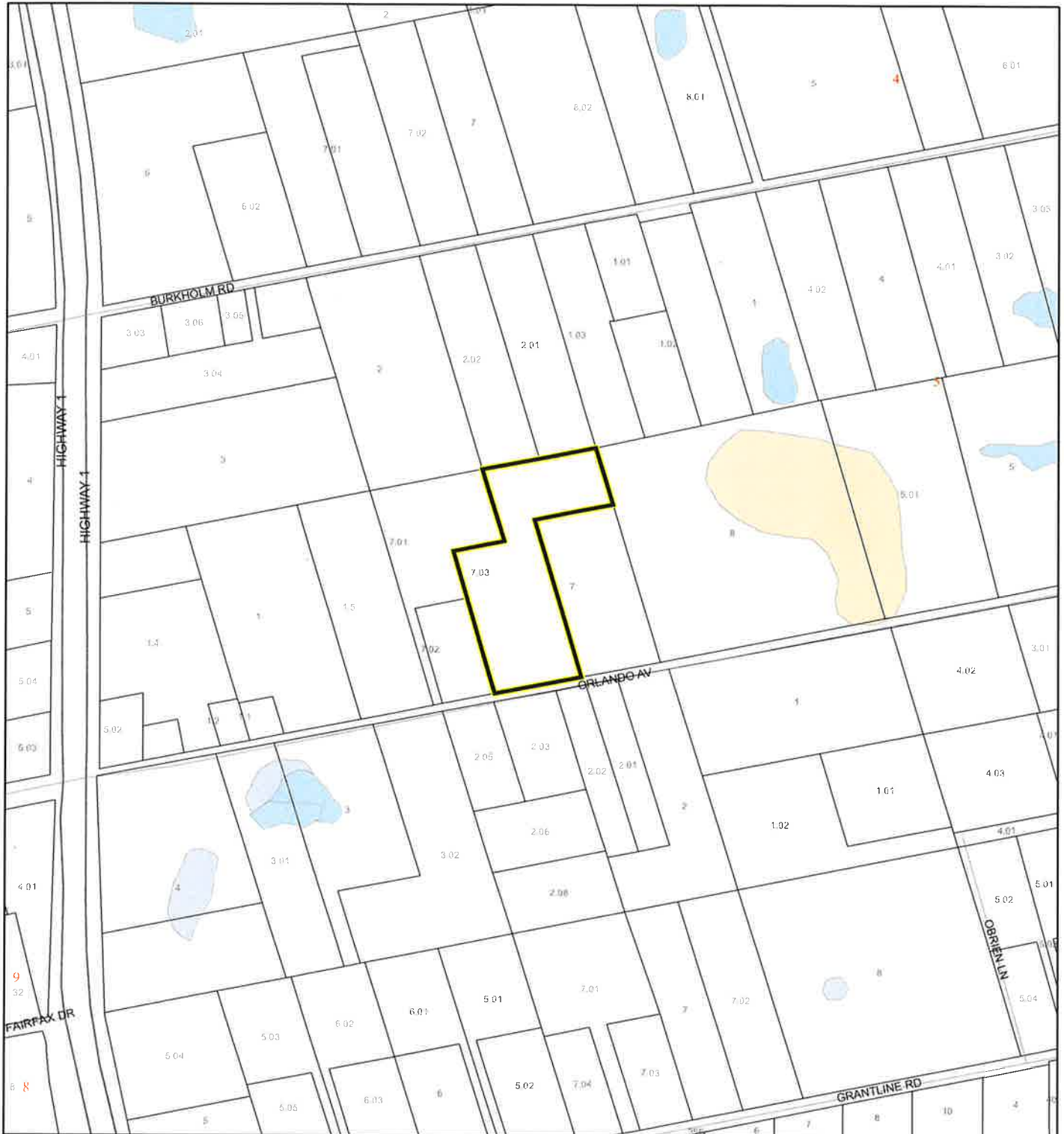
Produced by BoCC - GIS Date: 11/28/2022

— Subject Property
□ Parcels

NWI WETLANDS MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

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

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

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

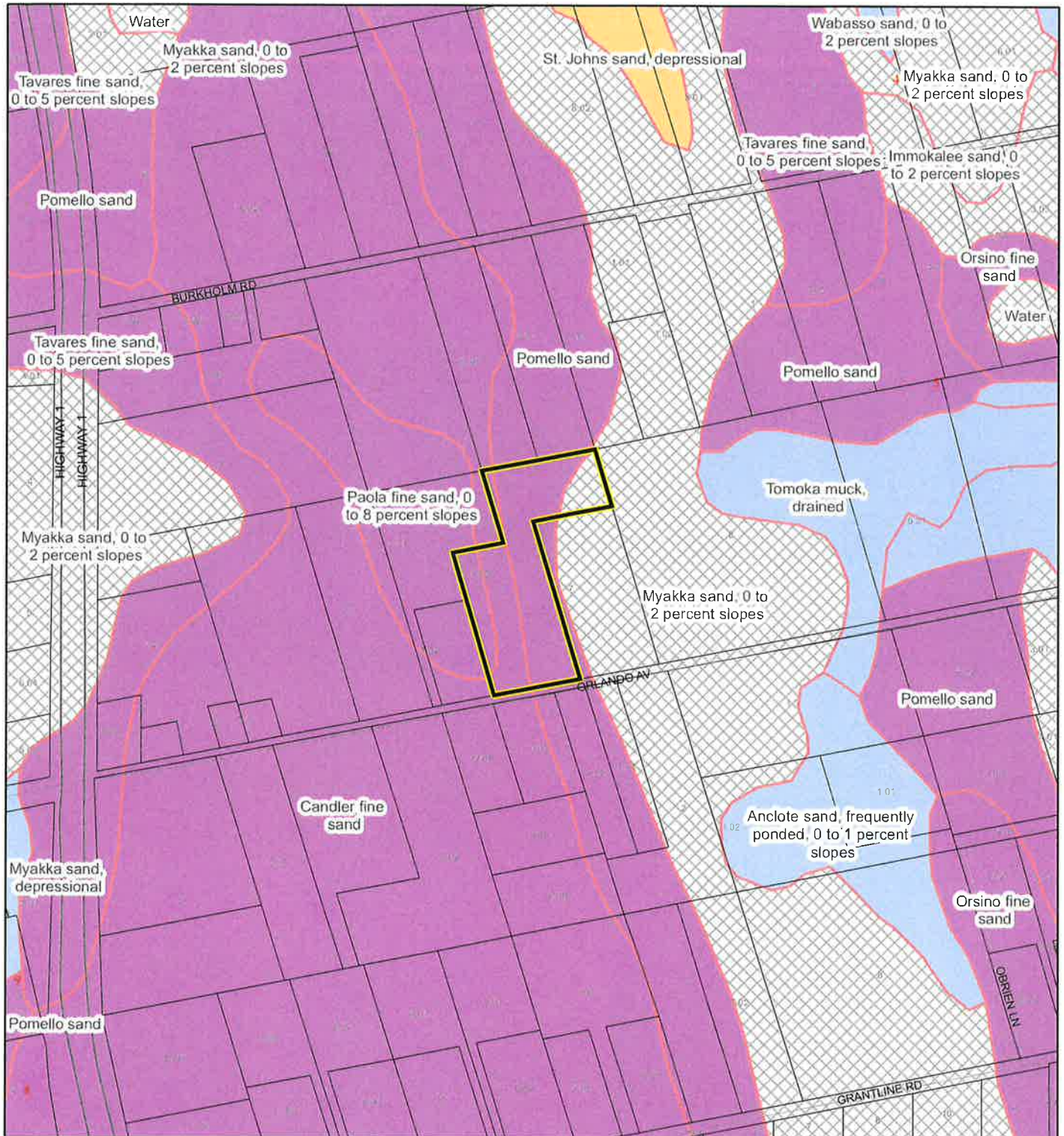
Subject Property

Parcels

USDA SCSSS SOILS MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

USDA SCSSS Soils

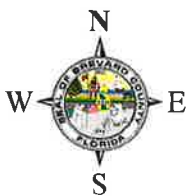
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

SCHOLZ, BRIAN


22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

 Subject Property

 Parcels

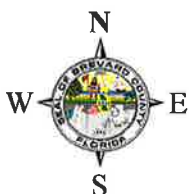
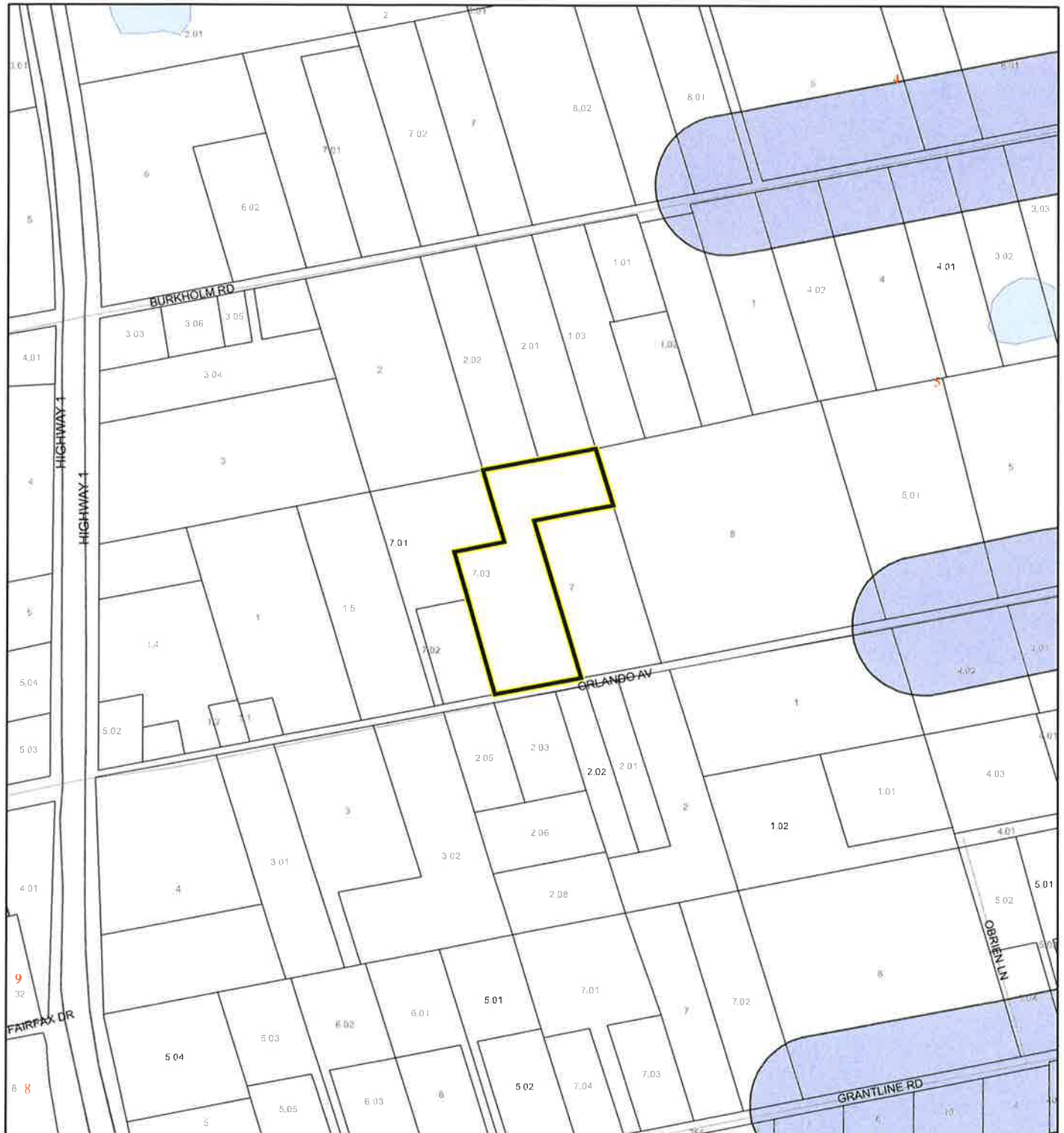
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/28/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

SCHOLZ, BRIAN

22Z00064




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

 Subject Property

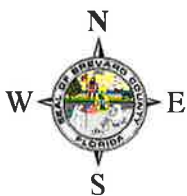
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

SCHOLZ, BRIAN




22Z00064



1:4,800 or 1 inch = 400 feet

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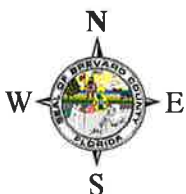
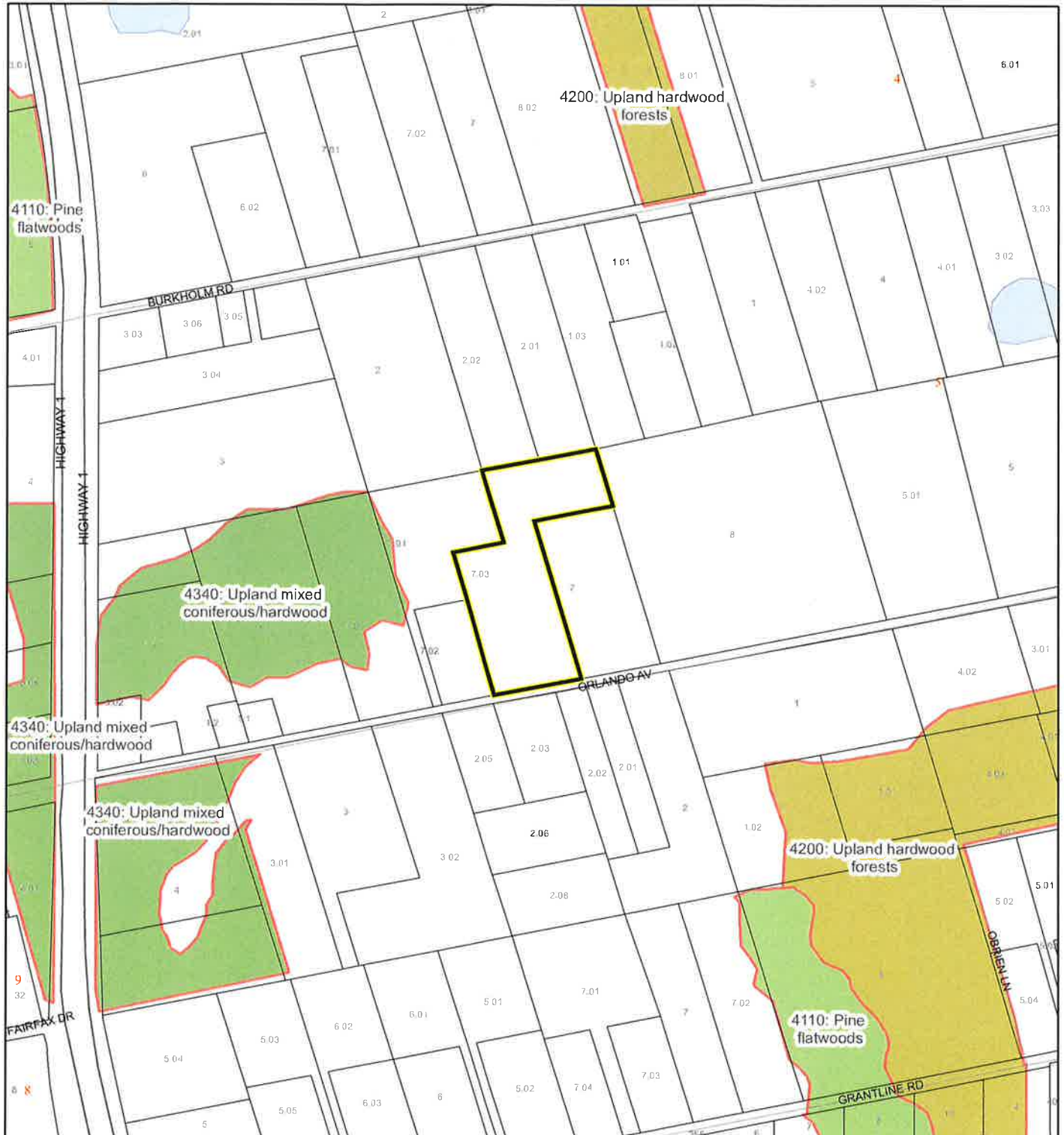
Produced by BoCC - GIS Date: 11/28/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SCHOLZ, BRIAN

22Z00064



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Bruce Moia; Logan Luse (D4-Alt.) (D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Brian and Dana Scholz (Stuart Buchanan)

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on 3.91 acres, located on the north side of Orlando Ave., approx. 0.25 mile east of U.S. Highway 1 (3620 Orlando Ave., Mims) (22Z00064) (Tax Account 2004785) (District 1)

Stuart Buchanan, PO Box 1545, Titusville, stated the total acreage of the subject property is 3.91 acres, and the proposed lots will be divided into 1.3-acre lots. He said the property has an existing Future Land Use of Residential 1, and it has had that designation for 34 years. He stated during review of the surrounding properties, staff only looks one property deep, but there are two existing one-acre lots abutting across the street and to the west, and farther down the street are several quarter-acre lots, beginning at the intersection. He said Natural Resources commented on specimen trees, but there are a total of five trees on the parcel, so it would be very easy to identify any specimen trees. He stated in summary, his clients would like to create two lots at 1.3 acres each. He noted he's only received two phone calls from local residents, but no letters or emails, and after he spoke to the two residents and explained the plan, they are no longer opposed.

Ron Bartcher asked how the rear of the property will be developed. Mr. Buchanan replied his clients will have to go through the subdivision process. Mr. Bartcher asked if there is a preliminary plan of how it will be developed, and if it will be a flag lot. Mr. Buchanan replied a flag lot is not the intention; the intention is a private drive.

John Hopengarten asked if the owners plan to sell off the lots. Mr. Buchanan replied yes, they will work with a general contractor to develop single-family homes. Mr. Hopengarten asked if the existing house will remain on the property, and if there will be a total of three homes. Mr. Buchanan replied yes, three homes, each on 1.3 acres.

Public comment.

Gregg Parodi, 3618 Orlando Avenue, Mims, stated he disagrees with the request because when he purchased his home 10 years ago it was based on 4 and 5-acre tracts. He said there are other areas of Mims that have one-acre lots if people need that size of property, but he purchased to be on a large parcel of AU zoning with the adjoining property also being zoned AU. He stated he doesn't understand how more homes can be placed on the property when there is already one home in the center. He said he doesn't want a driveway running down the side of his property line taking away his privacy.

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

From: freelandde@aol.com
To: [Jones, Jennifer; Commissioner, D1](#)
Subject: Rezoning concerns for ID# 22Z00064
Date: Wednesday, March 1, 2023 8:17:03 AM

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

Brevard County Board of County Commissioners,

I am writing to voice my concerns of the plan to rezone property located at 3620 Orlando Avenue, Mims, Florida 32754 (ID# 22Z00064). I live two houses to the East of this property. My address is 3550 Orlando Avenue, Mims, Florida 32754. I was just informed by other neighbors that the reason the property owners want to rezone their property from Agricultural Residential to Rural Residential is so that they can subdivide it into smaller lots and build more houses. I am not in favor of this plan. I moved to this area because it is zoned Agricultural Residential which curtails over development. I am concerned that rezoning this property will set a precedent for other developers to buy property in this area and rezone it to Rural Residential so they can build more houses. I do not want this area to be over developed. In addition, I have concerns about the impact this will have to my property. As more and more property is rezoned, the county may decide to rezone the entire area as Rural Residential. I do not want my property rezoned. I am also concerned about the impact this will have on my property taxes, which is unknown at this time.

Thank you for your time and consideration,
Denise Freeland

From: JIM TURNER
To: Commissioner, D1
Subject: 22Z00064 rezoning
Date: Tuesday, February 28, 2023 5:21:07 PM

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

Dear Commissioner Pritchett,

In regards to the rezoning of property on Orlando Ave Mims FL. ID# 22Z00064, I would like to have it noted that I strongly oppose such action. I reside at 3515 Orlando Ave Mims FL. 32754 and It was my understanding that you needed a minimum of 2.5 ac. to build a house. At least that is what I was told in 2003 when I built mine. Orlando Ave is not built to handle the traffic it is now receiving. The population has exploded in the last few years with no improvements to the infrastructure in this area.

Respectfully yours,
Gordon J. Turner Jr.

Sent from AT&T Yahoo Mail on Android

Objection
22Z00064
Scholz

From: [Kayla Kiechle](#)
To: [Commissioner, D1](#)
Subject: Rezoning ID#22Z00064
Date: Wednesday, March 1, 2023 12:53:49 PM

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

Hi, I'm not sure if it's too late but we oppose to 3620 Orlando Ave Mims 32754 rezoning to RR1 from AU. We do not want new houses across the street. We moved out here to get away from the city. Not for it to follow us. We live at 3625 Orlando Ave Mims 32754.

From: [charles.dugger](#)
To: [Commissioner, DJ](#)
Subject: ID#22Z00064
Date: Tuesday, February 28, 2023 9:02:32 PM

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

To whom it concerns,

I was informed that the property across the street from me plans to request to divide the property to build a couple houses.

I moved here because of the community plan and larger lots with less traffic and foot print. Multiple homes on the lot would be counter to that and increase traffic on a already narrow street where my kids play in the front yard.

Additionally, smaller lot with more houses would likely establish a precedent that again is the opposite of this neighborhood.

Finally, adding more homes to an already serious problem with poor water quality on the St John river and flooding in parts along orlando Avenue would be detrimental to the quality of life. Hurricane Ian that was not a direct hit here still saw serious flooding along orlando ave and backed up water drainage in our yards and drainage channel along Orlando ave.

Please consider this my respectful request to deny the request.

Sincerely,

Charles Dugger

3617 Orlando Ave, Mims, FL 32754

Objection
22Z00064
Scholz

From: [jeremy.santos](#)
To: [Commissioner, D1](#)
Subject: ID#22Z00064
Date: Wednesday, March 1, 2023 6:25:18 AM

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

Good morning!

We would like to oppose the zoning change and divide of property associated with ID#22Z00064.

Thank you!

Jeremy Santos
3605 Orlando Ave
Mims, FL 32754
321.266.2626

From: freelandde@aol.com
To: Jones, Jennifer; Commissioner, D1
Subject: Rezoning concerns for ID# 22Z00064
Date: Wednesday, March 1, 2023 8:17:05 AM

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

Brevard County Board of County Commissioners,

I am writing to voice my concerns of the plan to rezone property located at 3620 Orlando Avenue, Mims, Florida 32754 (ID# 22Z00064). I live two houses to the East of this property. My address is 3550 Orlando Avenue, Mims, Florida 32754. I was just informed by other neighbors that the reason the property owners want to rezone their property from Agricultural Residential to Rural Residential is so that they can subdivide it into smaller lots and build more houses. I am not in favor of this plan. I moved to this area because it is zoned Agricultural Residential which curtails over development. I am concerned that rezoning this property will set a precedent for other developers to buy property in this area and rezone it to Rural Residential so they can build more houses. I do not want this area to be over developed. In addition, I have concerns about the impact this will have to my property. As more and more property is rezoned, the county may decide to rezone the entire area as Rural Residential. I do not want my property rezoned. I am also concerned about the impact this will have on my property taxes, which is unknown at this time.

Thank you for your time and consideration,
Denise Freeland

From: County Commissioner District 1
To: Schmadeke, Adrienne
Subject: Phone Log - Cheryl Nielson - 3555 Orlando Ave....
Date: Tuesday, February 28, 2023 2:38:18 PM
Attachments: ATT00002.png



Cheryl Nielson - 3555 Orlando Ave.... has been added



Alward, Keith A

2/28/2023 2:37 PM

Name/Company: Cheryl Nielson - 3555 Orlando Ave. Mims

Phone Number: 954-675-1844

Date/Time Call Received: 2/28/2023 2:30 PM

Purpose of Call: Called to oppose Agenda Item H-2 on the 3/2/2023 Brevard County Board of County Commissioners Zoning meeting.

Date Received: 2/28/2023

[Modify my alert settings](#) | [View Phone Log](#)

In Favor
22Z00064
Scholz

From: Scott Minnick
To: Jones, Jennifer; Schmadeke, Adrienne
Subject: Rezoning 3620 Orlando Ave
Date: Thursday, March 2, 2023 9:21:11 AM

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

Good morning,

I am in support of the rezoning. Each lot will be at least an acre which is typical in this adjacent area. Have a good day



4.2,
Stu Buchanan <stubuchanan70@gmail.com>

Fwd: Dana Scholz Rezoning at 3620 Orlando Ave

1 message

alvin hughes <alvinhughes@bellsouth.net>

To: Stuart Buchanan <stubuchanan70@gmail.com>

Thu, Mar 2, 2023 at 11:35 AM

I sent the below email.

Alvin

Sent from my iPhone

Begin forwarded message:

From: alvin hughes <alvinhughes@bellsouth.net>

Date: March 2, 2023 at 11:34:31 AM EST

To: jennifer.jones@brevardfl.gov, Adrienne.Schmadeke@brevardfl.gov

Subject: Dana Scholz Rezoning at 3620 Orlando Ave

I am a long time mims resident and i support this rezoning. I have lived comfortably on a similar sized lot for years.

Yours truly,

CWO4 Alvin Hughes, USN(ret)

Sent from my iPhone

From: Scott Minnick
To: Jones, Jennifer; Schmadeke, Adrienne
Subject: Rezoning 3620 Orlando Ave
Date: Thursday, March 2, 2023 9:21:11 AM

In Favor
22Z00064
Scholz

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

Good morning,
I am in support of the rezoning. Each lot will be at least an acre which is typical in this adjacent area. Have a good day

----- Forwarded message -----

From: **Mitchell Marshall** <mcmjmarshall89@gmail.com>

Date: Thu, Mar 2, 2023 at 2:02 PM

Subject: Dana Scholz Rezoning at 3620 Orlando Ave

To: <jennifer.jones@brevardfl.gov>, <Adrienne.Schmadeke@brevardfl.gov>

Hello,

I am a long time mims resident and I support this rezoning. I have lived comfortably on a similar sized lot for years.

Sincerely,
Mitchell Marshall