



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

7/9/2020

Subject:

4090 U.S. 1, LLC (Scott Lamb) requests a change of zoning classification from RU-1-7, RU-2-10, and BU-1, to all BU-1. (20PZ00032) (Tax Account 2611636) (District 4)

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 change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential) and BU-1 (General Retail Commercial), to all BU-1.

Summary Explanation and Background:

The applicant is seeking to consolidate the property under the BU-1 (General Retail Commercial) zoning classification. Currently, the property has RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential) and BU-1 (General Retail Commercial). No specific development plan has been submitted. The property is 0.92 acres, located on the west side of U.S. Highway 1, approximately 400 feet north of Post Road.

The existing commercial trend along this segment of the U.S. Highway 1 corridor consists of a manufactured housing park, open storage with new and used supplies, a junkyard, and a dog kennel. A companion Small Scale Comprehensive Amendment application accompanies this request and proposed to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial), to CC (Community Commercial), for consistency with the Future Land Use Map. The site has direct access onto U.S. Highway 1 and has water and sewer service available through the City of Melbourne.

The Board may wish to consider whether the request is consistent and compatible with the mix of residential and commercial zoning classifications in the area.

On June 15, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

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

WHEREAS, 4090 U.S. 1, LLC has requested a change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1, on property described as Lot 1.01, Indian River Estates Villas, as recorded in ORB 8216, Pages 833 - 835, of the Public Records of Brevard County, Florida. **Section 32, Township 26, Range 37.** (0.92 acres) Located on the west side of U.S. Highway 1, approx. 400 feet north of Post Rd. (No assigned address. In the Melbourne area); 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 Brevard County 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 RU-1-7, RU-2-10, and BU-1 to all BU-1 be approved as recommended. 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 July 9, 2020.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on July 9, 2020.

ATTEST

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – June 15, 2020

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

20PZ00032

4090 US 1, LLC

RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1

Tax Account Number: 2611636
 Parcel I.D.: 26-37-32-52-*-1.01
 Location: West side of U.S. Highway 1, approximately 430 feet north of Post Road.
 (District 4)
 Acreage: 0.92 acres

Planning and Zoning Board: 06/15/20
 Board of County Commissioners: 07/09/20

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot 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	RU-1-7, RU-2-10 & BU-1	All BU-1	
Potential*	6 residential units & 2,111 square feet of retail use	10,553 square foot of retail use	
Can be Considered under the Future Land Use Map	YES RES 15, NC & CC	NO** RES 15 and NC	YES CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Companion request under **20PZ00031** to change FLUM from Residential 15 (RES 15) & Neighborhood Commercial (NC) to Community Commercial (CC). If the Small Scale request is not approved, this request should be denied.

Background and Purpose of Request

The applicant is seeking to consolidate the property under the General Retail Commercial zoning classification (BU-1). Currently, the property has Single-family Residential, RU-1-7, Medium-density Multi-family Residential, RU-2-10 & General Retail Commercial, BU-1 zoning on a parcel less than 1.0 acre in size. No specific development plan has been submitted.

This site has the original BU-1 zoning since 1958 and includes RU-1-7 zoning under Z-2980, (rezoned from RU-1 to RU-1-7) adopted June 1, 1972 and RU-2-10 zoning under Z-4334, (rezoned from BU-1 & RU1-7 to RU-2-10) adopted October 6, 1977. The site which now lies vacant had been previously developed with a one-story building with carport.

Land Use

The current RU-1-7, RU-2-10 and BU-1 zoning classifications are consistent with the current various FLUM designations on the overall property. The proposed zoning request to change the zoning to all BU-1 is not consistent with the existing RES 15 and NC Future Land Use designations. The applicant has applied for a companion Small Scale Comprehensive Plan Amendment request under **20PZ00031** to change the RES 15 & NC FLU designations to Community Commercial.

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development – not commercial development.

FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject .92-acre parcel has frontage on U.S. Highway 1, an urban principal arterial roadway which runs north and south.

B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

The .92-acre parcel is adjacent to Community Commercial (CC) land to the north, south and east across U.S. Highway 1. To the west of the subject parcel there is a Residential 15 (RES 15) Future Land Use designation.

The parcel to the north has an existing dog kennel. Inter-connectivity could be provided between the subject parcel to the commercial parcel to the north. The parcels to the east, south and west have existing single-family residences. No inter-connectivity could be provided to the parcel to the south which has a NC Future Land Use designation.

C. Existing commercial development trend in the area;

The existing commercial trend along this segment of the U.S. Highway 1 corridor consists of a manufactured housing park, open storage with new and used supplies, junkyard and a dog kennel.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

- E. Availability of required infrastructure at/above adopted levels of service;

The subject parcel is can be served by potable water and sewer by the City of Melbourne.

The .98-acre parcel has direct access to U.S. Highway 1. Approximately 430' of the subject parcel is the intersection of U.S. Highway 1 and Post Road. U.S. Highway 1 is an urban principal arterial roadway and Post Road is an urban major collector roadway. Currently this section of U.S. Highway 1 is operating at a level of service (LOS) of C. The additional impact to the roadway resulting from this development would remain at a level of service (LOS) of C.

- F. Spacing from other commercial activities;

The segment of U.S. Highway 1 was designated as a commercial corridor through the Future Land Use Map that was adopted in September of 1988.

- G. Size of proposed commercial designation compared with current need for commercial lands;

The FLU designation change from RES 15 and NC is proposed on a .68-acre portion of the overall .98-acre parcel of land is Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan. Community commercial development is intended to serve several neighborhoods and provide commercial uses.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for property with a FLU designation of CC. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern. The subject property would be considered infill within an established strip commercial

area and would not be considered an extension of the strip commercial pattern and not contiguous to existing CC.

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

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

- a) Existing strip commercial;

This segment of U.S. Highway 1 serves as a commercial corridor along this urban principal arterial roadway. This commercial corridor serves several neighborhoods, sub-regional and regional areas.

FLUE Policy 2.8 - Locational and development criteria for Community Commercial Uses

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size; however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

This commercial corridor along U.S. Highway 1 is not located at an arterial/arterial intersection and is not considered a commercial cluster. This is commercial corridor intended to serve neighborhoods, sub-regional and regional areas with commercial services.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The subject site is not considered a commercial cluster.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

The gross floor area is regulated through the land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for a 40,075 square foot building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate interchange from U.S. Highway 1.

Environmental Constraints

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Post Road and Pineda Causeway, which has a Maximum Acceptable Volume (MAV) of 59,900 trips per day, a Level of Service (LOS) of D, and currently operates at 68.96% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.15%. The corridor is anticipated to continue to operate at 69.11% of capacity daily (LOS C). 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 does not include residential development.

The subject property can be served by potable water and sewer by the City of Melbourne. Both lines run along the west side of US Hwy 1.

Applicable Land Use Policies

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. This vacant site is surrounded by developed property. To the north lies a dog kennel in a BU-1 commercial zoning classification consistent with the CC FLU designation. To the east across Highway 1 right-of-way is undeveloped BU-1 zoning and residentially developed RU-1-9 zoning under the CC and RES 6 designations respectively. To the south are developed single-family lots under the RU-1-7 zoning with a FLU designation of RES 6, undeveloped RU-2-10 lands abutting Highway 1 with a FLU designation of NC and single-family developed BU-1/RU-1-7 zoning classification with FLU of CC. To the west is a developed single-family lot zoned RU-1-7 with a FLU designation of RES 6.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. This area has not had a zoning application change within the last five (5) years. The character of the area is a mixture of developed commercial and high-density single-family uses. If this site is rezoned, site plan review will require that some type of buffer (masonry wall or opaque vegetative buffer) will need to be created to protect the abutting developed single-family sites.

Surrounding Area

Zoning classifications found in the general vicinity include: BU-1, RU-1-7, RU-2-10, RP and RU-1-9.

The 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.

The RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

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

For Board Consideration

The applicant is seeking to consolidate the property under the General Retail Commercial zoning classification, BU-1. In order to achieve this, the Board would need to approve the companion Small Scale Comprehensive Plan Amendment # **20PZ00031** (Res 15 and NC to CC).

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. 1. Because of the right-of-way (ROW) acquisition, the current CC and NC designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use.

The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The site has direct access onto U.S. Highway 1 and has water and sewer service available the City of Melbourne.

The Board may wish to consider whether the request is consistent and comparable with the mix of residential and commercial zoning classifications in the area.

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

Item # 20PZ00032

Applicant: Scott Lamb

Zoning Request: BU-1, Ru-2-10, RU-1-7 to BU-1

Note: Applicant wants BU-1 use

P&Z Hearing Date: 06/15/20; **BCC Hearing date:** 07/09/20

Tax ID No: 2611636

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands

Information available to NRM indicates that wetlands may be present on the property. Aerials indicate the site was filled in 2003 and 2004, and may have impacted wetlands. A wetland

determination/delineation will be necessary prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet wetland impact avoidance, minimization and mitigation requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected Species

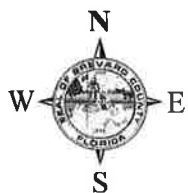
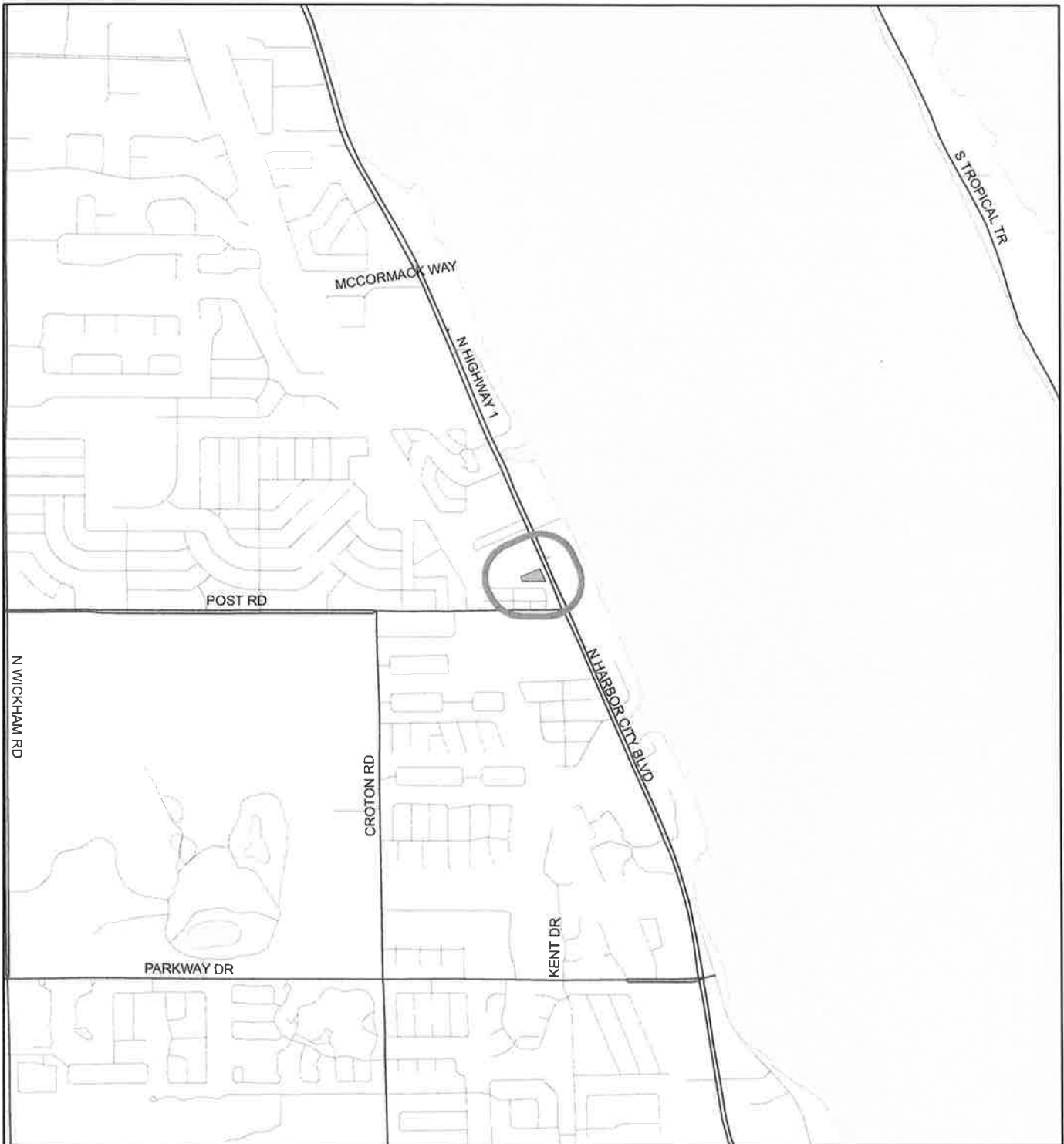
Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should 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.

Protected and Specimen Trees

Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A landscape plan and mitigation requirements will be required at time of site plan permit application submittal. 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. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

4090 US 1, LLC
20PZ00032



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

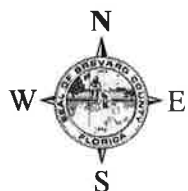
Buffer Distance: 500 feet

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: 3/13/2020

— Buffer
■ Subject Property

4090 US 1, LLC
20PZ00032

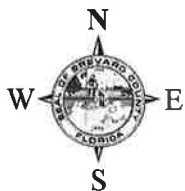
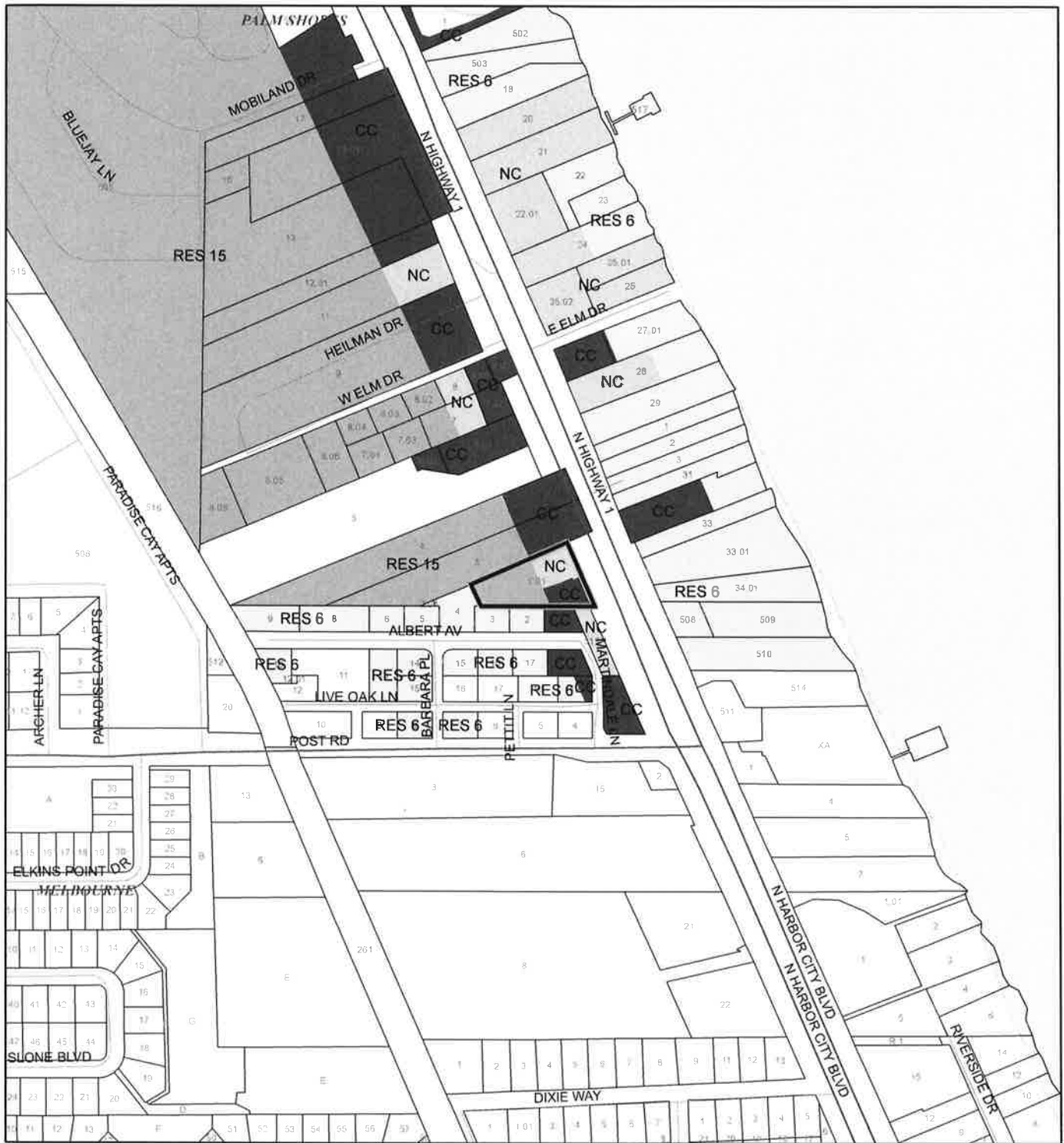


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 Subject Property
 Parcels
 Zoning

FUTURE LAND USE MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

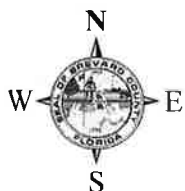
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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AERIAL MAP

4090 US 1, LLC

20PZ00032



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

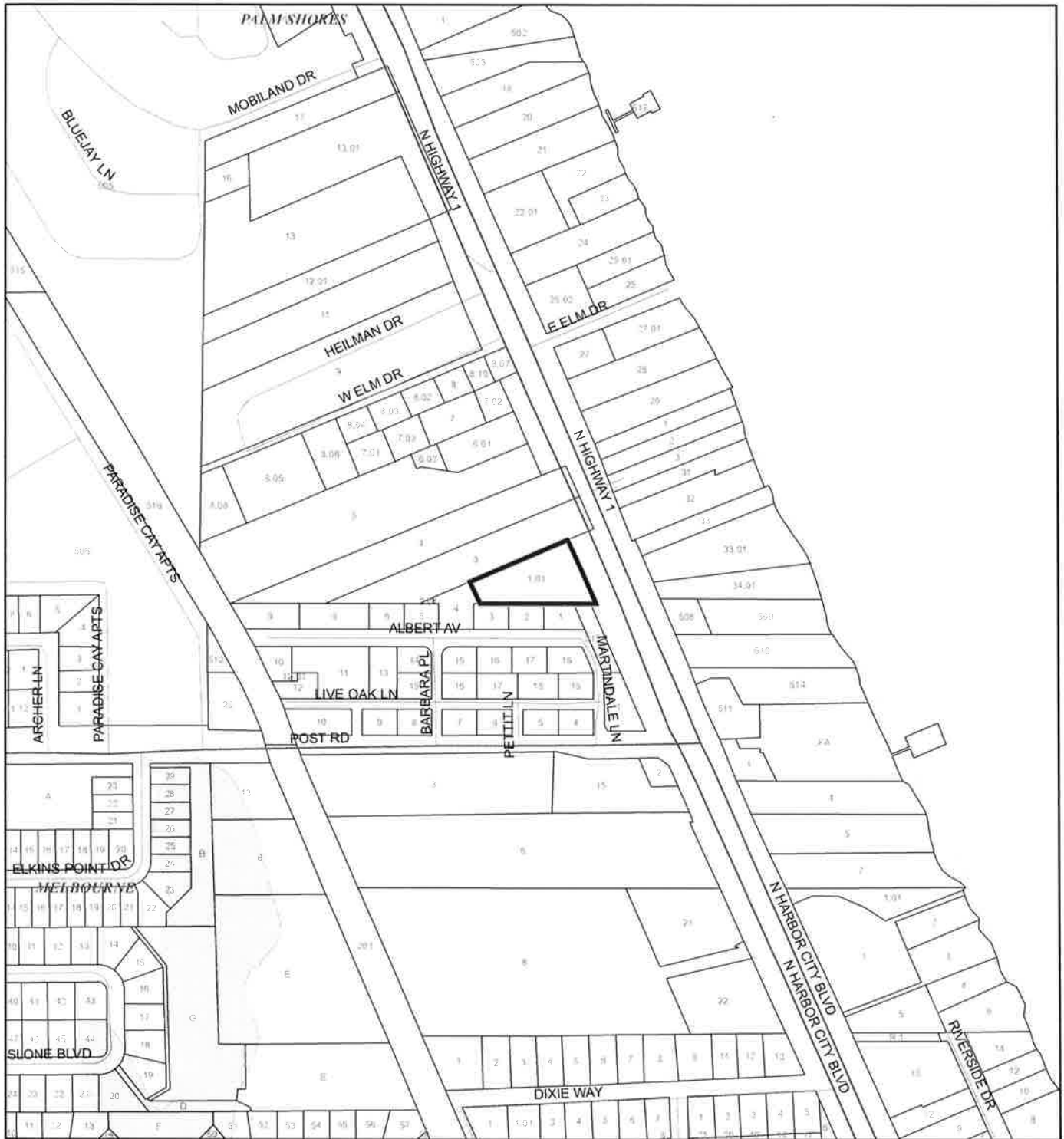
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/13/2020

— Subject Property
□ Parcels

NWI WETLANDS MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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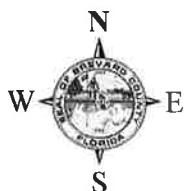
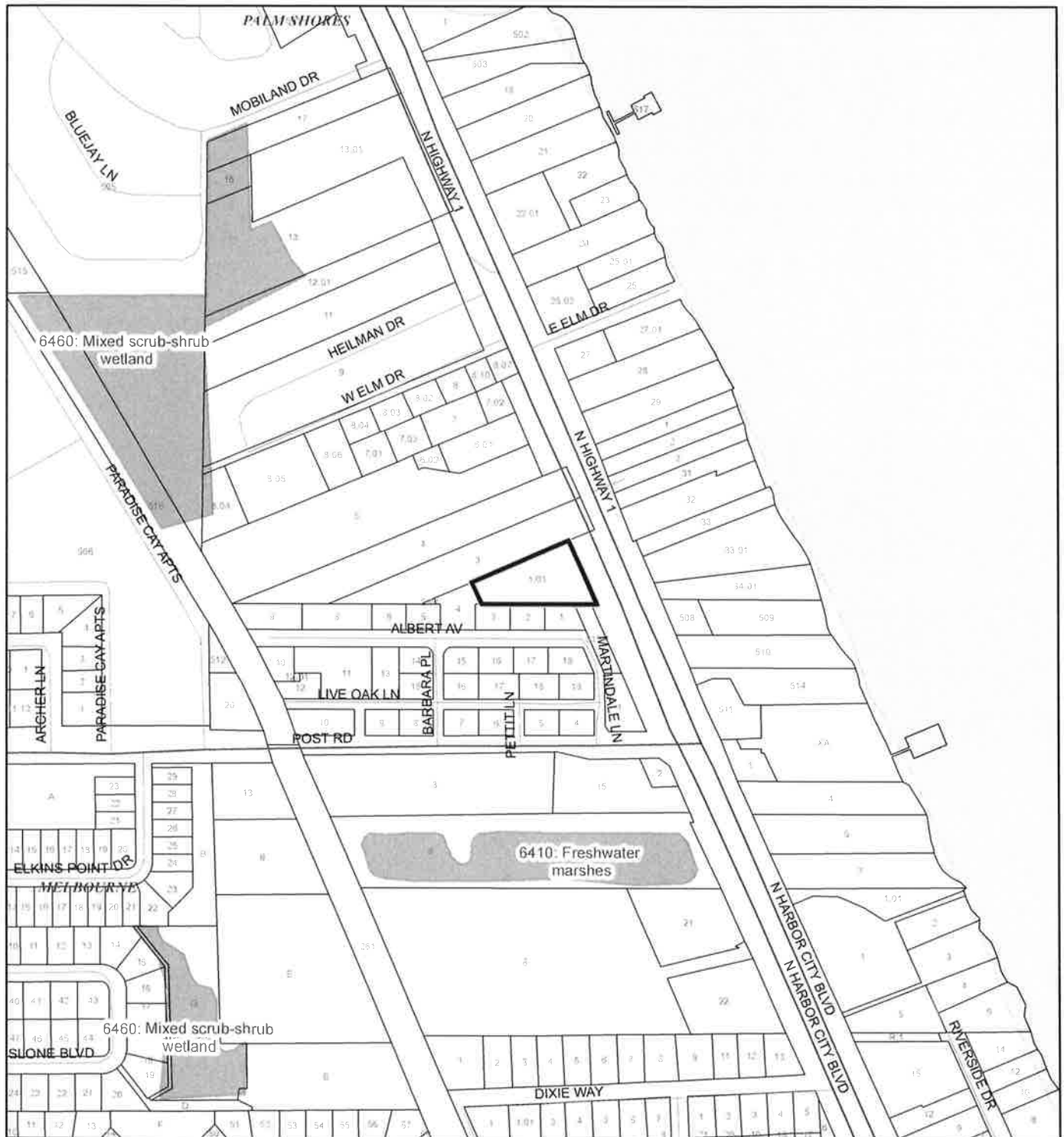
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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

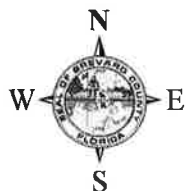
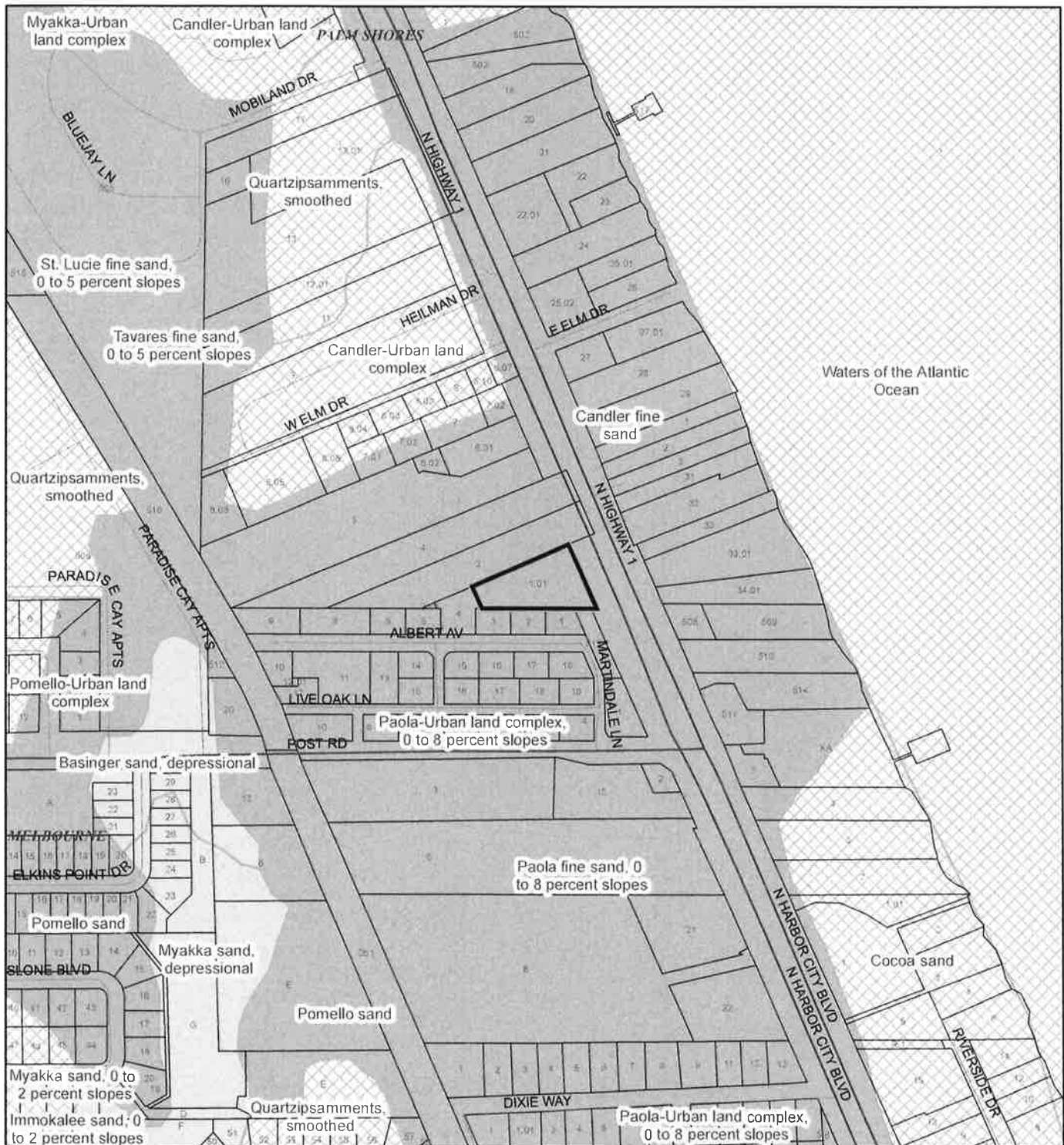
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/13/2020

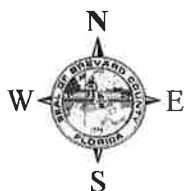
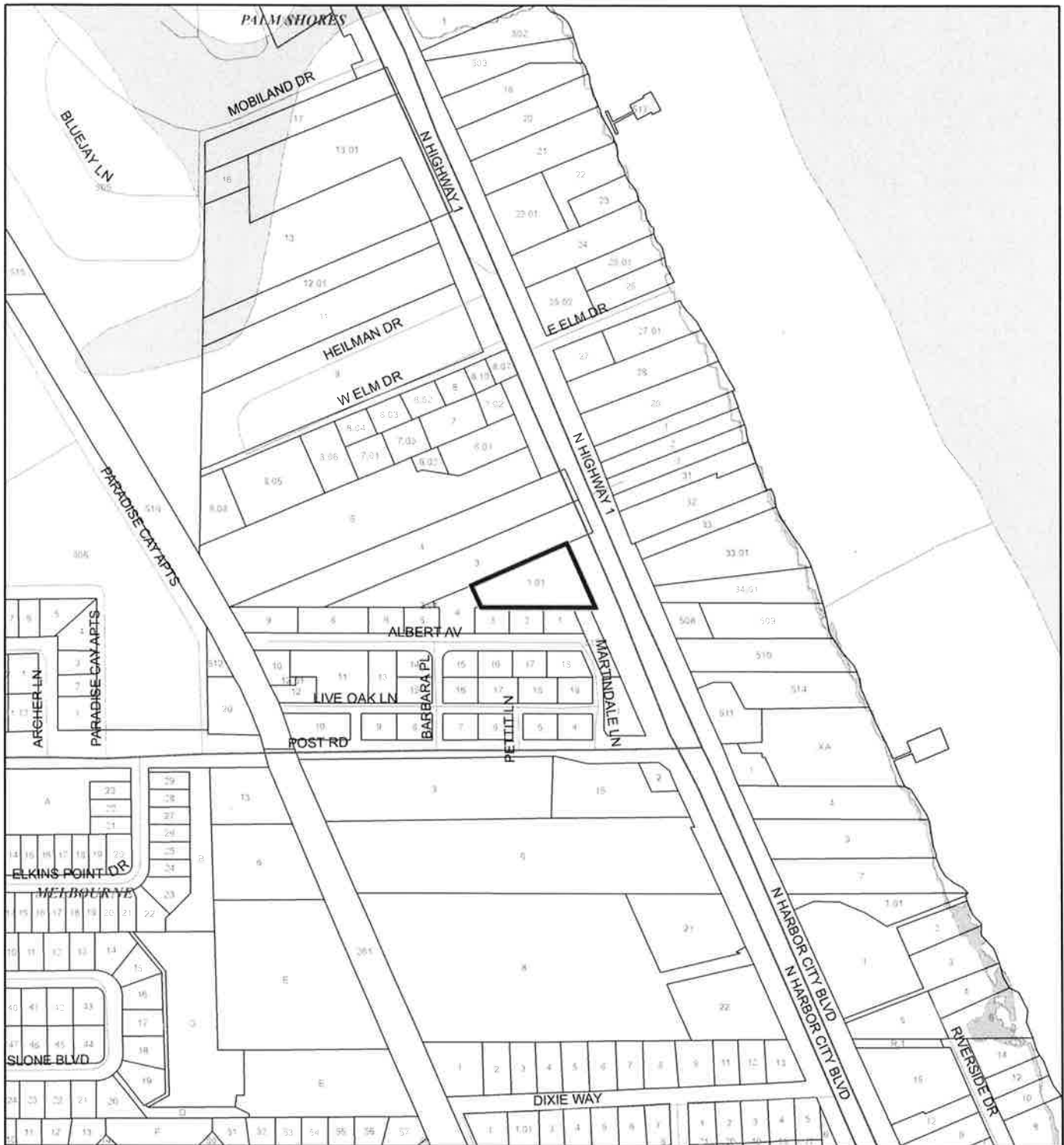
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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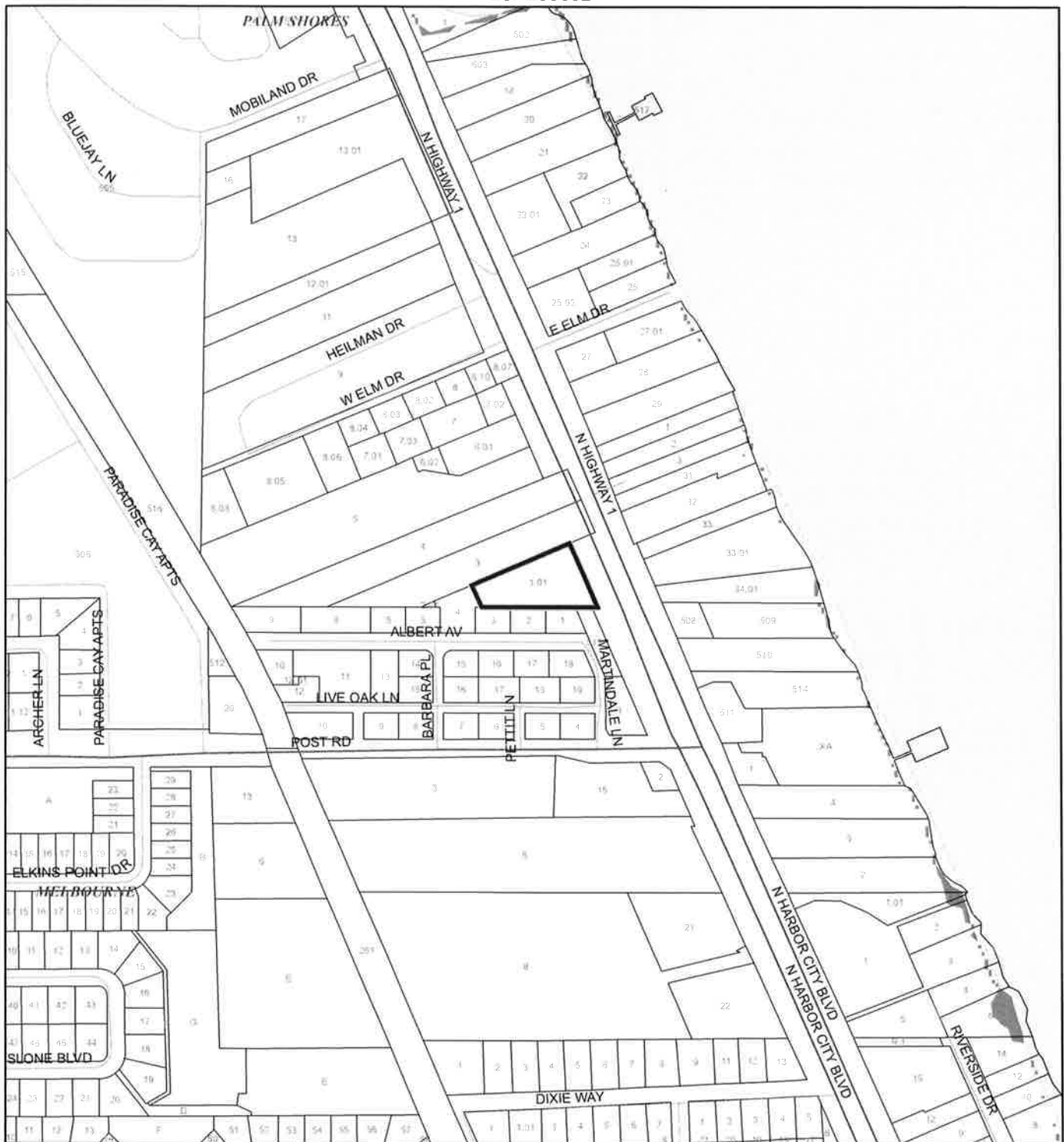
Produced by BoCC - GIS Date: 3/13/2020

FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 3/13/2020

 Subject Property

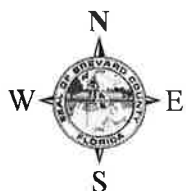
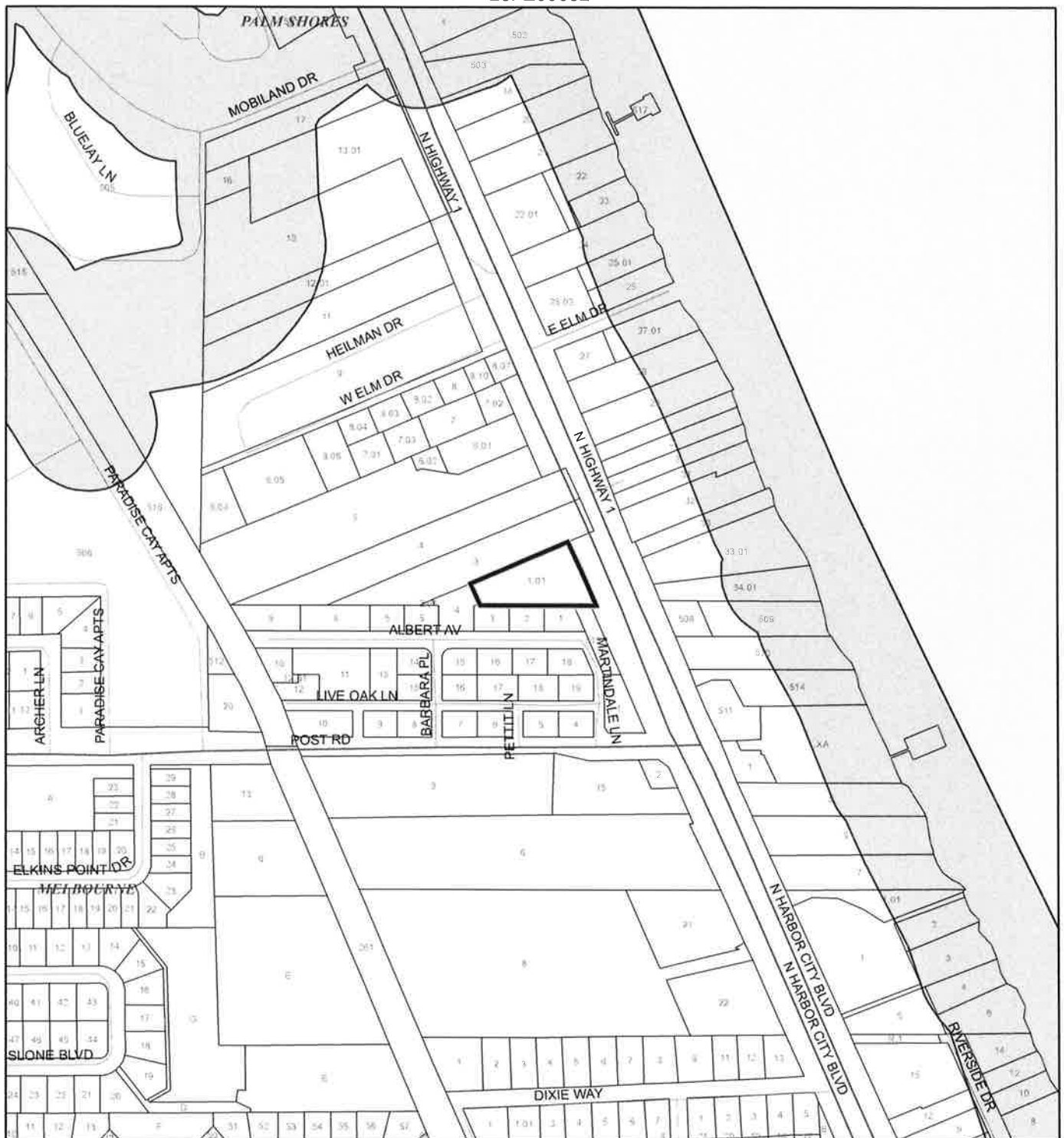
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/13/2020

 Subject Property

 Parcels

Septic Overlay

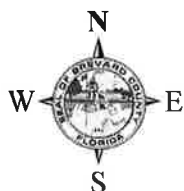
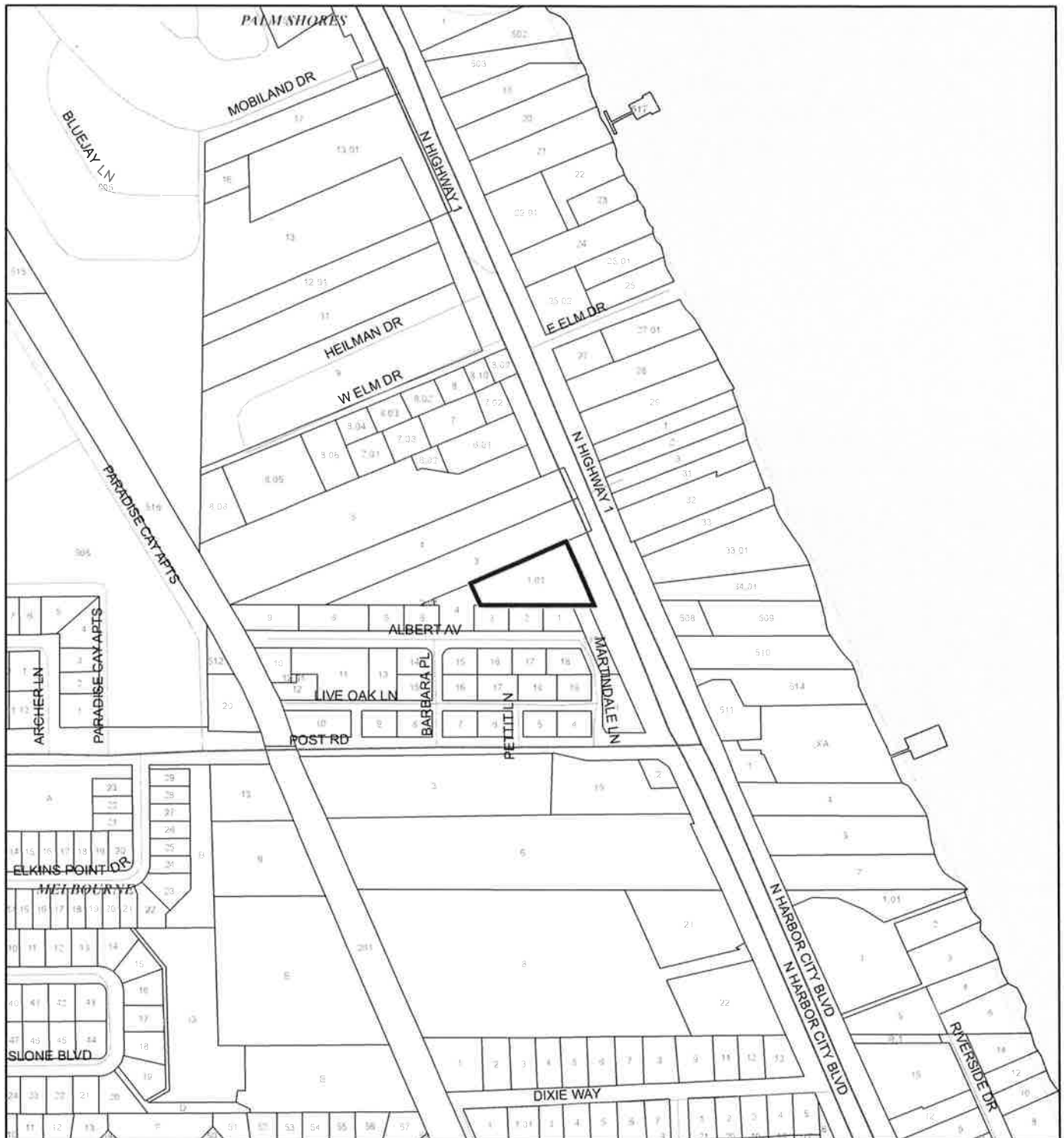
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/13/2020

 Subject Property

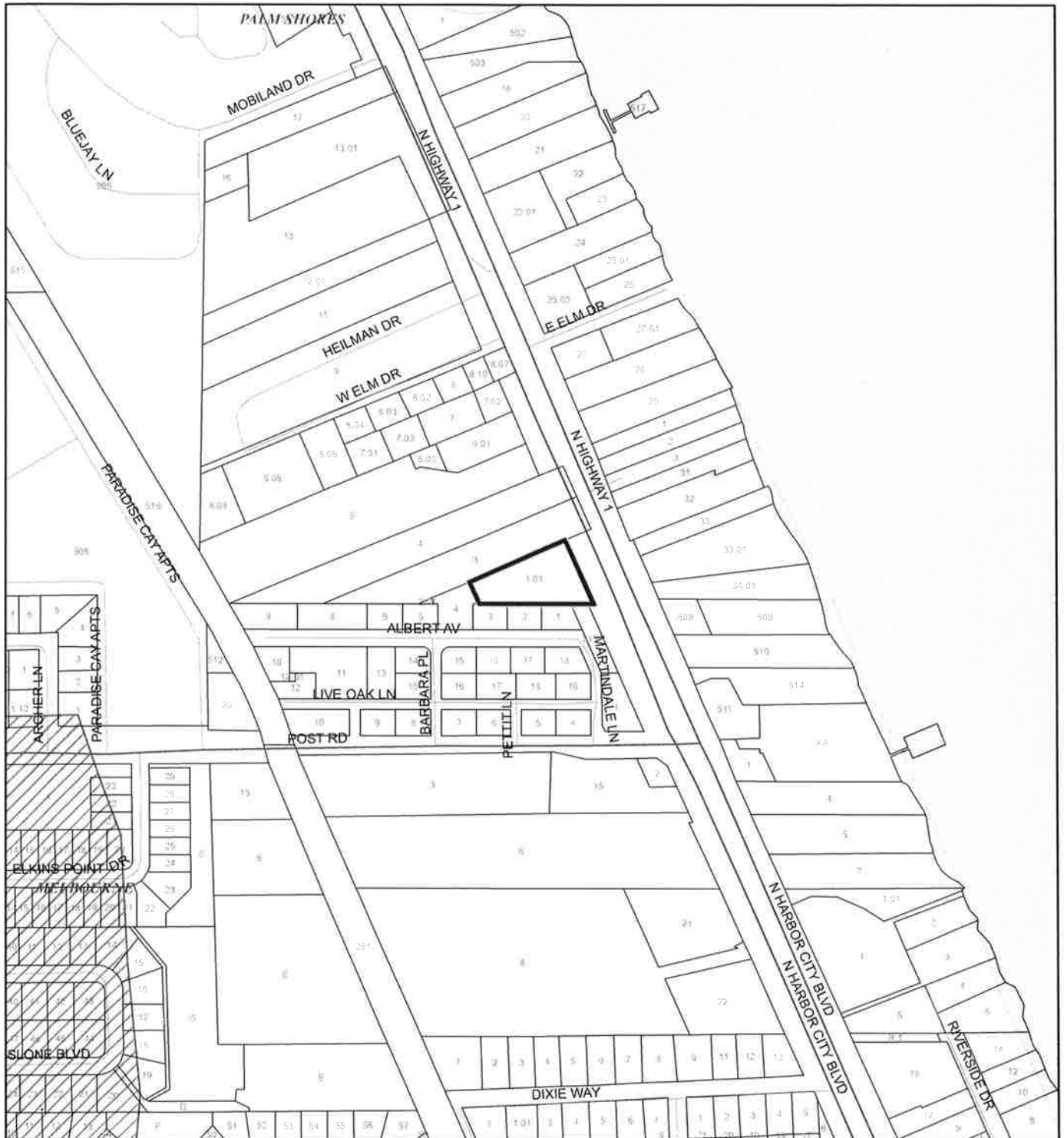
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

4090 US 1, LLC




20PZ00032



1:4,800 or 1 inch = 400 feet

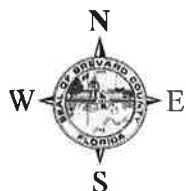
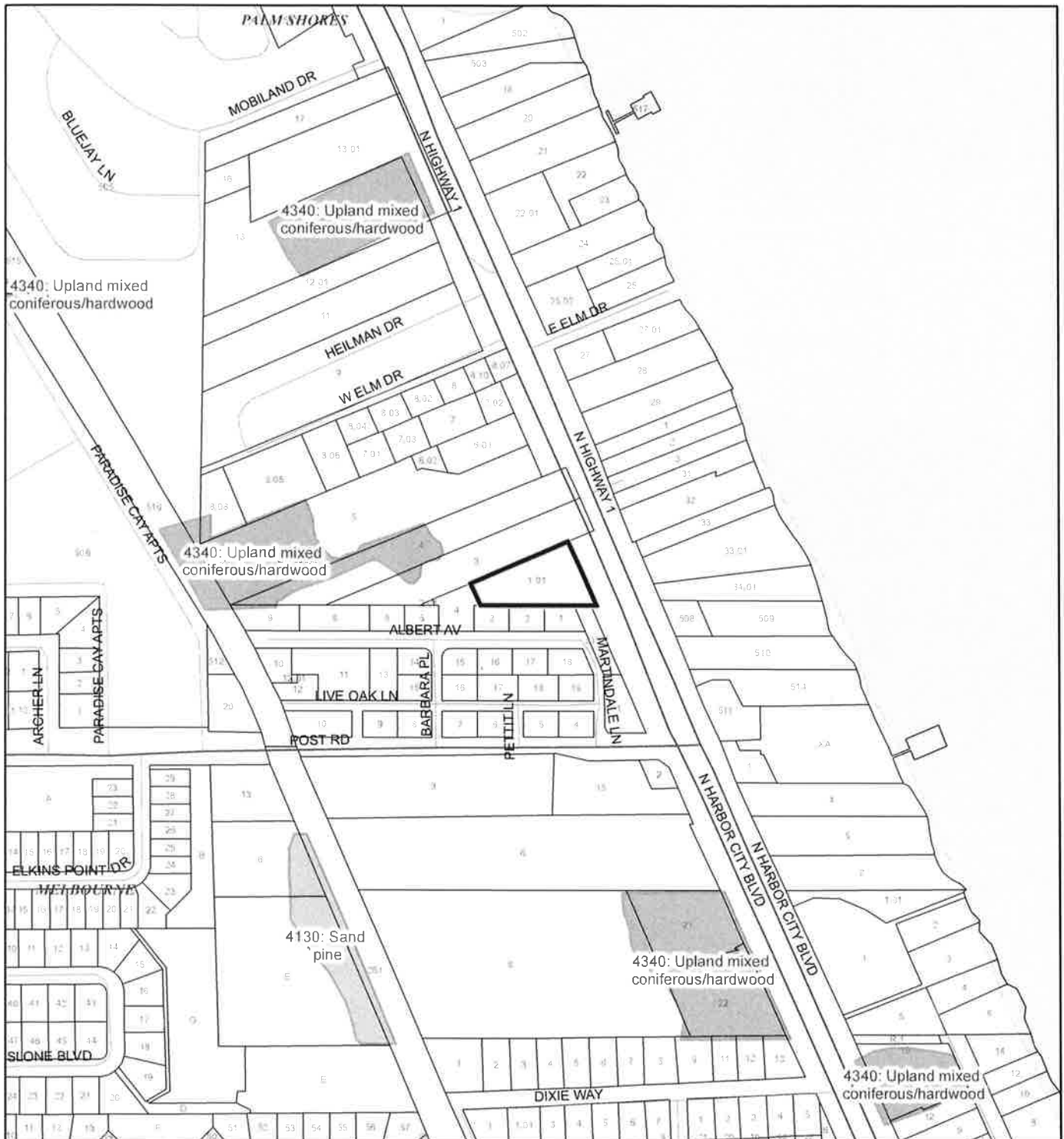
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/13/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

4090 US 1, LLC
20PZ00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/13/2020

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 MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 15, 2020**, 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: Ron Bartcher; Brian Hodgers; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Peter Filiberto, Vice Chair; Bruce Moia; Joe Buchanan; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

4090 U.S. 1, LLC (Scott Lamb)

A Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.68 acres, located on the west side of U.S. Highway 1, approximately 430 feet north of Post Road. (No assigned address. In the Melbourne area.) (20PZ00031) (Tax Account 2611636 – portion of) (District 4)

4090 U.S. 1, LLC (Scott Lamb)

A change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1. The property is 0.92 acres, located on the west side U.S. Highway 1, approximately 400 feet north of Post Road. (No assigned address. In the Melbourne area.) (20PZ00032) (Tax Account 2611636) (District 4)

Scott Lamb, 4251 Careywood Drive, Melbourne, stated the north half of the property was BU-1 on the front and a previous property owner rezoned it to RU-2-10, splitting the zoning into the three existing zonings that are there now. The land use has also changed over time, and originally it was 200 feet back from the U.S. 1 right-of-way and designated commercial. In 2005 the County changed the land use designation all along the new right-of-way along U.S. 1 from Residential 15 to commercial, with the goal to keep the corridor commercial and establish the commercial land use. He said he is asking for BU-1 because there is BU-1 on the north and south side of the property, and it would be a suitable zoning for the land use.

Ben Glover asked if Mr. Lamb plans on developing the property. Mr. Lamb replied there has been some interest from people who want a home-based business, or a small office, but until the zoning is cleaned up there are no plans.

Public Comment:

Bert Radbury, 4075 North Harbor City Boulevard, Melbourne, stated he owns the property across from the subject property. He said there is some mixed-use zoning in the area, but 90% of the surrounding property is residential; therefore, he is opposed to it. The drainage from the subject property drains across his property and directly into the Indian River Lagoon.

Ben Glover stated if the property is developed, they would have to retain the water, so it would actually benefit the Lagoon.

Bruce Moia stated because the property is on a State road they are going to be held to a higher standard of treatment and will have to meet the requirements for a 100-year storm.

Mr. Radbury stated his primary concern is that 90% of the surrounding zoning is residential.

Mr. Lamb stated site planning would handle the drainage. The east side of U.S. 1 is very different and he would never request to have this sort of change fronting the river, but there is a 7-Eleven 500 feet to the south of us, a VFW, an abandoned dog kennel to the north, and a used car lot to the north of that.

Motion by Bruce Moia, seconded by Ben Glover, to approve the requested Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 and NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Joe Buchanan, to approve the requested change of zoning classification from RU-1-7, RU-2-10, and BU-1 to all BU-1. The motion passed unanimously.