



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.6.

4/15/2021

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### Subject:

Scott W. and Debora A. Speer request a change of zoning classification from RR-1 to AU. (21Z00002) (Tax Account 2316763) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

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

### Summary Explanation and Background:

The applicants are seeking a change of zoning classification from RR-1 to AU for the purpose of having farm animals (2 pigs and two donkeys) and a small orchard. The parcel is located at 1465 Bishop Road, Merritt Island, and is developed with a 3,294 sq. ft. single-family residence. The applicant has not provided staff with a proposed development plan for the location of the proposed orchard or where the farm animals will be located. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence, but does not permit other farm animals.

The developed character of the surrounding area along Bishop Road is RR-1 (Rural Residential) and AU which are developed with single-family houses. The subject parcel and the surrounding area along Bishop Road have a Future Land Use (FLU) designation of RES 1 which is compatible with the current RR-1 zoning and the proposed AU.

The proposed 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 classification also permits the raising/grazing of animals, fowl and beekeeping, plant nurseries and all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises are a permitted use in AU zoning.

The Board may wish to consider whether the request is consistent and compatible with the surrounding RR-1 single-family residences and AU zoning Classifications. The Board may also wish to consider the potential effects of Agritourism adjacent to single-family residential.

On March 11, 2021, the North Merritt Island Dependent Special District Board heard the request and

unanimously recommended approval.

**Clerk to the Board Instructions:**

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

## **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**

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

**STAFF COMMENTS**

**21Z00002**

**Scott W. Speer and Debora A. Speer**

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

Tax Account Number: 2316763  
Parcel I.D.: 23-36-25-75-\*1  
Location: South side of Bishop Road, approximately 305 feet west of Board Acres Street (District 2)  
Acreage: 2.50 acres

North Merritt Island Board: 03/11/2021

Board of County Commissioners: 04/15/2021

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RR-1	AU
<b>Potential*</b>	Two single-family units	One single-family unit
<b>Can be Considered under the Future Land Use Map</b>	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 applicants are seeking a change of zoning classification from RR-1 (Rural Residential) to AU (Agriculture Residential) for the purpose of having a few farm animals (2 pigs and two donkeys) and a small orchard. The parcel is developed with a 3,294 sq. ft. single-family home that is the applicants' single family residence. The portion of Bishop Road that the parcel abuts is paved and maintained by Brevard County Public Works Department. The applicant did not provide staff with a proposed development plan submitted with this application for the location of the proposed orchard or where the farm animals will be located. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence but does not permit other farm animals.

July 6, 1987, zoning action **Z-7850** changed the zoning from AU to RR-1 along with the approval of one flag lot pursuant to Section 61. Although one flag lot was approved with this rezoning application, the parcel has been recombined to the original configuration of Lot 1 as recorded in the plat "The North Forty" Plat Book 28, Page 75.

## **Land Use**

The subject property retains the RES 1 (Residential 1) Future Land Use designation. The existing zoning classification RR-1 and the proposed AU are consistent with the RES 1 Future Land Use 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 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.**

The subject property is developed with a 3,324 sq. ft. single-family residence and lies within the Residential 1 Future Land Use designation. The abutting parcels and the surrounding area have a Residential 1 Future Land Use designation.

Policy #3C Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development approved within the past three year but not yet constructed.

There has been one rezoning application (**20Z00005**) in the surrounding area, approximately 350 feet west of the subject parcel, approved on October 09, 2020 which changed the zoning from RR-1 to AU with a Binding Development Plan (BDP) limiting the business use to a plant nursery.

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

The subject parcel is zoned RR-1 and developed with a 3,324 sq. ft. single-family residence.

The developed character of the surrounding area along Bishop Road is RR-1 (Rural Residential) and AU which are developed with single-family houses. The subject parcel and the surrounding area along Bishop Road have a Future Land Use (FLU) designation of RES 1 which is compatible with the current RR-1 zoning and the proposed AU.

The parcels to the north directly across Bishop Road are zoned RR-1 and are developed with single-family residence. The abutting parcels to the east are zoned RR-1 and are developed with single-family residence. The parcels to the south and west are two flag lots with AU zoning and are developed with single-family residence. The parcels west of the flag lots are zoned RR-1 and are developed with single-family residence.

The current RR-1 classification permits single-family residential land uses on minimum one acre lots, 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 but does not permit other farm animals. The minimum house size is 1,200 square feet.

The proposed 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 classification also permits the raising/grazing of animals, fowl and beekeeping, plant nurseries and all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises are a permitted use in AU zoning.

### **Surrounding Area**

There has been one zoning action within a half-mile of the subject property within the last three years.

On October 06, 2020, application **20Z00005** changed the zoning classification from RR-1 to AU with a Binding Development Plan (BDP) waving any and all Developer/Owner claims to Agritourism, and limiting the business use to a plant nursery. This parcel is a Flag Lot located on the south side of Bishop Road, approximately 350 feet west of the subject parcel.

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is North Courtenay Parkway, between Hall Road and North Tropical Trail, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 35.49% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 35.49% of capacity daily (LOS D). 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 parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located directly across North Courtenay Parkway along the west side of North Courtenay Parkway approximately 1.8 miles west of the parcel.

The parcel is serviced by City of Cocoa water.

### **For Board Consideration**

The Board may wish to consider whether the request is consistent and compatible with the surrounding RR-1 single-family residences and AU zoning Classifications.

The Board may also wish to consider the effect of Agritourism adjacent to single-family residential and waving any and all Developer/Owner claims to Agritourism.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary  
Item # 21Z00002**

**Applicant:** Scott and Debora Speer

**Zoning Request:** RR-1 to AU

**Note:** Applicant wants farm animals and a small orchard.

**NMI Hearing Date:** 03/11/21; **BCC Hearing Date:** 04/15/21

**Tax ID No:** 2316763

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

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

**Land Use Comments:**

**Aquifer Recharge Soils**

The entire parcel contains mapped aquifer recharge soils (Pomello 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.

**Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. Upon further development of the parcel for which the ordinance is applicable, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required, if sewer is not available.

**Floodplain**

Per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

**Protected and Specimen Trees**

The entire parcel is overlaid within a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood Native trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code 4340 and are likely found on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

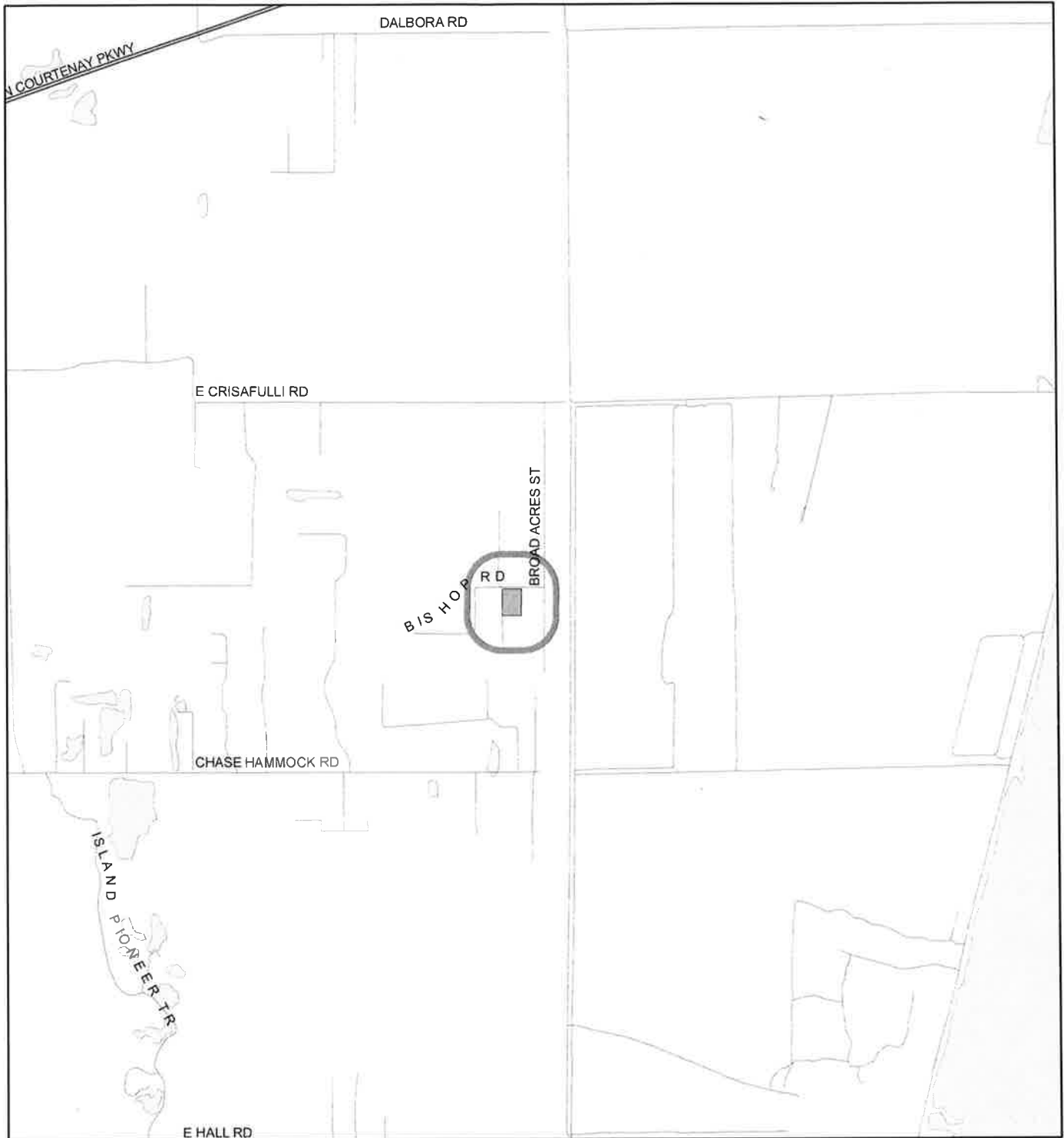
**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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.

# LOCATION MAP

SPEER, SCOTT W. AND DEBORAA.

21Z00002



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: 1/8/2021

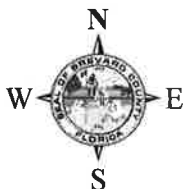
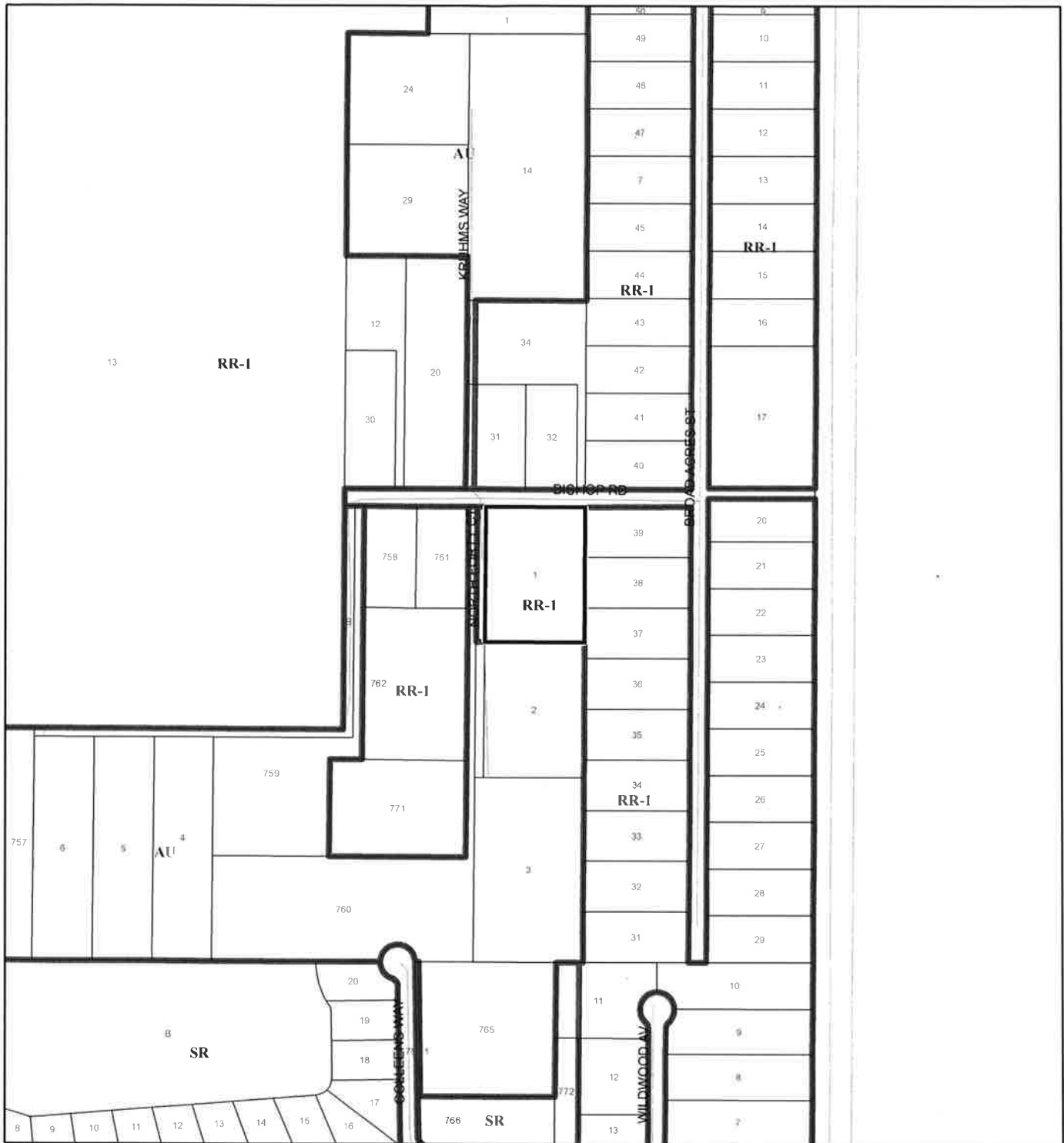
— Buffer  
■ Subject Property



# ZONING MAP

SPEER, SCOTT W. AND DEBORA A.

21Z00002



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.

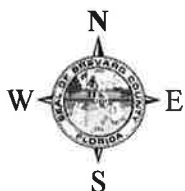
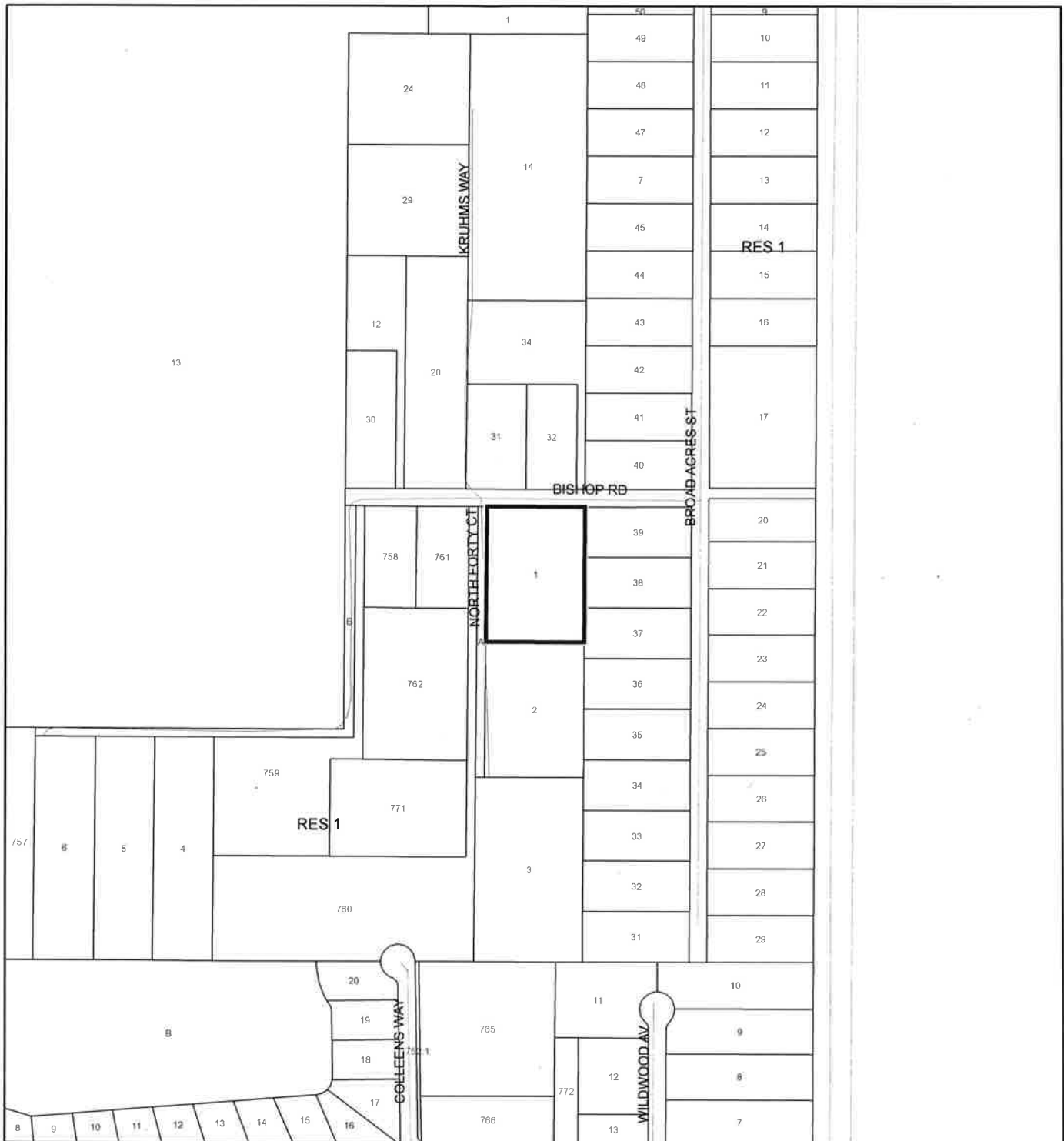
Produced by BoCC - GIS Date: 1/8/2021

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

SPEER, SCOTT W. AND DEBORA A.

21Z00002



1:4,800 or 1 inch = 400 feet

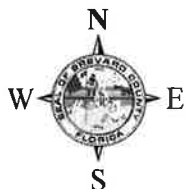
— Subject Property  
 □ Parcels

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Produced by BoCC - GIS Date: 1/8/2021

# AERIAL MAP

SPEER, SCOTT W. AND DEBORA A.  
21Z00002



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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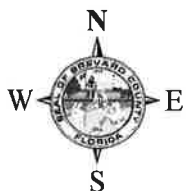
Produced by BoCC - GIS Date: 1/8/2021

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

SPEER, SCOTT W. AND DEBORA A.

21Z00002



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Produced by BoCC - GIS Date: 1/8/2021

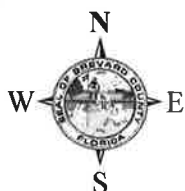
## National Wetlands Inventory (NWI)

 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

SPEER, SCOTT W. AND DEBORA A.

21Z00002



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/8/2021

## 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

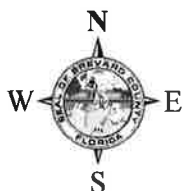
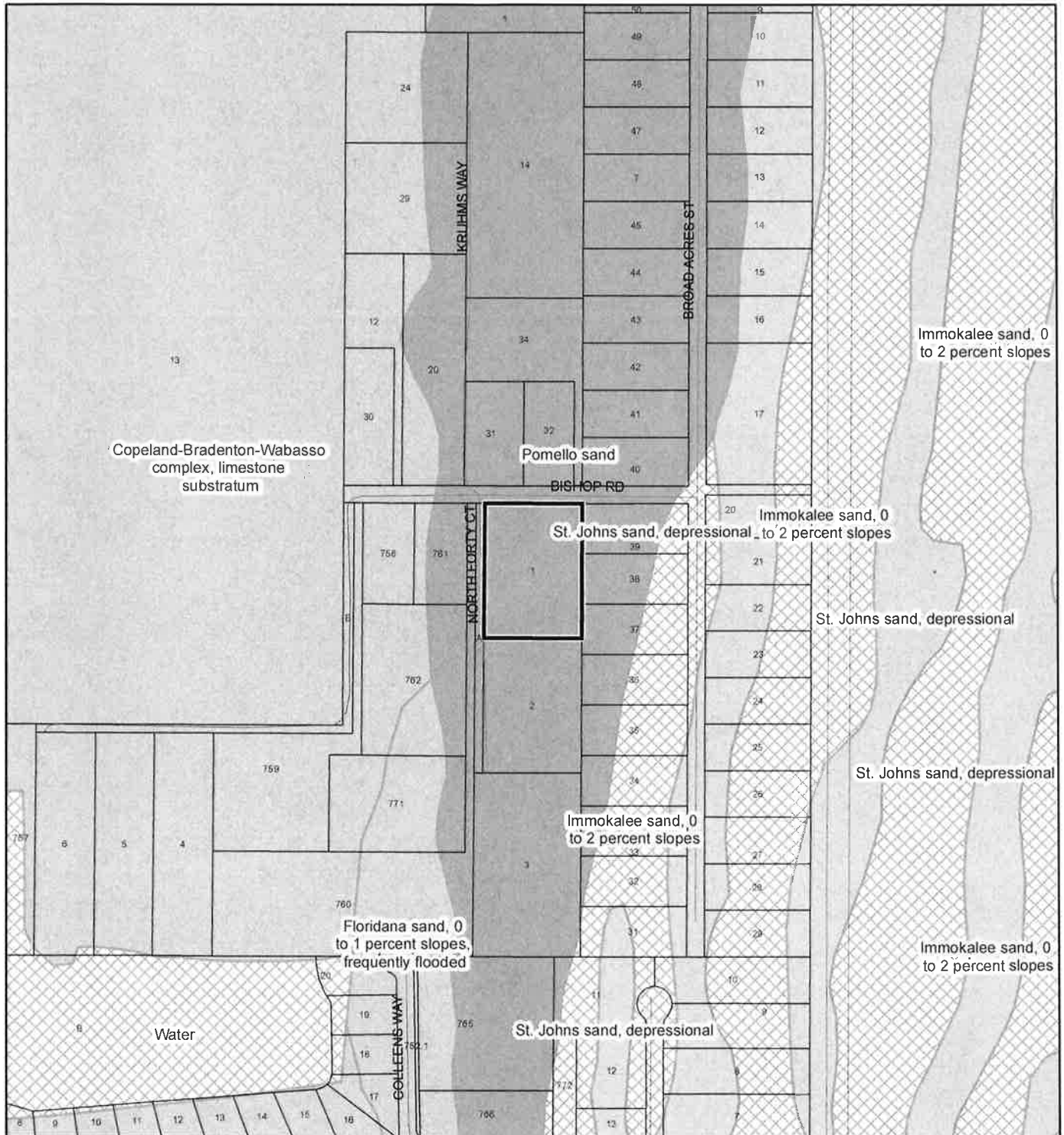
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

SPEER, SCOTT W. AND DEBORA A.

21Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/8/2021

## USDA SCSSS Soils

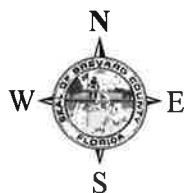
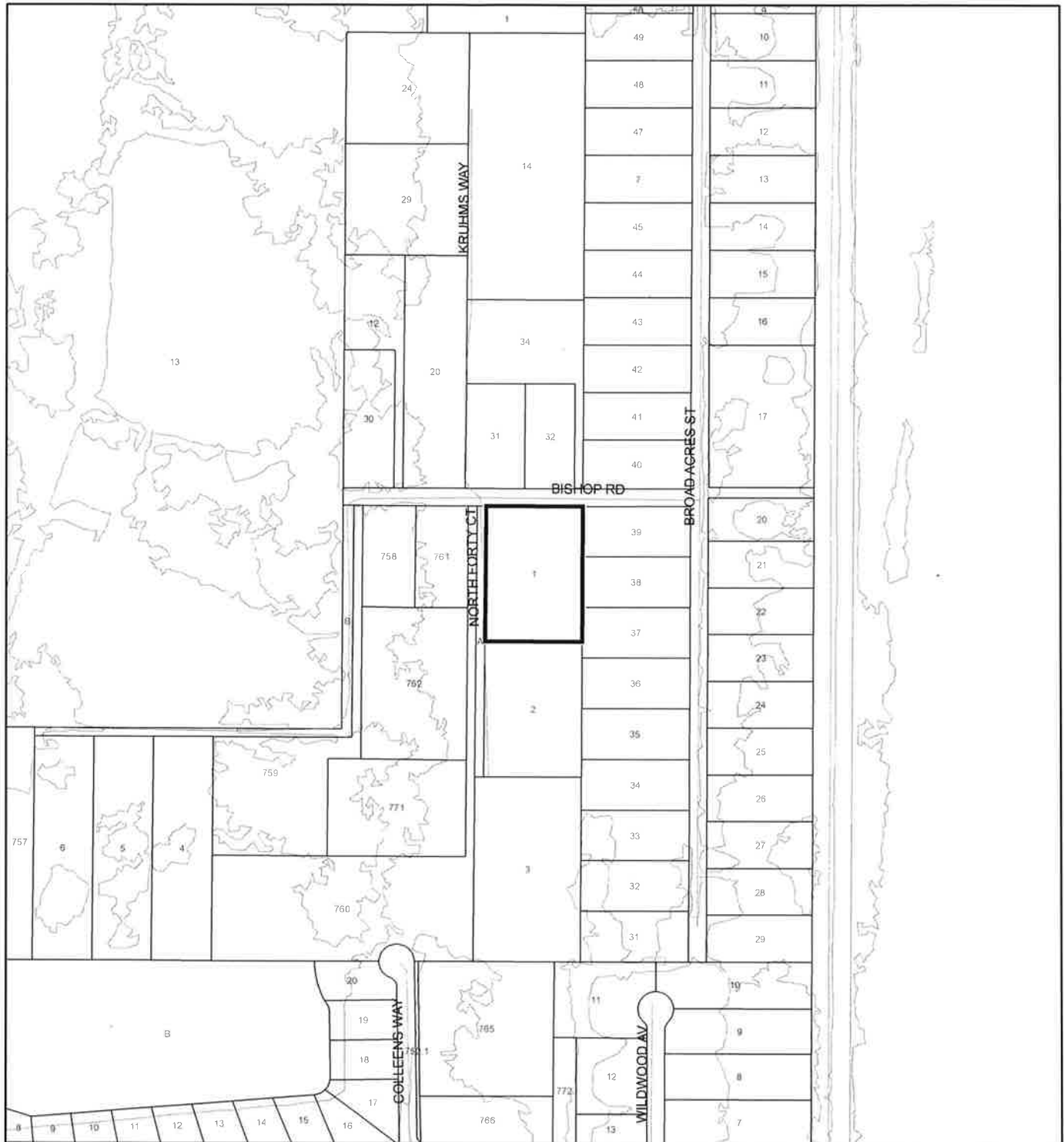
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

SPEER, SCOTT W. AND DEBORA A.

21Z00002



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Produced by BoCC - GIS Date: 1/8/2021

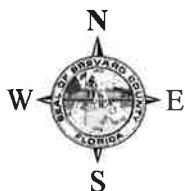
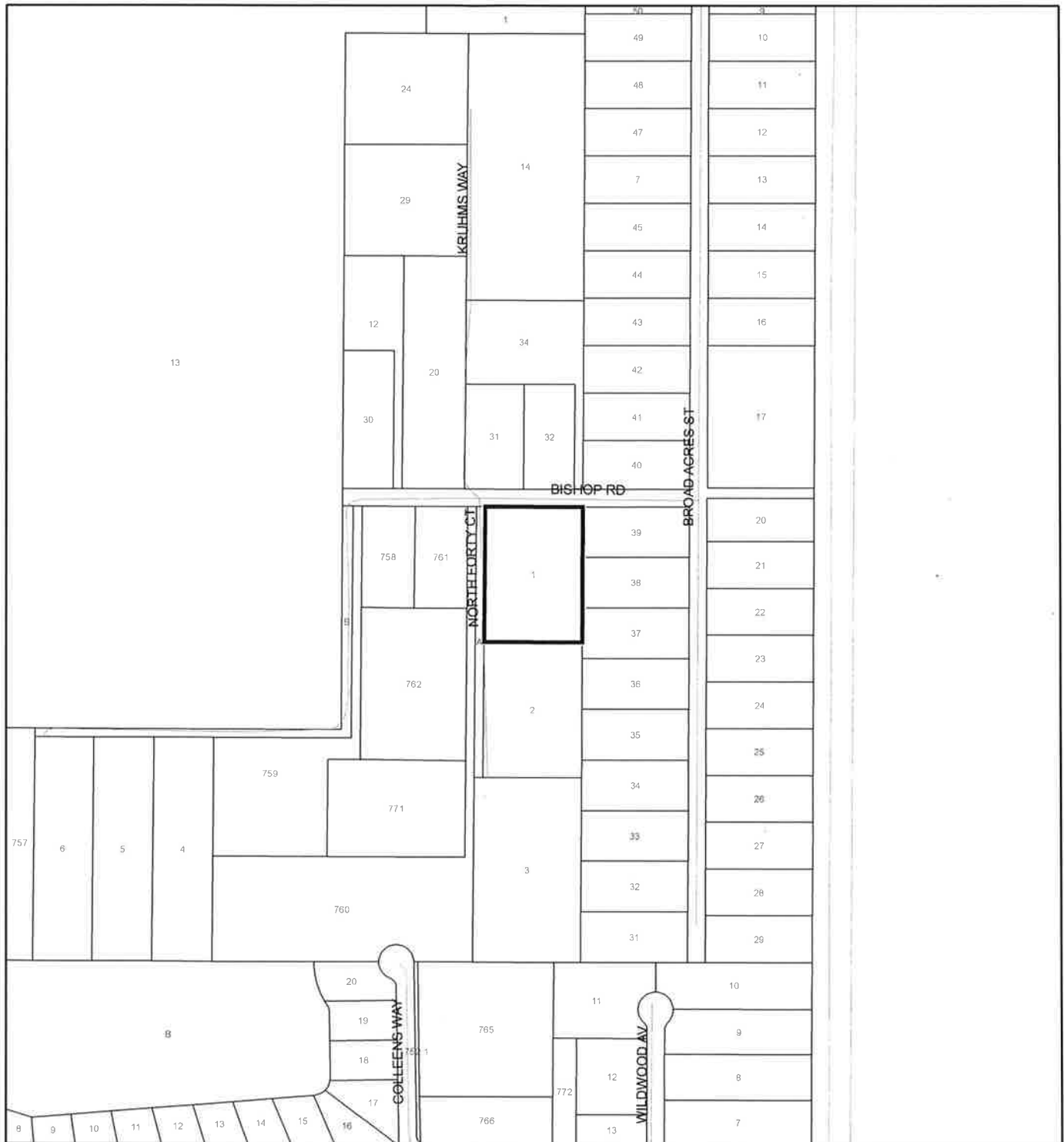
## FEMA Flood Zones

- |  |   |                      |
|--|---|----------------------|
| 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

SPEER, SCOTT W. AND DEBORA A.

21Z00002



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Produced by BoCC - GIS Date: 1/8/2021

— Subject Property

□ Parcels

**Coastal High Hazard Area**

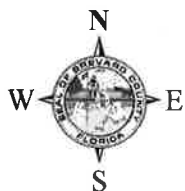
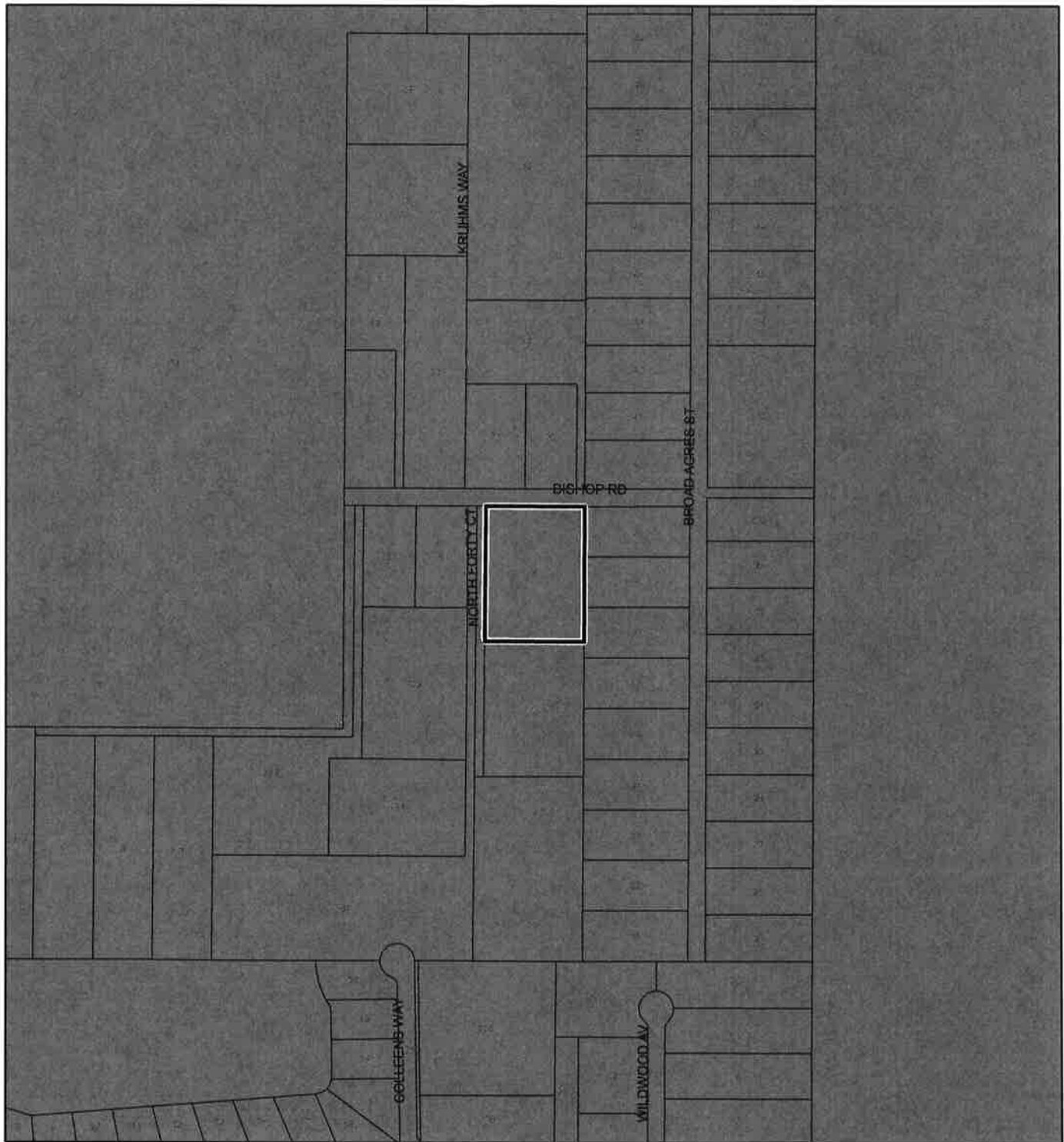
■ SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SPEER, SCOTT W. AND DEBORAA.

21Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/8/2021

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

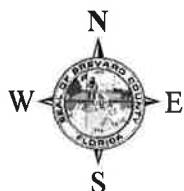
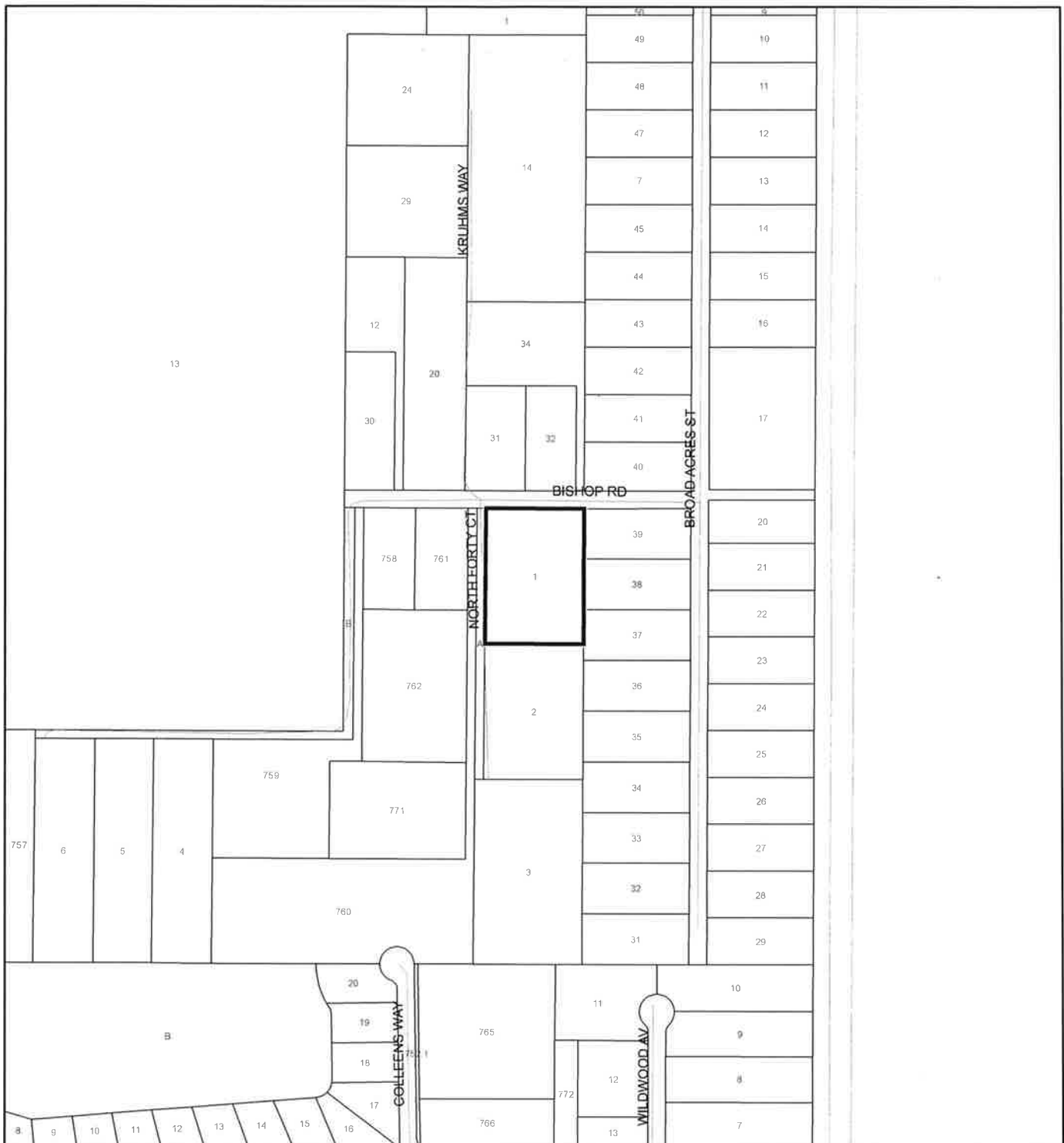
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

SPEER, SCOTT W. AND DEBORAA.

21Z00002



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Produced by BoCC - GIS Date: 1/8/2021

 Subject Property

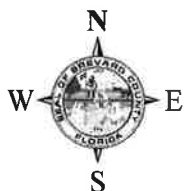
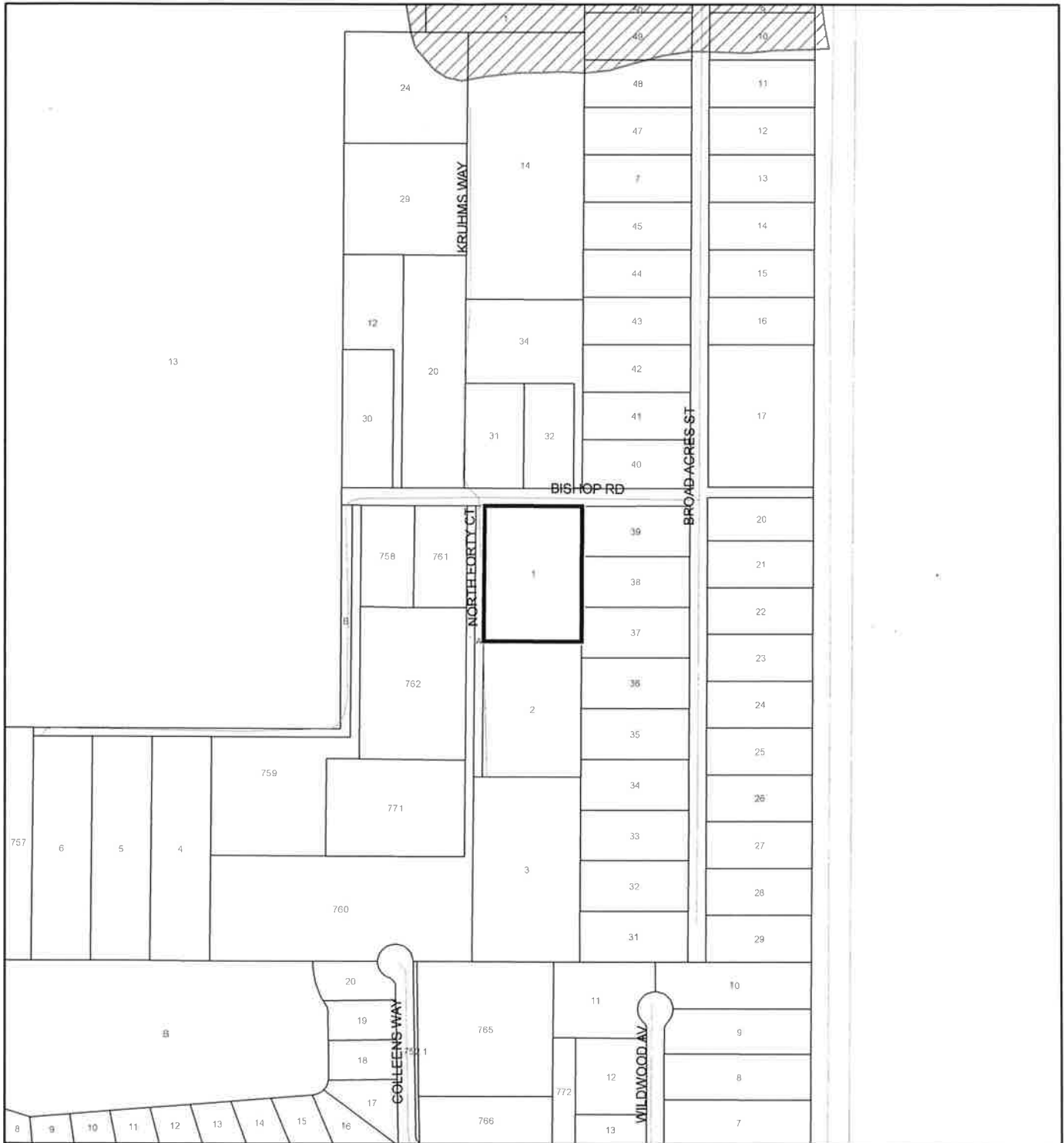
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

SPEER, SCOTT W. AND DEBORA A.




21Z00002



1:4,800 or 1 inch = 400 feet

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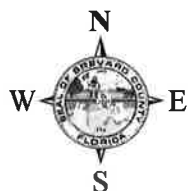
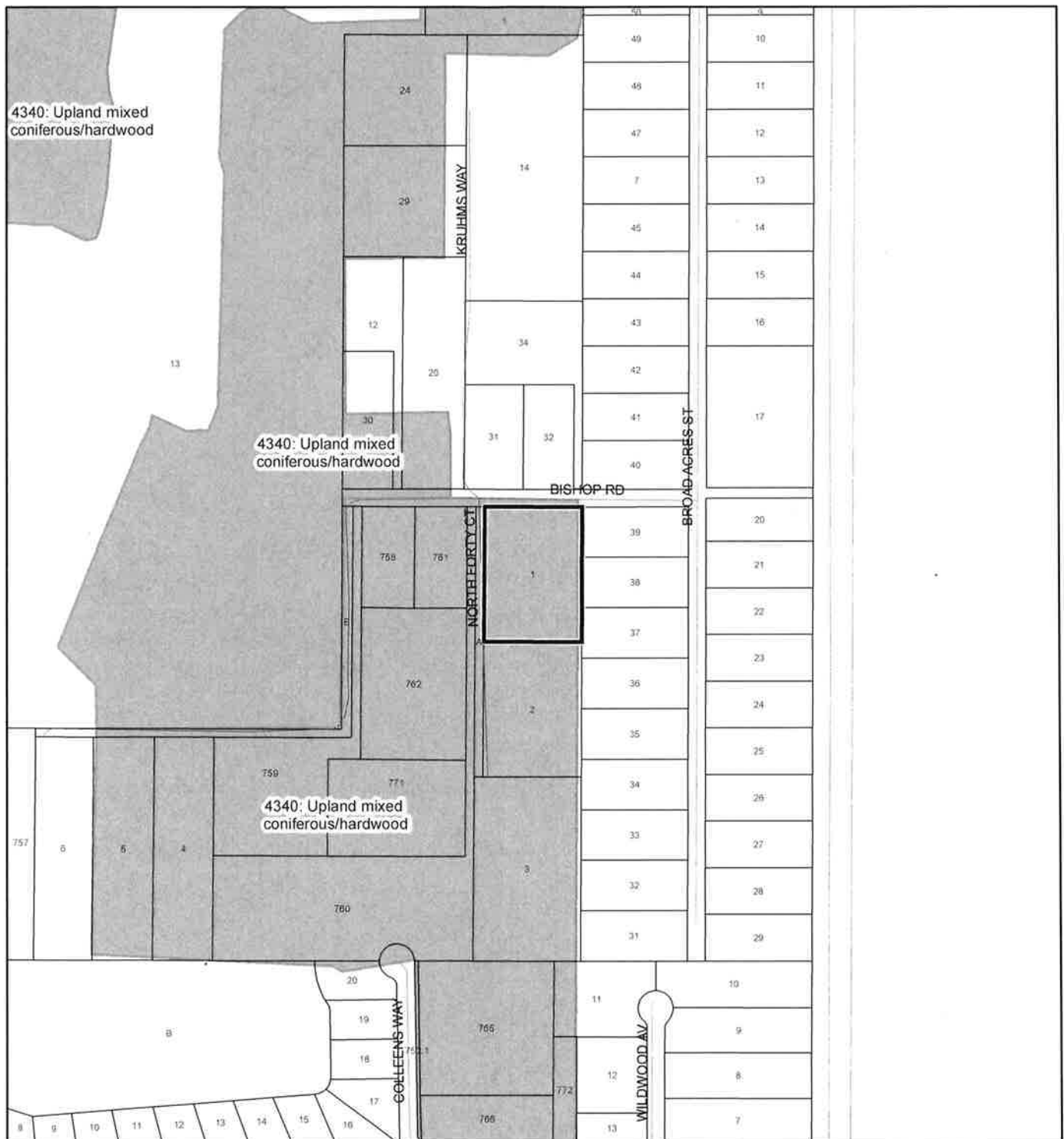
Produced by BoCC - GIS Date: 1/8/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SPEER, SCOTT W. AND DEBORAA.

21Z00002





1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/8/2021

## SJRWMD FLUCCS Upland Forests

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

 Subject Property  Parcels



BOARD OF COUNTY COMMISSIONERS

Application Pages  
21Z00002  
Speer

Planning and Development  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

### Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21Z00002

Existing FLU: RES 1 Existing Zoning: RR-1

Proposed FLU: NA Proposed Zoning: A4

#### PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Scott Speer, Deborah Speer n/a  
Name(s) Company  
1465 Bishop Rd Merritt Island FL 32953  
Street City State Zip Code  
Scott.W.Speer@Gmail.com 76-990-2669  
Email Phone Cell

#### APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

n/a  
Name(s) Company  
\_\_\_\_\_  
Street City State Zip Code  
\_\_\_\_\_  
Email Phone Cell

(1)

## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 2.5

Reason for Request:

*few farm animals & a small orchard  
2 pigs + 2 donkeys*

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Scott Speer  
Signature of Property Owner or  
Authorized Representative

1-5-2021  
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by ✓ physical presence or \_\_\_\_\_ online notarization,

this 5<sup>th</sup> day of, January, 20 21, personally appeared

Scott Speer, who is personally known to me or produced

FLDL as identification, and who did / did not take an oath.

Kristen Champion  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 21200002 Fee: \$588.00 Date Filed: 1-7-21 District No. 2

Tax Account No. (list all that apply) 2316763

Parcel I.D. No.

23 36 25 25 X 1  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: \_\_\_\_\_ Notification Radius: 500

**MEETINGS**

**DATE**

**TIME**

☐ P&Z

☐ PSJ Board

☒ NMI Board

☐ LPA

☐ BOA

☒ BCC

March 11, 2021

6:00 pm

April 15, 2021

5:00 pm

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials PB

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☒ Yes

☐ No

If yes, list

North Merritt Island

Location of subject property: South side of Bishop Road  
305 feet west of Broad Acres Street

Description of Request:

Rezone from RR-1 to ALI



## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

Scott W. Speer (A) Gmail, reonor ( ) \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

Scott W. Speer  
(APPLICANT SIGNATURE)

Owner's Name: Scott & Debora Speer  
Hearing Date: March 11, 2021

21200002

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**


STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, RICKY MAY,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Ricky L. May  
Signature

Sworn and Subscribed before me, this 18<sup>th</sup> day of February 2021

 CYNTHIA M. COOK  
Commission # GG 302224  
Expires March 25, 2023  
Bonded Thru Troy Fain Insurance 800-385-7019

(Print, Type, or Stamp Commissioned Name of Notary Public)

Cynthia M. Cook  
Notary Public, State of Florida  
 CYNTHIA M. COOK  
Commission # GG 302224  
Expires March 25, 2023  
Bonded Thru Troy Fain Insurance 800-385-7019

Personally known OR Produced Identification

Type of I.D. Produced: na

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

## NORTH MERRITT ISLAND

### DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, March 11, 2021**, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

**Board members present were:** Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Chris Cook; Jim Carbonneau; and Ted Balke.

**Planning and Development staff present were:** Jeffrey Ball, Planning and Zoning Manager; Paul Body, Planner II; and Jennifer Jones, Special Projects Coordinator.

#### **Approval of January 7, 2021, Minutes**

Motion by Gina Lindhorst, seconded by Jim Carbonneau, to approve the minutes from January 7, 2021. The motion passed unanimously.

#### **Scott W. and Deborah A. Speer**

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 2.5 acres, located on the south side of Bishop Road, approximately 305 feet west of Broad Acres Street. (1465 Bishop Road, Merritt Island) (District 2)

Scott Speer - Scott Speer, 1465 Bishop Road, Merritt Island. I'm requesting that the County allow us to switch our property back from residential to agriculture. We are in the process of planning on lemon and lime trees, as well as having a couple of donkeys.

Mary Hillberg - In your application, it says two donkeys and two pigs.

Scott Speer - I don't know what's going on with the pig, but it's definitely two donkeys.

Mary Hillberg - Two donkeys are one thing, but I'm asking about the pigs. You're familiar with pig pens, hopefully on the leeward side of wherever you are, they can be interesting to live near.

Scott Speer - We had a pig a while ago, and then we moved, and the pig is now living with our friends over in Canaveral Groves.

Mary Hillberg - It's a pet pig?

Scott Speer - Yes, it's a pet pig. It's not a wild boar.

Mary Hillberg - And you're not going to have a big pen with pigs?

Scott Speer - No, it's like a family dog.

Mary Hillberg - Like a potbellied pig?

Scott Speer - Yes, it is a potbellied pig.

Mary Hillberg - I was concerned with having a pig pen with pigs. If you've ever been downwind of that you wouldn't want it.

Scot Speer - I know exactly what you're saying.

Gina Lindhorst - Is it your intention to have a lot of animals, or just those two?

Scott Speer - Just those two. It's primarily going to be lemons and limes as far as wanting to go the agriculture route. The Crisafulli family is going to help me with some of that.

Gina Lindhorst - No plans for any other animals?

Scott Speer - No, we have our dogs and that's the extent of it. I'm not getting into horses or cows, that's not my thing.

Gina Lindhorst - So, no farm animals to sell for their meat?

Scott Speer - No, not at all.

Chris Cook - Have you had any comments from your neighbors, either pro or con?

Scott Speer - No, they're all for it. My neighbor behind me, he's retired from NASA and he grows mangoes, so he's in support of it. The people beside us are in support of it, and they are happy to see someone want to get back into agriculture in the area. I reached out to the Crisafulli family and Chuck Crisafulli said he would help me with this and he is happy to see someone who wants to plant lemons and limes.

Chris Cook - Have we received any comments?

Mary Hillberg - I haven't received any comments, have you, Jennifer?

Jennifer Jones - No, ma'am.

No public comment.

Motion by Jim Carbonneau, seconded by Ted Balke, to approve the change of classification from RR-1 to AU. The motion passed unanimously.

Upon consensus, the meeting adjourned at 6:08 p.m.