



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.8.

8/5/2021

### Subject:

Timothy and Diane Lystlund request a change of zoning classification from RU-1-7 to SR. (21Z00014) (Tax Account 3009665) (District 3)

### 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) to SR (Suburban Residential).

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) for the purpose of legitimizing the vacant parcel to be able to build a single-family home. The applicants have applied for a Small Scale Comprehensive Plan Amendment to change the FLU (Future Land Use) designation from RES 1 (Residential 1) to RES 2 (Residential 2).

The applicants also applied for a variance to the 150-ft. minimum lot depth requirement for SR zoning. On June 23, 2021, the Board of Adjustment considered the variance request and unanimously approved.

The developed character of the surrounding area along Hibiscus Avenue is RU-1-7-zoned parcels developed with single-family homes. The development trend for the surrounding area has been single-family residential for the past 50 years. There have been no Future Land Use changes within the past 20 years.

The proposed SR classification permits single-family residences on minimum half-acre lots, with a minimum width of 100 feet and depth of 150 feet, and a minimum house size of 1,300 square feet.

The Board may wish to consider whether the request to SR is consistent and compatible with the surrounding area given the fact that RU-1-7 zoning has been established. Although there is no SR zoning in the immediate area, the Board may wish to recognize the existing development pattern which has been SFR's 0.5 acre parcels.

On July 12, 2021, 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.

## **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**

**21Z00014**

**Timothy and Diane Lystlund**

**RU-1-7 (Single-Family Residential) to SR (Suburban Residential)**

Tax Account Number: 3009665  
Parcel I.D.: 30G-38-20-HM-\*-25  
Location: East side of Hibiscus Avenue, 240 feet south of Jonquil Lane (District 3)  
Acreage: 0.55 acres

Planning and Zoning Board: 07/12/2021  
Board of County Commissioners: 08/05/2021

**Consistency with Land Use Regulations**

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the proposed Future Land Use Designation, Section 62-1255, per Policy 2.13 of the Future Land Use Element.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-7	SR
<b>Potential*</b>	No units, parcel size is sub-standard	One single-family unit
<b>Can be Considered under the Future Land Use Map</b>	No RES 1	YES** RES 2

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

\*\*There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **21PZ00026** which proposes to change the RES 1 (Residential 1) Future Land Use (FLU) designation to RES 2 (Residential 2) FLU.

**Background and Purpose of Request**

The applicant is seeking a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) for the purpose of legitimizing the parcel to be consistent with the proposed RES 2 Future Land Use change and to be able to build one single-family home. The parcel is vacant. The applicant has a building permit (21BC03715) for a proposed single-family home.

The RU-1-7 zoning of the parcel was adopted May 30, 1972 per zoning action **Z-2980** to replace the RU-1 single-family zoning. The parcel was subdivided into its current configuration on August 01, 1996, per Official Records Book 3594, Page 1459. When the parcel was subdivided in 1996, the RU-1-7 zoning was not compatible with the RES 1 FLU and does not qualify as nonconforming status under the provision of section 62-1188 Nonconforming lots of record.

The applicants have also applied for a variance **21PZ00025** to the 150 minimum lot depth requirements for SR zoning. This variance application will be heard on June 23, 2021.

### **Land Use**

The subject property is currently designated as RES 1 (Residential 1). The companion application **21PZ00026** proposes to change the RES 1 FLU to RES 2 Future Land Use designation. The RU-1-7 zoning classification is not consistent with the RES 1 FLU; the proposed SR zoning is consistent with the proposed RES 2 FLU.

### **Applicable Future Land Use Policies**

**The Current FLU follows: 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 Proposed FLU follows: FLUE Policy 1.8** – The Residential 2 Future land use designation. The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units 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 vacant land 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 which is not compatible with the current RU-1-7 zoning. The proposed SR zoning is consistent with the proposed RES 2 Future Land Use designation.

Existing development of the surrounding area is generally described as single-family homes on lots that are undersized to meet the one dwelling unit per acre (1du/ac) density allowed by the RES 1 future land use. The applicant intends to build one, single-family home, and a FLU designation of RES 2 is necessary to legitimize the parcel to meet development requirements of RES 2.

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

The subject parcel is zoned RU-1-7 and is vacant.

The developed character of the surrounding area along Hibiscus Avenue is RU-1-7 (Single-Family Residential) zoned parcels which are developed with single-family houses.

Properties along Hibiscus Avenue are single-family residential in nature. The development trend for the surrounding area has been single-family residential homes for the past 50 years. There have been no Future Land Use changes within the past 20 years.

The current 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 proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

There have been no rezoning applications in the surrounding area in the past 5 years.

### **Surrounding Area**

The abutting parcels to the north, east and south are zoned RU-1-7 and are developed with single-family residences. The parcels along the west side of Hibiscus Avenue are zoned RU-1-7 and are developed with single-family residences.

### **Environmental Constraints**

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

- Protected and Specimen Trees
- Protected Species

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

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is Main Street, between Highway US 1 and Central Avenue, which has a Maximum Acceptable Volume of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 14.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 14.42% 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 or water. The closest available Brevard County sewer line is located approximately 1.4 miles northwest of the parcel. The closest available Brevard County water line is located approximately 0.7 miles northeast of the parcel.

### **For Board Consideration**

The Board may wish to consider whether the request to SR is consistent and compatible with the surrounding area given the fact that RU-1-7 zoning has been established.

The current 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 proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

Although there is no SR zoning in the immediate area, the Board may wish to recognize the existing development pattern which has been on 0.5 acre parcels.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Request Review & Summary  
Item # 21Z00014**

**Applicant:** Timothy and Diane Lystlund

**Zoning Request:** RU-1-7 to SR

**Note:** Legitimize lot to build a single-family residence

**P&Z Hearing Date:** 07/12/21; **BCC Hearing Date:** 08/05/21

**Tax ID No:** 3009665

- 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:**

- Protected and Specimen Trees
- Protected Species

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

**Land Use Comments:**

**Protected and Specimen Trees**

Aerials show the parcel to be heavily wooded. Specimen Trees (greater than or equal to 24 inches in diameter) may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permissible without prior authorization from NRM. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

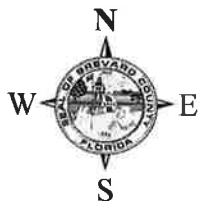
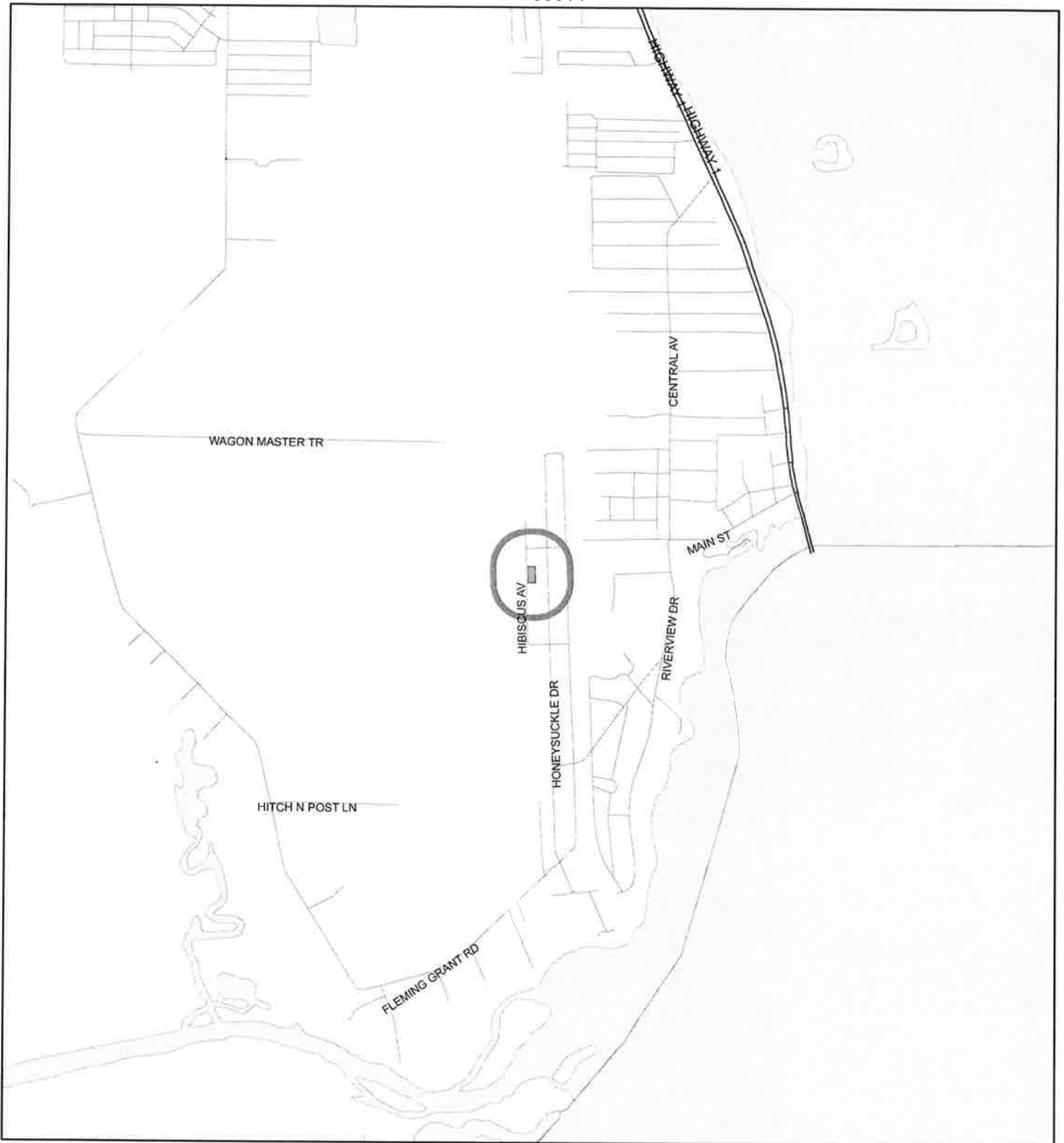
**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



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

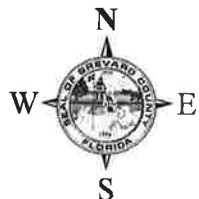
Buffer Distance: 500 feet

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



Produced by BoCC - GIS Date: 4/22/2021

Buffer  
Subject Property

21Z00014



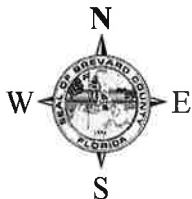
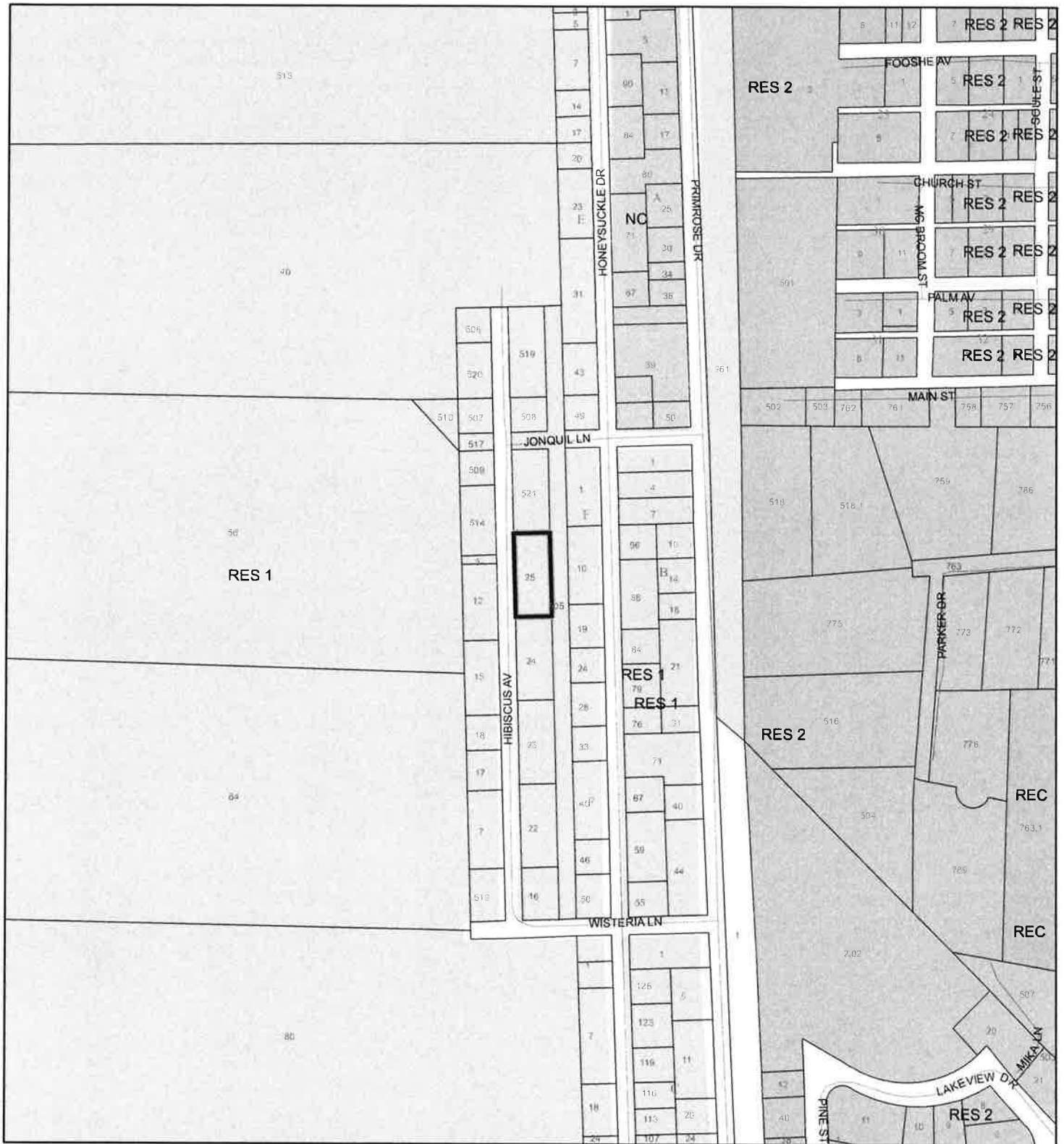
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 Subject Property  
 Parcels  
 Zoning

# FUTURE LAND USE MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

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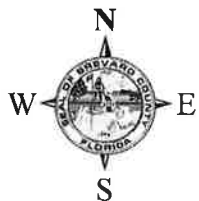
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# AERIAL MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 4/22/2021

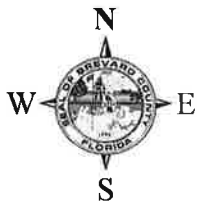
 Subject Property

 Parcels

# NWI WETLANDS MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

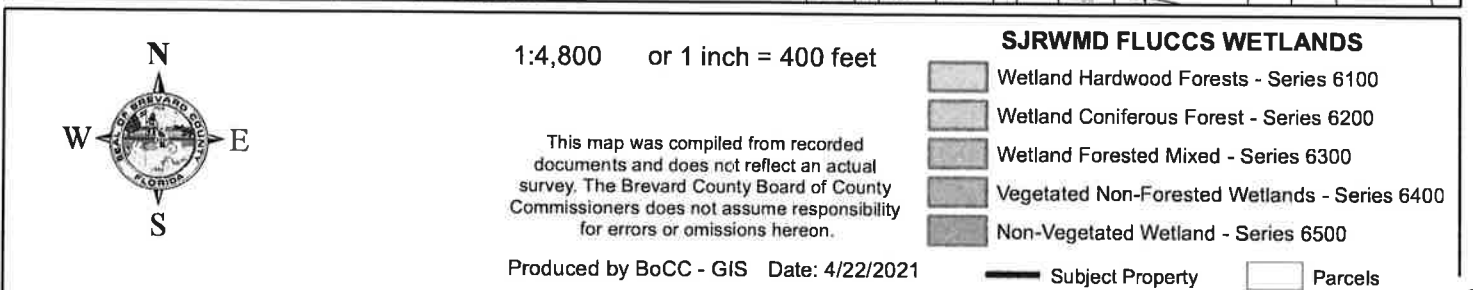
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/22/2021

## 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                           |                 |

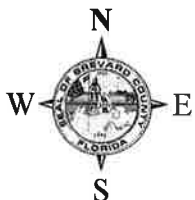
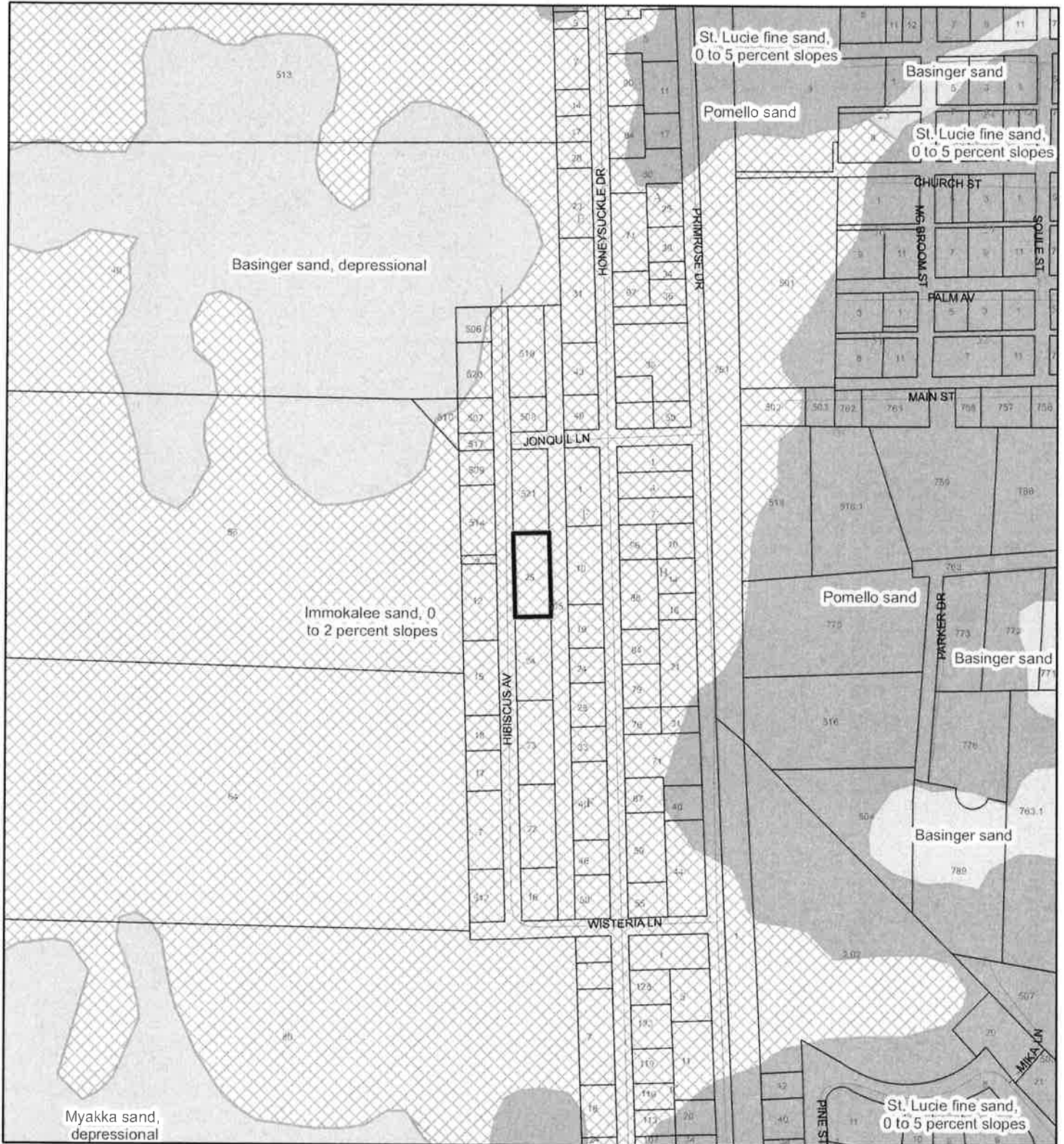
## 21Z00014



# USDA SCSSS SOILS MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels



# National Flood Hazard Layer FIRMette



80°30'32"W 27°51'28"N



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE) Zone A, V, A99
	With BFE or Depth Zone AE, AO, AH, VE, AR
OTHER AREAS OF FLOOD HAZARD	Regulatory Floodway
	0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone 2
OTHER AREAS OF FLOOD HAZARD	Future Conditions 1% Annual Chance Flood Hazard Zone X
	Area with Reduced Flood Risk due to Levee. See Notes. Zone X
OTHER AREAS	Area with Flood Risk due to Levee Zone D
	NO SCREEN
GENERAL STRUCTURES	Area of Minimal Flood Hazard Zone X
	Effective LOMRs
OTHER FEATURES	Area of Undetermined Flood Hazard Zone
	Channel, Culvert, or Storm Sewer
MAP PANELS	Levee, Dike, or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation
OTHER FEATURES	Coastal Transect
	Base Flood Elevation Line (BFE)
MAP PANELS	Limit of Study
	Jurisdiction Boundary
MAP PANELS	Coastal Transect Baseline
	Profile Baseline
MAP PANELS	Hydrographic Feature
	Digital Data Available
MAP PANELS	No Digital Data Available
	Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/21/2021 at 2:18 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

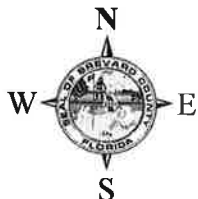
Feet 0 200 400 600 800 1,000 1,200 1,400 1,600

80°30'32"W 27°51'28"N

# COASTAL HIGH HAZARD AREA MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

— Subject Property

▭ Parcels

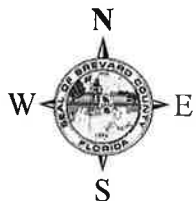
**Coastal High Hazard Area**

▭ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

**Subject Property**

 Parcels

**Septic Overlay**

 40 Meters

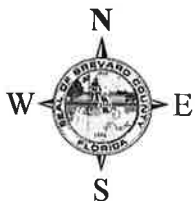
 60 Meters

 All Distances

# EAGLE NESTS MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

 Subject Property

 Parcels



Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP

LYSTLUND, TIMOTHY AND DIANE




21Z00014



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.

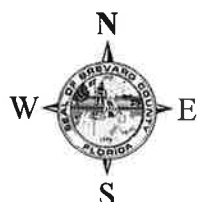
Produced by BoCC - GIS Date: 4/22/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

## 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

**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 # 21Z00014

Existing FLU: RES 1 Existing Zoning: RV-1-7

Proposed FLU: \_\_\_\_\_ Proposed Zoning: SR

**PROPERTY OWNER INFORMATION**

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

Timothy & Diane Lystlund \_\_\_\_\_  
Name(s) Company

9555 Hibiscus Ave Mico FL 32976  
Street City State Zip Code

tim. +1661@gmail.com 772-453-9635  
Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

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

\_\_\_\_\_  
Name(s) Company

\_\_\_\_\_  
Street City State Zip Code

\_\_\_\_\_  
Email Phone Cell

## 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: 0.55

Reason for Request: Rezoning From RU-1-7 to SR  
to Legitimize Lot and Build a SFR

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.

Timothy and Doreen Lystlund  
Signature of Property Owner or  
Authorized Representative

3/27/21  
Date

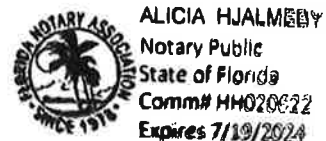
State of Florida  
County of Indian River

Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,  
this 27<sup>th</sup> day of, March, 2021, personally appeared

Timothy and Doreen Lystlund, who is personally known to me or produced  
Florida Driver's License as identification, and who did not take an oath.

Alicia Hjalmeny  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 2120004 Fee: 588.00 Date Filed: 4-19-21 District No. 3

Tax Account No. (list all that apply) 300 9665

Parcel I.D. No.

306 38 20 HM X 25  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: code enforcement Notification Radius: 500

**MEETINGS**

**DATE**

**TIME**

☒ P&Z

July 12, 2021

3:00 p.m.

☐ PSJ Board

☐ NMI Board

☐ LPA

☐ BOA

☒ BCC

August 5, 2021

5:00 p.m.

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 \_\_\_\_\_

Location of subject property: East side of Hibiscus Ave, 240 ft.  
South of Tongue Lane

Description of Request: Rezone from RU-1-7 to SR

## 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:

tim.t1661@gmail.com or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)

**From:** -Ashley -Harris  
**To:** Jones, Jennifer  
**Subject:** 21PZ00026 & 21Z00014  
**Date:** Saturday, July 10, 2021 4:52:05 PM

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

ID 21PZ00026 & 21Z00014

I'm writing in regards to the request for change of zoning for the property located at 9555 Hibiscus Ave in Micco, FL. I am a resident of the neighborhood and purchased a home in the area because it is not a busy neighborhood. Micco is the unique place it is because houses are not on top of each other. I vote no in regards to the request for change of zoning classification.

Sincerely,  
Ashley Harris



## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 12, 2021**, 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 (D1); Brian Hodgess (D2); Mark Wadsworth, Chair (D4); Joe Buchanan (D4 Alt); Peter Filiberto (D5); and David Bassford (D5 Alt).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, David Bassford announced he had a conflict of interest on Items H.1., H.7., and H.8., and would need to abstain from voting.

### **Excerpt of Complete Minutes**

#### **Timothy and Diane Lystlund**

A Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 1 (Residential 1) to RES 2 (Residential 2). The property is 0.55 acres, located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Micco) (21PZ00026) (Tax Account 3009665) (District 3)

#### **Timothy and Diane Lystlund**

A change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential). The property is 0.55 acres, located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Micco) (21Z00014) (Tax Account 3009665) (District 3)

Timothy Lystlund, 1501 East Lake Lane, Sebastian, stated when they purchased the property they found out the zoning was incorrect for the size of the lot, and so they would like to change the zoning.

Mark Wadsworth asked the approximate square footage of the house they want to build. Mr. Lystlund replied the house would be a little under 2,300 square feet.

No public comment.

Mr. Lystlund stated he is familiar with one letter in opposition to our request.

Brian Hodgess asked if the board should consider the letter if the person is not present to speak. Abby Jorandby replied that the board can consider it.

Mr. Hodgess pointed out there are several RU-1-7-zoned properties in the area with houses on them that were built before the zoning changed.

Paul Body explained the problem is that the subject property was subdivided in 1996; the abutting properties were subdivided around the same time, so the Future Land Use is the problem, at Residential 1. When it was subdivided, it did not meet the requirements for Residential 1. The abutting properties should have also rezoned. The subject property is a little over a half-acre and the SR zoning seemed to be the better fit because it requires a half-acre and cannot be re-subdivided.

Mr. Wadsworth asked if the neighbor who wrote the letter of objection lives in the neighborhood. Mr. Lystlund replied the neighbor who wrote the letter lives on Honeysuckle, behind the subject property, four lots down, on a quarter-acre lot.

Mr. Wadsworth stated in looking at the neighborhood, there are three streets. There are approximately five or six lots that are roughly the same size as the subject property and the rest of the lots in the area are smaller.

Mr. Body replied most of the lots in the area were subdivided before Comprehensive Plan was adopted, mostly to the west. The lots to the east and abutting the subject property were all subdivided at the same time and did not meet the Comprehensive Plan.

Peter Filiberto stated it seems like this is the last lot to be built out in the three-street area, so he doesn't see a domino effect happening if the board approves the request.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the requested Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 2. The motion passed unanimously.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the requested change of zoning classification from RU-1-7 to SR. The motion passed unanimously.