



AGENDA REPORT
September 6, 2018

**Public Hearing, Re: Eva McMillan, Trustee (Clayton Bennett) requests a
Small Scale Comprehensive Plan Amendment from PRIV CONS to RES 1.
(18PZ00063) (District 3)**

SUBJECT:

Public Hearing, Re: Eva McMillan, Trustee (Clayton Bennett) requests a Small Scale Plan Amendment (18S.07) to change the Future Land Use designation from PRIV CONS (Private Conservation) to RES 1 (Residential 1). The property is 0.30 acres, located on the west side of Hwy A1A, approx. 0.83 mile south of Budris Rd. (8344 Hwy A1A, Melbourne Beach) (18PZ00063) (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 the Small Scale Comprehensive Plan Amendment proposing to change the Future Land Use designation from PRIV CONS to RES 1.

SUMMARY EXPLANATION and BACKGROUND:

This request is seeking a change in Future Land Use (FLU) designation from PRIV-CONS to RES 1 on a .30 acre portion of the total 1.02 acre parcel. This area of Unincorporated Brevard County is comprised of mainly RES 1, PRIV-CONS and PUB-CONS (Public Conservation) land use designations along this section of the State Road A1A (SR A1A) corridor.

A preliminary concurrency analysis does not indicate that the proposed change in FLU designation would result in any impacts to level of service.

This request is accompanied by a companion proposal for a change of zoning classification from EA (Environmental Area) to SR (Suburban Residential). Section 62-1571 (8) (a) allows for the boundaries of EA to be adjusted by the zoning official if the property owner shows proof through a site-specific vegetation and soil survey that all or a portion of the site should not be classified as a wetland. However, in this particular case the boundary EA zoning classification cannot be administratively adjusted because the Future Land Use of PRIV-CONS does not allow SR.

On August 6, 2018, the Local Planning Agency heard the request and unanimously recommended approval.

CLERK TO THE BOARD INSTRUCTIONS:

Please return two certified copies to Planning and Development.

ATTACHMENTS:

Description

- Administrative Policies**
- Staff Comments**
- Maps**
- Ordinance**

RESOLUTION NO. 18PZ00063

On motion by Commissioner Isnardi, seconded by Commissioner Barfield, the following resolution was adopted by a unanimous vote:

WHEREAS, EVA MCMILLAN, TRUSTEE – has applied for a Small Scale Comprehensive Plan Amendment (18S.07) to change the Future Land Use designation from Private Conservation to Residential 1, on property described as: SEE ATTACHED

Section 06,

Township 30S,

Range 39E, and,

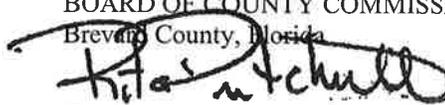
WHEREAS, a public hearing of the Brevard County Local Planning Agency was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Local Planning Agency recommended that the application be approved; and,

WHEREAS, the Board, after considering said application and the Brevard County Local Planning Agency's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Comprehensive Plan Amendment (18S.07) to change the Future Land Use designation from Private Conservation to Residential 1, be APPROVED as recommended, and adopted Ordinance No. 18-20. The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of September 6, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on September 6, 2018.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(LPA Hearing – August 6, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

Legal Description:

a portion of the south 100 ft. of the north 300 ft. of the parcel of land described in ORB 1209, Page 449 of the Public Records of Brevard County, Florida, being part of Government Lot 2, **Section 6, Township 30S, Range 39E**, lying west of S.R. A1A and being more particularly described as follows: From the intersection of the centerline of S.R. A1A (100-ft. R/W) and the north line of said Government Lot 2 run S27deg05'28"E along the centerline of S.R. A1A, 328.20 ft. to the north line of the south 100 ft. of ORB 1209, Page 449, also being the south line of the north 289.77 ft. of Government Lot 2; thence run N89deg05'07"W along the north line of said south 100 ft. 56.63 ft. to the west right-of-way line of S.R. A1A and the point of beginning; thence run S27deg05'28"E along the right-of-way line 113.26 ft. to the south line of said south 100 ft.; thence run N89deg05'07"W along said south line 232.45 ft.; thence departing from the south line run N46deg30'41"W 13.25 ft.; thence N14deg08'30"W 29.22 ft.; thence N52deg21'25"W 15.73 ft.; thence N71deg16'51"W 30.14 ft.; thence N45deg01'35"W 14.98 ft.; thence N71deg47'52"E 13.20 ft.; thence N72deg53'00"E 43.31 ft.; thence N00deg54'53"E 16.04 ft. to the north line of said south 100 ft.; thence run S89deg05'07"E along said north line 195.02 ft. to the point of beginning. Less and except the east 97 ft. (0.30 acres)



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

September 10, 2018

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Christy Mulligan-Willey

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 18-20, which was filed in this office on September 10, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

September 7, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item H.3., Ordinance for Small Scale Plan Amendment 18S.07

The Board of County Commissioners, in regular session on September 6, 2018, adopted Ordinance No. 18-20, for Small Scale Plan Amendment 18S.07 to change the Future Land Use designation from PRIV CONS (Private Conservation) to RES 1 (Residential 1), for 0.30 acre, located on the west side of Highway A1A, approximately 0.83 mile south of Budris Road. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

\cw

Encl. (1)

ORDINANCE NO. 18- 20

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2018, 18S.07, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2018 as Plan Amendment 18S.07; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 18S.07; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and
Officially filed with the Secretary of State on September 10, 2018.

WHEREAS, on July 9, 2018, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 18S.07, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 2, 2018, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 18S.07; and

WHEREAS, Plan Amendment 18S.07 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 18S.07 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 18S.07 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 18S.07, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

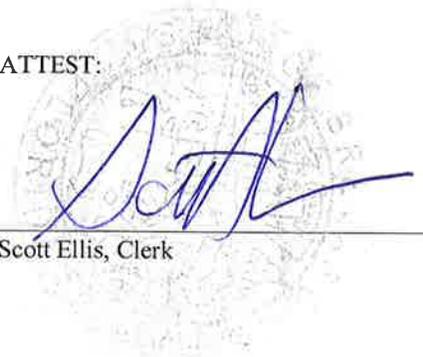
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Community Affairs, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 6 day of September, 2018.

ATTEST:





Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

As approved by the Board on Sept. 6 ____, 2018.

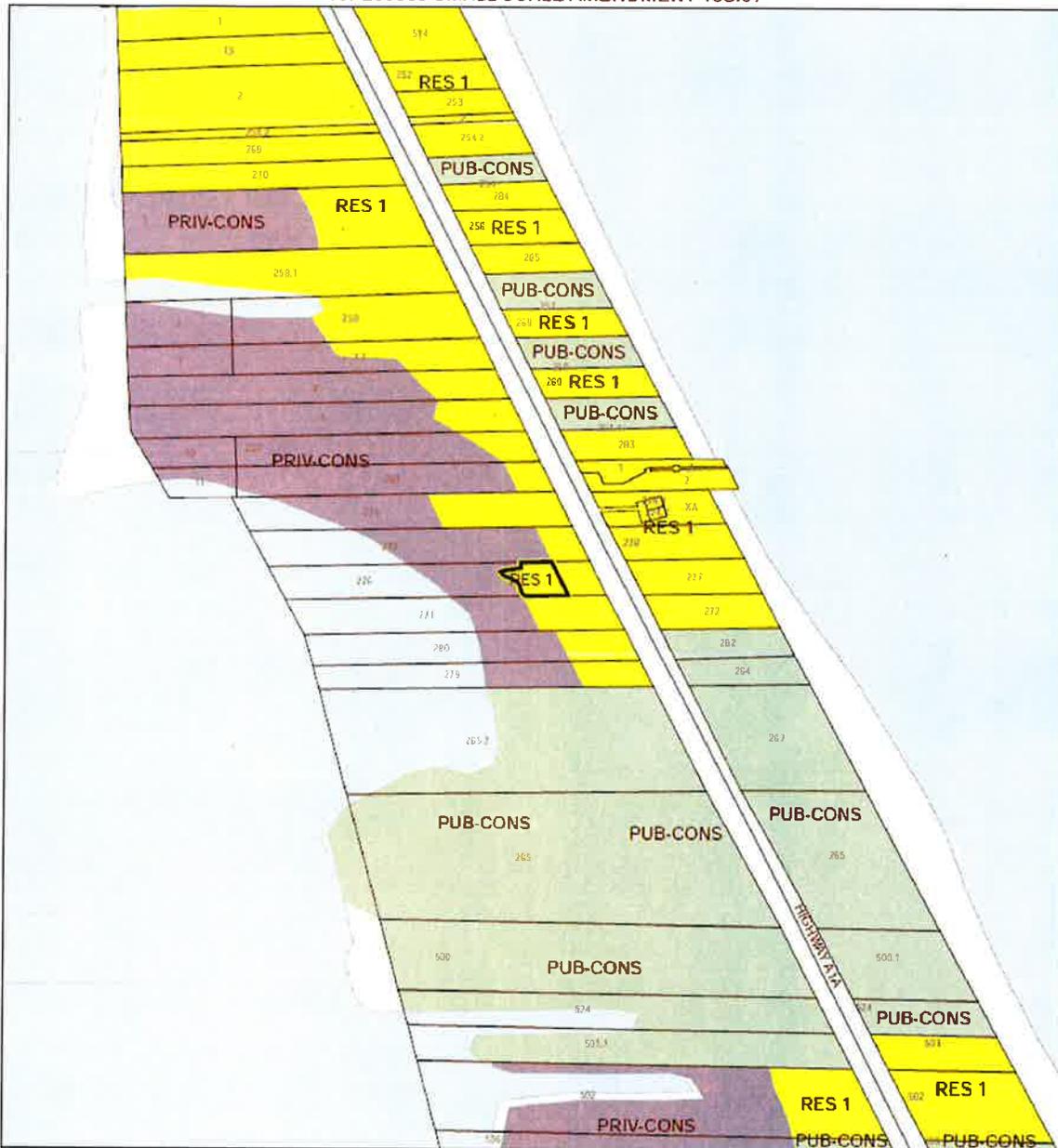
EXHIBIT A
18S.07 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

McMILLAN, EVA, TRUSTEE
 18PZ00063 SMALL SCALE AMENDMENT 18S.07



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: 7/2/2018

-  Subject Property
-  Parcels

EXHIBIT B
FINDINGS OF FACT

Contents

1. Legal Description

AG#3039335 July 19, 2018

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, AUGUST 6, 2018, and THURSDAY, SEPTEMBER 6, 2018. DISTRICT 3 1. (18P200076) - ANTHONY LOPEZ AND EUGENIE R. LOMANDO - (Scott Knox) - request a Small Scale Plan amendment (18S.06) to change the future land use from CC, HC, and Residential 2, to all CC, on property described as Tax Parcel 272 and 275, as recorded in ORB 3108, Pages 2618 - 2619, of the Public Records of Brevard County, Florida, Section 14, Township 30, Range 38. (1.96 acres) Located on the west side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd. (8480 & 8490 U.S. Hwy 1, Micco). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 18S.06: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. DISTRICT 3 2. (18P200077) - ANTHONY LOPEZ AND EUGENIE R. LOMANDO - (Scott Knox) - request a change of zoning classification from BU-1 (General Retail Commercial) and TR-3 (Single-Family Mobile Home) to all BU-1, on property described as Tax Parcel 272 and 275, as recorded in ORB 3108, Pages 2618 - 2619, of the Public Records of Brevard County, Florida, Section 14, Township 30, Range 38. (1.96 acres) Located on the west side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd. (8480 & 8490 U.S. Hwy 1, Micco). DISTRICT 3 3. (18P200063) - EVA McMILLAN, TRUSTEE - (Clayton Bennett) - requests a Small Scale Plan amendment (18S.07) to change the future land use from Private Conservation to Residential 1, on property described as a portion of the south 100 ft. of the north 300 ft. of the parcel of land described in ORB 1209, Page 449 of the Public Records of Brevard County, Florida, being part of Government Lot 2, Section 6, Township 30S, Range 38E, lying west of S.R. A1A and being more particularly described as follows: From the intersection of the centerline of S.R. A1A (100-ft. R/W) and the north line of said Government Lot 2 run S27deg05'28"E along the centerline of S.R. A1A, 328.20 ft. to the north line of the south 100 ft. of ORB 1209, Page 449, also being the south line of the north 289.77 ft. of Government Lot 2; thence run N89deg05'07"W along the north line of said south 100 ft. 56.63 ft. to the west right-of-way line of S.R. A1A and the point of beginning; thence run S27deg05'28"E along the right-of-way line 113.26 ft. to the south line of said south 100 ft.; thence run N89deg05'07"W along said south line 232.45 ft.; thence departing from the south line run N46deg30'41"W 13.25 ft.; thence N14deg08'30"W 29.22 ft.; thence N52deg21'25"W 15.73 ft.; thence N71deg16'51"W 30.14 ft.; thence N45deg01'35"W 14.98 ft.; thence N71deg47'52"E 13.20 ft.; thence N72deg53'00"E 43.31 ft.; thence N04deg54'53"E 16.04 ft. to the north line of said south 100 ft.; thence run S89deg05'07"E along said north line 195.02 ft. to the point of beginning. Less and except the east 97 ft. (0.30 acre) located on the west side of Highway A1A, approx. 0.83 mile south of Budris Rd. (8344 Hwy A1A, Melbourne Beach). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 18S.07: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. DISTRICT 3 4. (18P200087) - EVA McMILLAN, TRUSTEE - (Clayton Bennett) - requests a change of zoning classification from EA (Environmental Area) and SR (Suburban Residential) to all SR, on property described as a portion of the south 100 ft. of the north 300 ft. of the parcel of land described in ORB 1209, Page 449 of the Public Records of Brevard County, Florida, being part of Government Lot 2, Section 6, Township 30S, Range 38E, lying west of S.R. A1A and being more particularly described as follows: From the intersection of the centerline of S.R. A1A (100-ft. R/W) and the north line of said Government Lot 2 run S27deg05'28"E along the centerline of S.R. A1A, 328.20 ft. to the north line of the south 100 ft. of ORB 1209, Page 449, also being the south line of the north 289.77 ft. of Government Lot 2; thence run N89deg05'07"W along the north line of said south 100 ft. 56.63 ft. to the west right-of-way line of S.R. A1A and the point of beginning; thence run S27deg05'28"E along the right-of-way line 113.26 ft. to the south line of said south 100 ft.; thence run N89deg05'07"W along said south line 232.45 ft.; thence departing from the south line run N46deg30'41"W 13.25 ft.; thence N14deg08'30"W 29.22 ft.; thence N52deg21'25"W 15.73 ft.; thence N71deg16'51"W 30.14 ft.; thence N45deg01'35"W 14.98 ft.; thence N71deg47'52"E 13.20 ft.; thence N72deg53'00"E 43.31 ft.; thence N04deg54'53"E 16.04 ft. to the north line of said south 100 ft.; thence run S89deg05'07"E along said north line 195.02 ft. to the point of beginning. (0.78 +/- acres) Located on the west side of Highway A1A, approx. 0.83 mile south of Budris Rd. (8344 Hwy A1A, Melbourne Beach). Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, AUGUST 6, 2018, at 1:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, SEPTEMBER 6, 2018, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Per: Tad Collins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator II.

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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

Small Scale Plan Amendment 18S.06 (18PZ00063)
Township 30, Range 39, Section 06

Property Information

Owner / Applicant: **Eva McMillan, Trustee**

Adopted Future Land Use Map Designation: Private Conservation

Requested Future Land Use Map Designation: Residential 1

Acreage: 0.30 acres Tax Account #: 3008374

Site Location: West side of Hwy. A1A, approx. 0.83 miles south of Budris Rd.

Current Zoning: EA & SR

Requested Zoning: all SR

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single Family Resident	EA, SR	PRIV-CONS
South	Vacant	EA, SR	PRIV-CONS
East	Vacant	SR	RES 1
West	Indian River Lagoon	EA	PRIV-CONS

Background & Purpose

The applicant is seeking to amend the Future Land Use designation of a .30 acre portion of a parcel of land totaling 1.02 acres from Private Conservation (PRIV-CONS) to Residential 1 (RES 1). The .24 acre piece of the greater parcel to the east already retains the Residential 1 (RES 1) Future Land Use designation and the remaining .54 portion to the west will retain the Private Conservation (PRIV-CONS) Future Land Use designation. The subject parcel is located within unincorporated Brevard County on the west side of State Road A1A (S.R. A1A), approximately .83 miles south of Budris Road.

The subject portion of the greater parcel abuts a single-family residence to the north, a vacant portion of the greater parcel and S.R. A1A to the east, vacant land to the south and the Indian River Lagoon to the west. The subject parcel of land has two (2) Future Land Use designations, as do the properties to the north and south of this site.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the Zoning classification from Environmental Area (EA) to Suburban Residential (SR).

Environmental Resources

Please refer to comments provided by the Natural Resource Management Department.

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Residential 1 (maximum of 1 unit per acre)

Policy 1.9

The Residential 1 (RES 1) land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 (RES 1) land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 (RES 1) land use designation; or

The subject portion of the overall parcel is located adjacent to Residential 1 (RES 1) to the north east and south and adjacent to Private Conservation (PRIV CONS) lands abutting the Indian River Lagoon to the west.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser density; or

The general area surrounding this portion of the overall parcel has Public Conservation (PUB-CONS), Private Conservation (PRIV-CONS) and Residential 1 (RES 1) Future Land Use designations. The area along this section of the State Road A1A (SR A1A) corridor is mainly residential in nature. The subject parcel is typical of the lots within the area that were designed for residential use.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1 (RES 1).

This area along S.R. A1A is in Unincorporated Brevard County is not within proximity to an incorporated area.

- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized by properties with the CHHA.

This is one residential lot totaling just over one acre and there is not an intent to develop a Planned Unit Development (PUD) due to the size of the parcel.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not generate traffic that would cause deficiency of adopted roadway levels of service. Today, the traffic counts indicate that this section of SR A1A is at 16.97% of the maximum acceptable volume (MAV). The RES 1 portion of this overall parcel to the east has connectivity to SR A1A to the east.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Private Conservation (PRIV-CONS) to Residential 1 (RES 1) on a .30 acre portion of the total 1.02 acre parcel. This area of Unincorporated Brevard County is comprised of mainly RES 1, PRIV-CONS and Public Conservation (PUB-CONS) land use designations along this section of the State Road (SR A1A) corridor.

A preliminary concurrency analysis does not indicate that the proposed change in FLU designation would result in any impacts to level of service.

This request is accompanied by a companion proposal for a change of Zoning classification from Environmental Area (EA) to Suburban Residential (SR), resulting from an analysis which further delineated where wetlands are present.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 18PZ00063 FLU Request: Priv-cons to Res 1 P&Z Hearing: 08/06/18	Applicant: Eva McMillan BCC Hearing: 09/06/18
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This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, County or Local Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	Class II, AP, OFW
Floodplains	Mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp 30, Rng. 39, Sec. 06;
Tax ID No. 3008374**

The subject parcel contains mapped NWI and SJRWMD wetlands and hydric soils (Bessie muck, tidal) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. An Environmental Assessment Report prepared by Atlantic Environmental Solutions on January 15, 2018, delineated approximately 0.5 acres of wetlands on the western portion of the site. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696 of the Wetland Protection ordinance. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, site planning or permit submittal.

The subject parcel contains mapped aquifer recharge soils (Palm Beach sand and Canaveral-Anclote complex-gently undulating) 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.

The western portion of the property is located on Aquatic Preserve, Outstanding Florida Waters, and Class II surface waters. A 50-foot surface water protection buffer (buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the buffer. Accessory structures within the buffer are permissible with conditions (e.g., stormwater management provided, avoidance/minimization of impacts, maximum 30% impervious). The applicant is encouraged to contact NRM at 321-633-2016 prior to any land activities, plan or permit submittal.

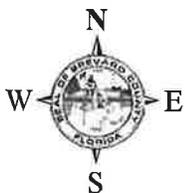
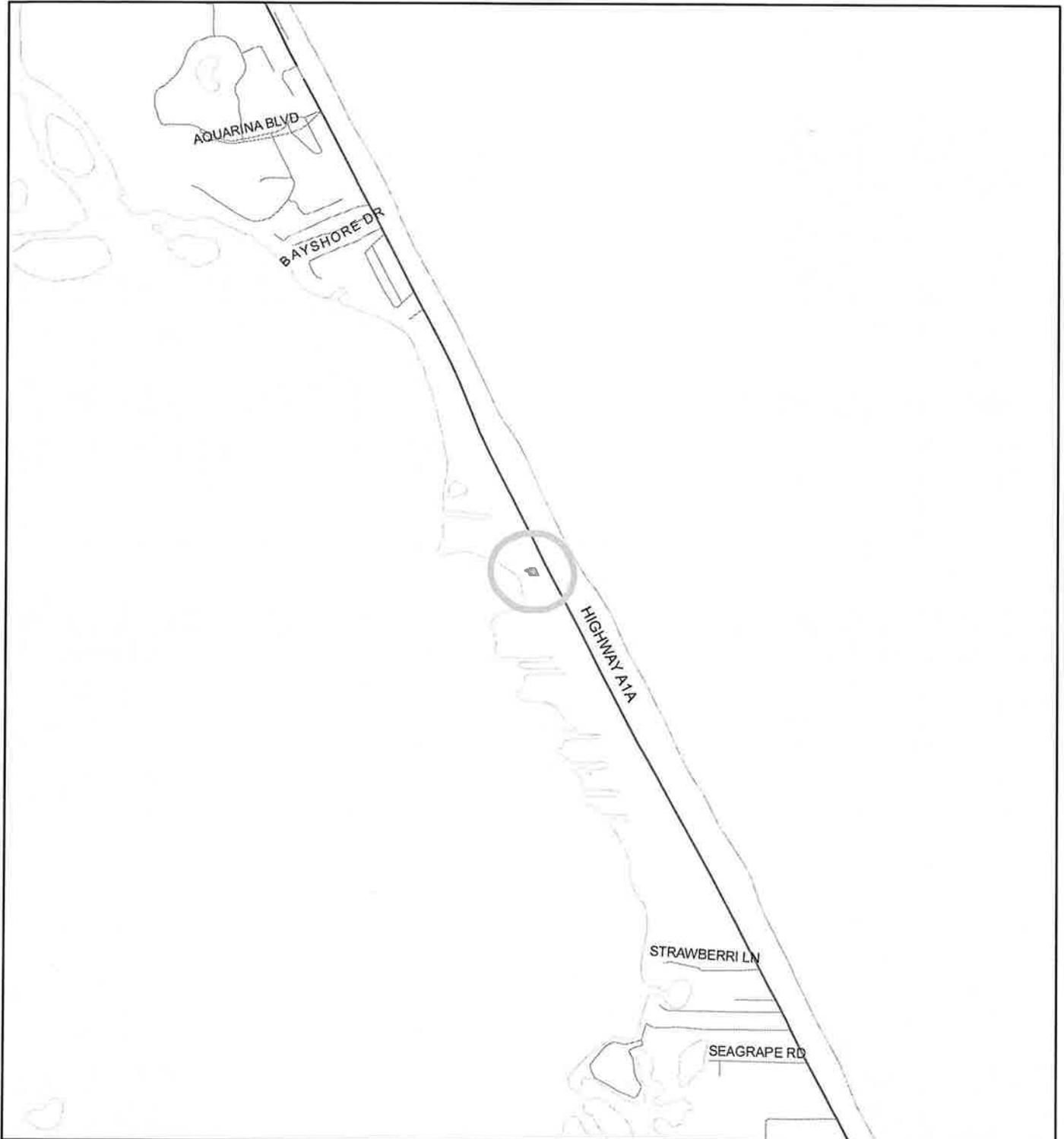
A large portion of the property is mapped as being within the estuarine floodplain as identified by the Federal Emergency Management Agency as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area, often associated with increased density, increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

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 shall obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service (FWS), as applicable.

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

McMILLAN, EVA, TRUSTEE
18PZ00063 SMALL SCALE AMENDMENT 18S.07



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.

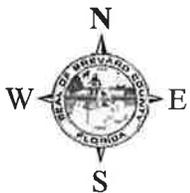
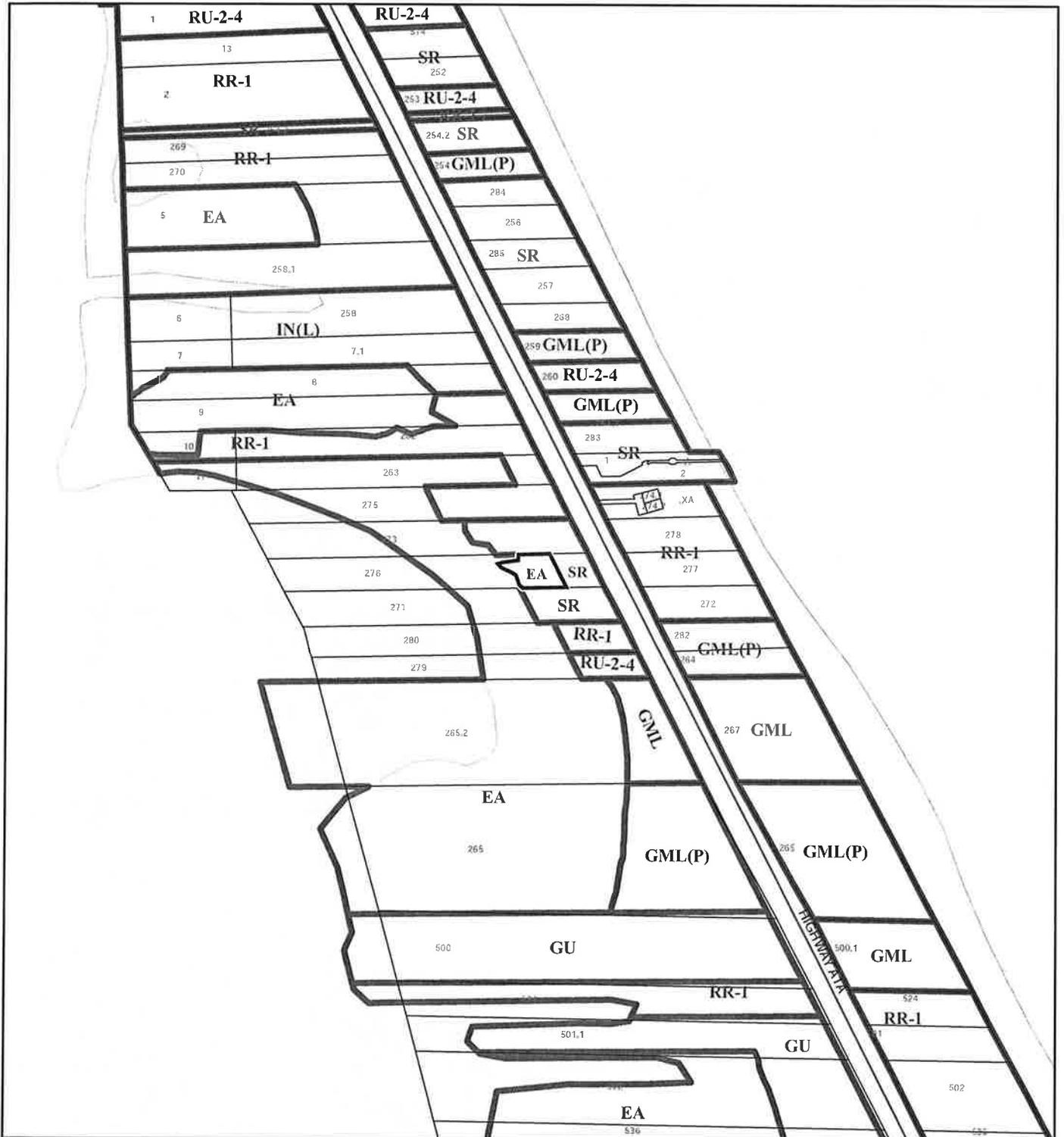
Produced by BoCC - GIS Date: 7/2/2018

-  Buffer
-  Subject Property

ZONING MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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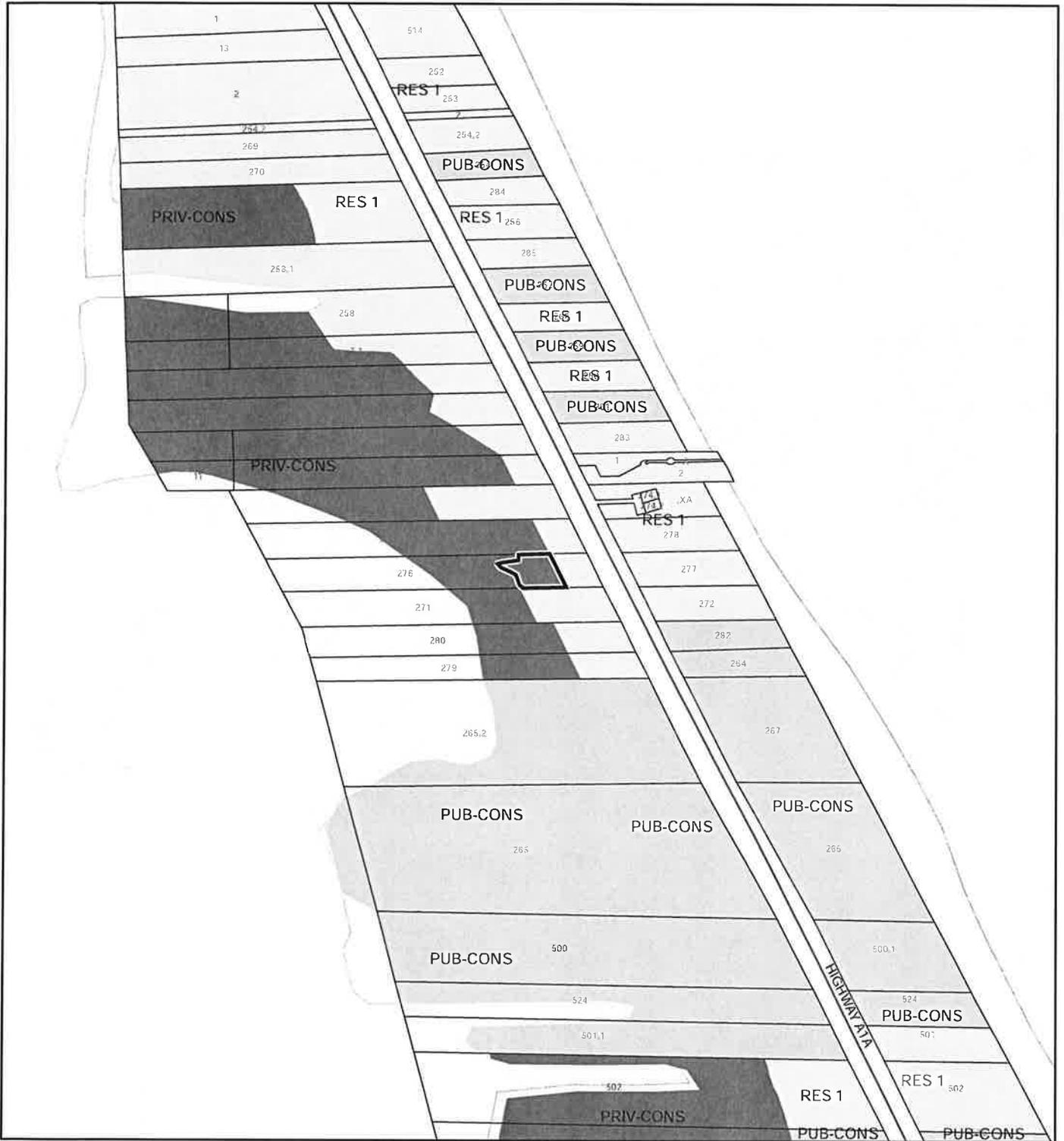
Produced by BoCC - GIS Date: 7/2/2018

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

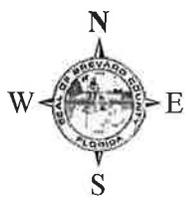
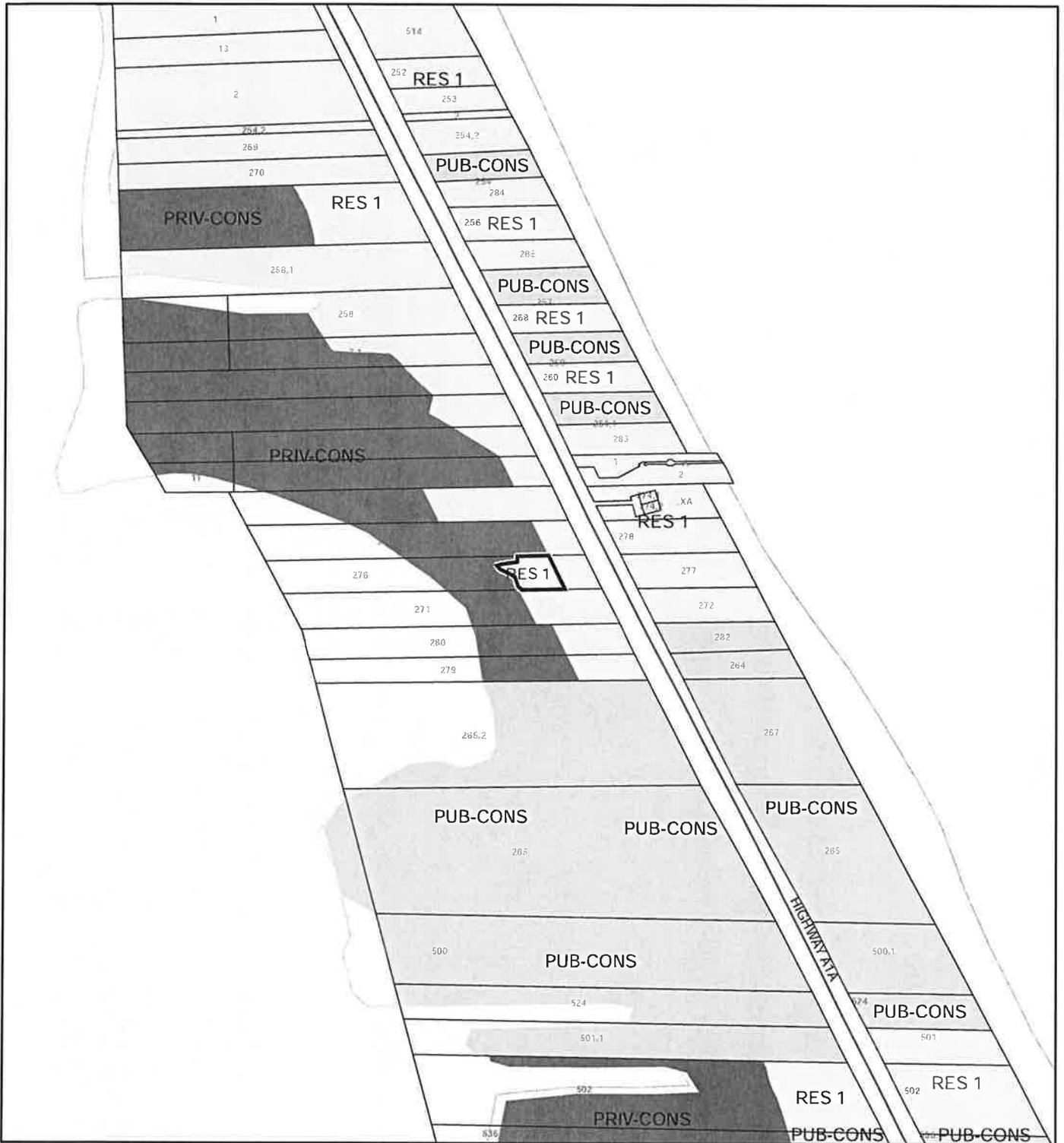
— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 7/2/2018

PROPOSED FUTURE LAND USE MAP

McMILLAN, EVA, TRUSTEE
 18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

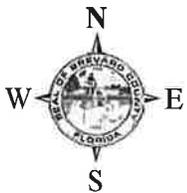
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Produced by BoCC - GIS Date: 7/2/2018

AERIAL MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2018

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Produced by BoCC - GIS Date: 7/2/2018

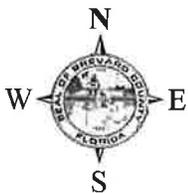
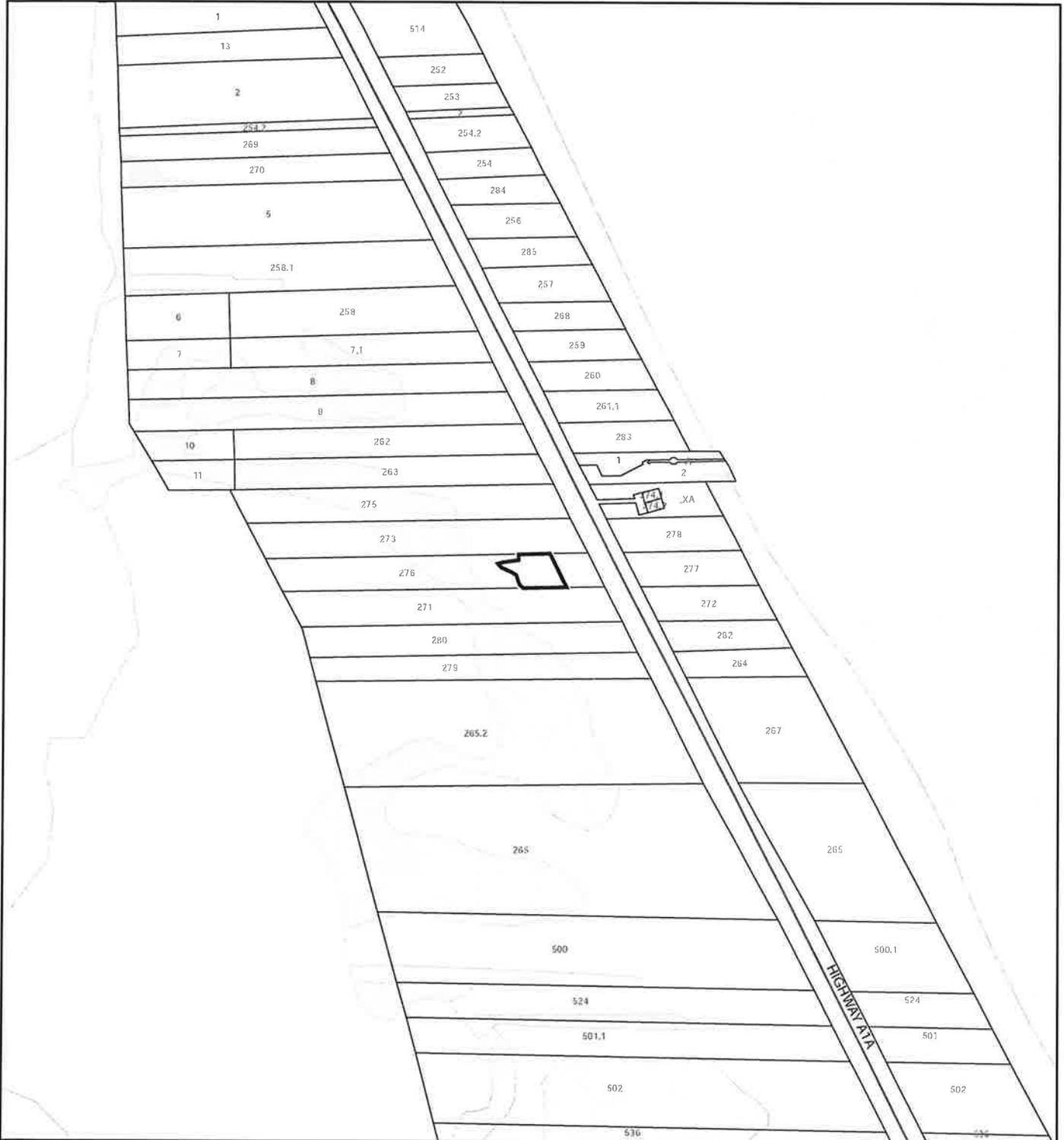
— Subject Property

▭ Parcels

NWI WETLANDS MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/2/2018

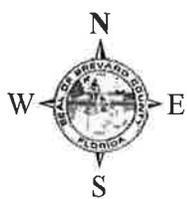
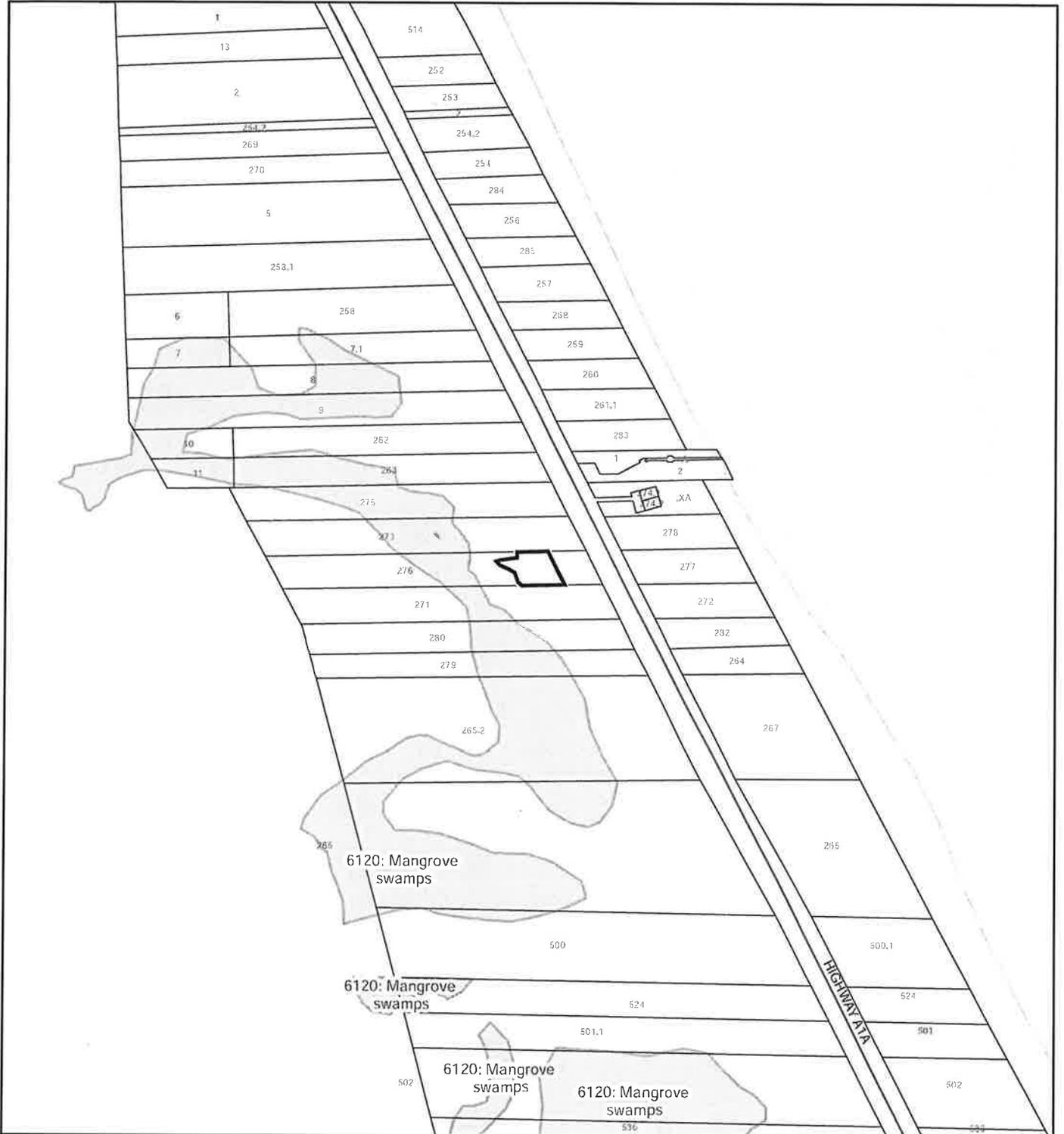
National Wetlands Inventory (NWI)

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

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/2/2018

SJRWMD FLUCCS WETLANDS

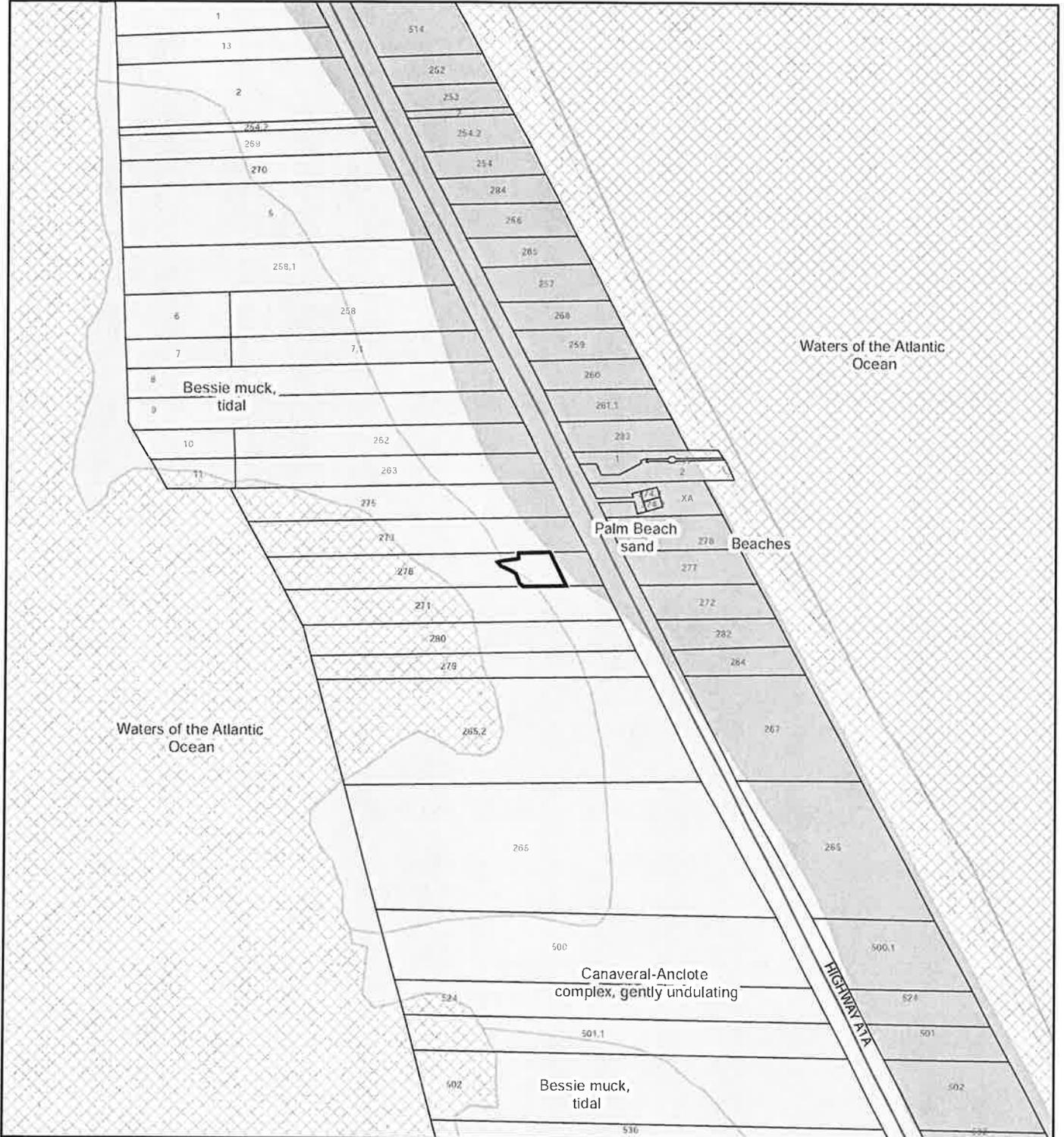
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

USDA SCSSS SOILS MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/2/2018

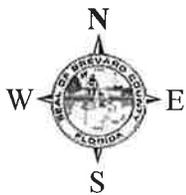
USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None
-  Subject Property
-  Parcels

FEMA FLOOD ZONES MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/2/2018

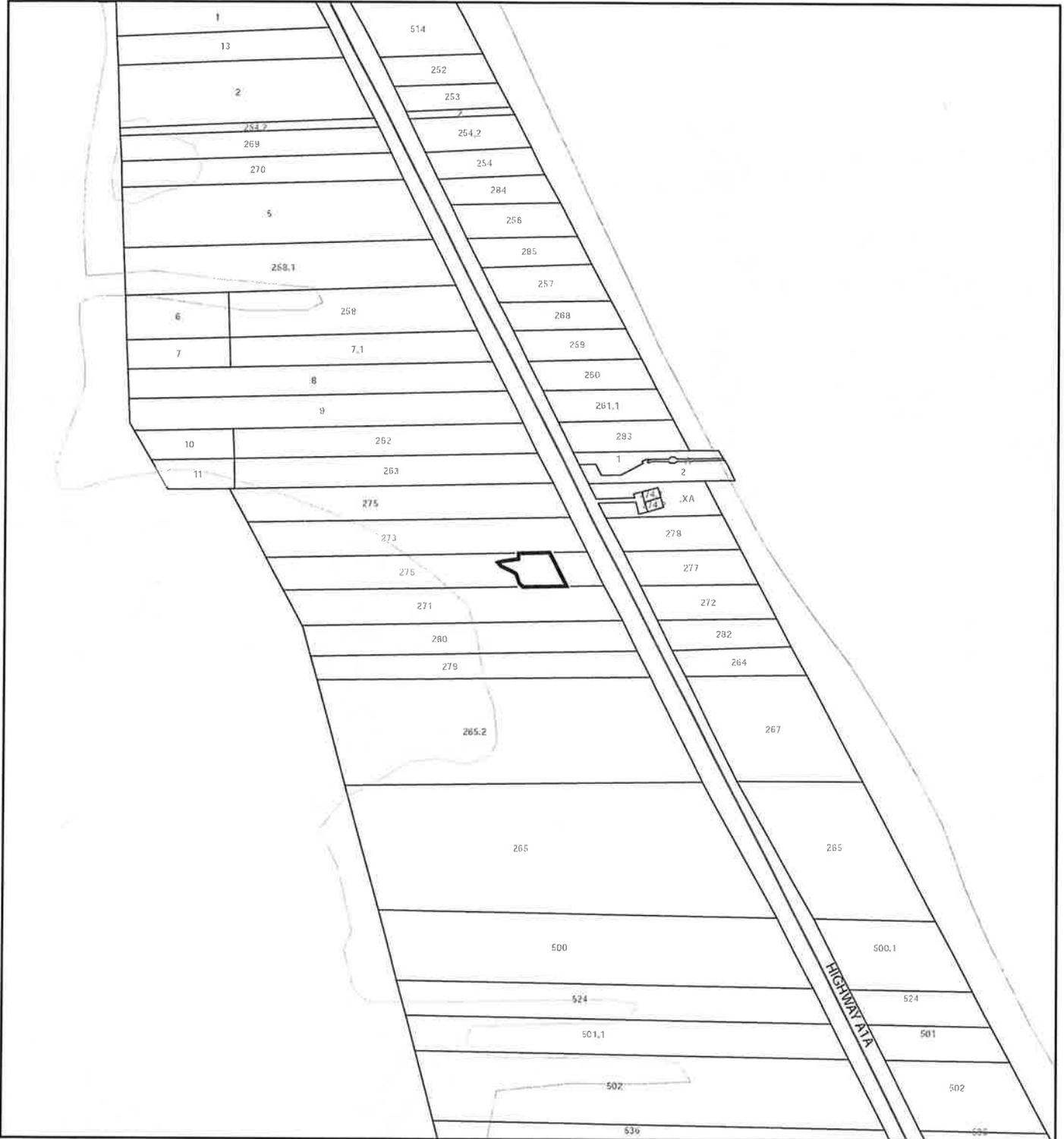
FEMA Flood Zones

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

EAGLE NESTS MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/2/2018

 Subject Property

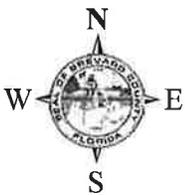
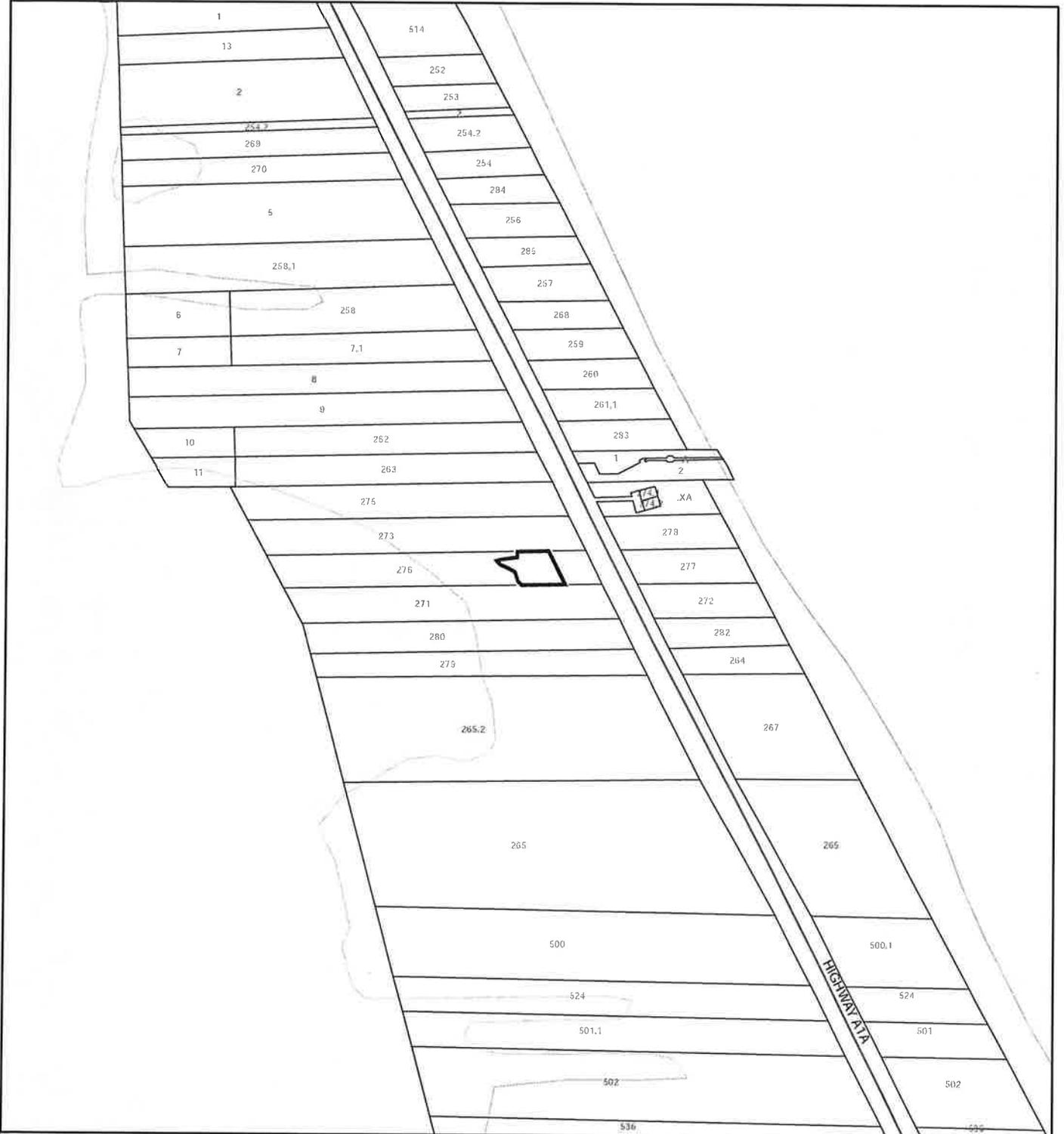
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



1:4,800 or 1 inch = 400 feet

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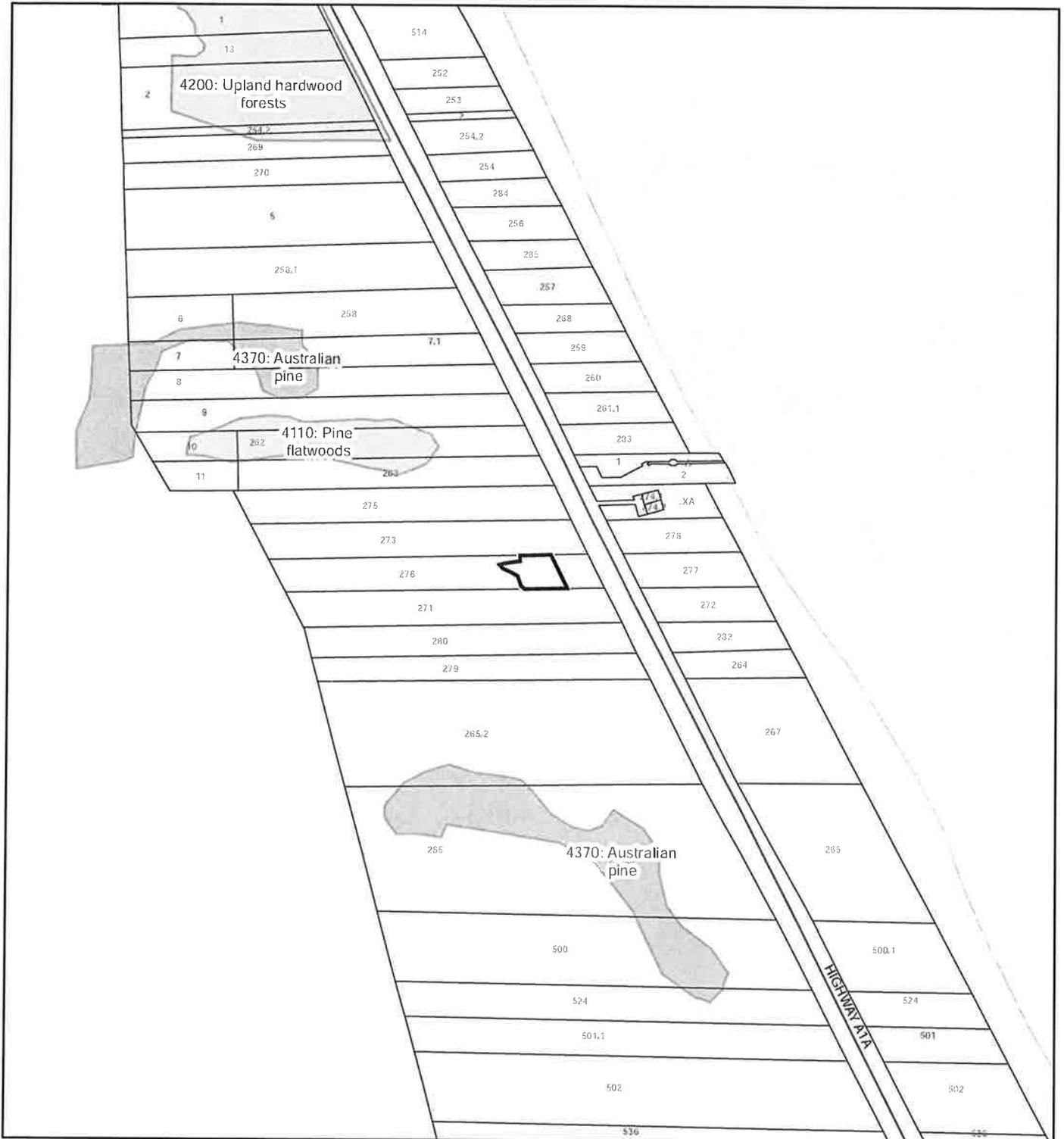
Produced by BoCC - GIS Date: 7/2/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

McMILLAN, EVA, TRUSTEE

18PZ00063 SMALL SCALE AMENDMENT 18S.07



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: 7/2/2018

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

ORDINANCE NO. 18- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2018, 18S.07, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2018 as Plan Amendment 18S.07; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 18S.07; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on July 9, 2018, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 18S.07, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 2, 2018, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 18S.07; and

WHEREAS, Plan Amendment 18S.07 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 18S.07 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 18S.07 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 18S.07, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Community Affairs, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this ____ day of _____, 2018.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2018.

EXHIBIT A
18S.07 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

1. Proposed Future Land Use Map

EXHIBIT B
FINDINGS OF FACT

Contents

1. Legal Description

AD#3029335 July 19, 2018

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, AUGUST 6, 2018, and THURSDAY, SEPTEMBER 6, 2018. DISTRICT 3 1. (18P200076) - ANTHONY LOPEZ AND EUGENE R. LOMANDO - (Scott Knox) - request a Small Scale Plan amendment (185.06) to change the future land use from CC, HC, and Residential 2, to all CC, on property described as Tax Parcels 272 and 275, as recorded in ORB 3108, Pages 2618 - 2619, of the Public Records of Brevard County, Florida, Section 14, Township 30, Range 38. (1.06 acres) Located on the west side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd. (8480 & 8490 U.S. Hwy 1, Micco). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment 185.06: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. DISTRICT 3 2. (18P200077) - ANTHONY LOPEZ AND EUGENE R. LOMANDO - (Scott Knox) - request a change of zoning classification from BU-1 (General Retail Commercial) and TR-3 (Single-Family Mobile Home) to all BU-1, on property described as Tax Parcels 272 and 275, as recorded in ORB 3108, Pages 2618 - 2619, of the Public Records of Brevard County, Florida, Section 14, Township 30, Range 38. (1.06 acres) Located on the west side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd. (8480 & 8490 U.S. Hwy 1, Micco). DISTRICT 3 3. (18P200063) - EVA McMILLAN, TRUSTEE - (Clayton Bennett) - requests a Small Scale Plan amendment (185.07) to change the future land use from Private Conservation to Residential 1, on property described as a portion of the south 100 ft. of the north 300 ft. of the parcel of land described in ORB 1209, Page 449 of the Public Records of Brevard County, Florida, being part of Government Lot 2, Section 6, Township 30S, Range 39E, lying west of S.R. A1A and being more particularly described as follows: From the intersection of the centerline of S.R. A1A (100-ft. RW) and the north line of said Government Lot 2 run S27deg05'28"E along the centerline of S.R. A1A, 328.20 ft. to the north line of the south 100 ft. of ORB 1209, Page 449, also being the south line of the north 289.77 ft. of Government Lot 2; thence run N89deg05'07"W along the north line of said south 100 ft. 56.63 ft. to the west right-of-way line of S.R. A1A and the point of beginning; thence run S27deg05'28"E along the right-of-way line 113.26 ft. to the south line of said south 100 ft.; thence run N89deg05'07"W along said south line 232.45 ft.; thence departing from the south line run N45deg30'41"W 13.25 ft.; thence N14deg08'30"W 29.22 ft.; thence N52deg21'25"W 15.73 ft.; thence N71deg16'51"W 30.14 ft.; thence N45deg01'35"W 14.98 ft.; thence N71deg47'52"E 13.20 ft.; thence N72deg53'00"E 43.31 ft.; thence N00deg54'53"E 16.04 ft. to the north line of said south 100 ft.; thence run S89deg05'07"E along said north line 195.02 ft. to the point of beginning. Less and except the east 97 ft. (0.30 acres) Located on the west side of Highway A1A, approx. 0.83 mile south of Budris Rd. (8344 Hwy A1A, Melbourne Beach). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 185.07: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. DISTRICT 3 4. (18P200067) - EVA McMILLAN, TRUSTEE - (Clayton Bennett) - requests a change of zoning classification from EA (Environmental Area) and SR (Suburban Residential) to all SR, on property described as a portion of the south 100 ft. of the north 300 ft. of the parcel of land described in ORB 1209, Page 449 of the Public Records of Brevard County, Florida, being part of Government Lot 2, Section 6, Township 30S, Range 39E, lying west of S.R. A1A and being more particularly described as follows: From the intersection of the centerline of S.R. A1A (100-ft. RW) and the north line of said Government Lot 2 run S27deg05'28"E along the centerline of S.R. A1A, 328.20 ft. to the north line of the south 100 ft. of ORB 1209, Page 449, also being the south line of the north 289.77 ft. of Government Lot 2; thence run N89deg05'07"W along the north line of said south 100 ft. 56.63 ft. to the west right-of-way line of S.R. A1A and the point of beginning; thence run S27deg05'28"E along the right-of-way line 113.26 ft. to the south line of said south 100 ft.; thence run N89deg05'07"W along said south line 232.45 ft.; thence departing from the south line run N45deg30'41"W 13.25 ft.; thence N14deg08'30"W 29.22 ft.; thence N52deg21'25"W 15.73 ft.; thence N71deg16'51"W 30.14 ft.; thence N45deg01'35"W 14.98 ft.; thence N71deg47'52"E 13.20 ft.; thence N72deg53'00"E 43.31 ft.; thence N00deg54'53"E 16.04 ft. to the north line of said south 100 ft.; thence run S89deg05'07"E along said north line 195.02 ft. to the point of beginning. (0.78 +/- acres) Located on the west side of Highway A1A, approx. 0.83 mile south of Budris Rd. (8344 Hwy A1A, Melbourne Beach). Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, AUGUST 6, 2018, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, SEPTEMBER 6, 2018, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Per: Tad Cabrer, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator II.

From: [Sterk, Erin](#)
To: [Tobia, John](#)
Cc: [Jones, Jennifer](#)
Subject: Re: Meeting Disclosure: Item H3 and 4 (Eva McMillan)
Date: Friday, August 31, 2018 4:48:39 PM

Commissioner,

Thank you for notifying me. We will add the disclosure to the record.

Regards,
Erin

On Aug 31, 2018, at 2:15 PM, Tobia, John <John.Tobia@brevardfl.gov> wrote:

Ms. Sterk:

In regards to the upcoming agenda items H3 & H4 (Eva McMillan) for the Planning & Zoning meeting on September 6th, 2018, please be advised in advance that a meeting that took place on August 28th, at 10:00AM at Commissioner Tobia's office, located at:

2539 Palm Bay Rd. NE
Ste. 4
Palm Bay, FL 32908

The parties present were Commissioner Tobia, Clayton Bennett and Eva McMillan.

This meeting lasted approximately thirty minutes, during which the above individuals provided information on their desired change in zoning classification.

Sincerely,

<image001.gif>
John Tobia
County Commissioner, District 3

<image002.jpg>

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