



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

9/1/2022

Subject:

Laura and Earl McCullough request a change of zoning classification from SR, with an existing BSP, to RR-1, retaining the existing BSP. (22Z00026) (Tax Account 2320550) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from SR (Suburban Residential) with an existing BSP (Binding Site Plan), to RR-1 (Rural Residential), retaining the existing BSP.

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from SR with an existing BSP to RR-1, retaining BSP. The BSP, attached to zoning Resolution Z-8165, contains the following conditions: 1) Limit density to 120 units over 120 acres; 2) Work with governing agencies regarding wetlands regulations & permitting. The SR zoning has a minimum lot size of 0.5-acres and RR-1 has a minimum lot size of 1-acre. To keep the density limited they are requesting to rezone to a classification that meets the BSP criteria. The applicants would like to keep up to 2 horses on their property for personal use. According to Brevard County Code of Ordinance Section 62-2100.5(2) the keeping of horses in proposed zoning classification RR-1 is an accessory agricultural use to a residence and they can have up to 4 horses per acre.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. Within a half-mile radius there are no other parcels with the RR-1 zoning classification. Lot size for this zoning is a minimum of one (1) acre and allows for farm animals and fowl, including horses. The lot size of the subject parcel is similar to those in the surrounding area.

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

On August 11, 2022, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00026

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

WHEREAS, **Laura and Earl McCullough** have requested a change of zoning classification from SR (Suburban Residential), with an existing BSP (Binding Site Plan), to RR-1 (Rural Residential), retaining the existing BSP, on property described as Tax Parcel 506, as recorded in ORB 9137, Pages 2654 - 2660, of the Public Records of Brevard County, Florida. **Section 36, Township 23, Range 36.** (2.35 acres) Located on the north side of Hall Rd., approx. 285 ft. east of Wood Duck Lane. (4400 Sea Island Dr., Merritt Island); and

WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be approved; and


WHEREAS, the Board, after considering said application and North Merritt Island Dependent Special District Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from SR, with an existing BSP, to RR-1, retaining the existing BSP, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of September 1, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on September 1, 2022.

ATTEST:

RACHEL M. SADOFF, CLERK

(SEAL)

NMI Hearing – August 11, 2022

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 year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

22Z00026

Earl T. and Laura G. McCullough

SR (Suburban Residential) with BDP to RR-1 (Rural Residential) retaining BDP

Tax Account Number: 2320550
 Parcel I.D.: 23-36-36-00-506
 Location: North side of Hall Rd. approximately 285 ft. east of Wood Duck Ln.
 (District 2)
 Acreage: 2.35 acres
 NMI Board: 8/11/2022
 Board of County Commissioners: 9/01/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255 as it has an approved BDP to limit density to one (1) unit per acre.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	SR w/Binding Development Plan	RR-1 retaining Binding Development Plan
Potential*	One single-family home with Binding Development Plan	One single-family home retaining Binding Development Plan
Can be Considered under the Future Land Use Map	YES** RES 1	YES RES 1

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

** Parcel includes an existing Binding Site Plan limiting density to 120 units over 120 acres.

Background and Purpose of Request

The applicants are seeking a change of zoning classification from SR (Suburban Residential) with an existing BDP to RR-1 (Rural Residential) retaining BDP. The BDP which is attached to Zoning Resolution, **Z-8165**, 1) Limit density to 120 units over 120 acres, 2) Work with governing agencies regarding wetlands regulations & permitting. SR zoning has a minimum lot size of 0.5-acres and RR-1 has a minimum lot size of 1-acre. To keep the density limited they are requesting to rezone to a classification that meets the BDP criteria. The applicants would like to keep up to 2 horses on their

property for personal use. According to Brevard County Code of Ordinance Section 62-2100.5(2) the keeping of horses in proposed zoning classification RR-1 is an accessory agricultural use and they can have up to 4 horses per acre. The subject parcel is currently developed with one single-family residence since 1999. A flag lot access approval was issued under AA-1276 on April 29, 1998.

Access to this single-family residence is from the south from E. Hall Rd. to Sea Island Ln. The subject parcel was recorded into the current configuration per Official Records Book 3844, Page 2679, on May 20, 1998.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed RR-1 zoning is also consistent with the existing Residential 1 FLU designation.

Applicable Land Use Policies

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

The applicant's request can be considered consistent with the existing Future Land Use.

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

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

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

Criteria:

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

The applicant has stated the proposed use of the rezoning classification for the purpose of having up to 2 horses on the property. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. Residential uses will need to comply with Brevard County's Performance Standards, as defined by Sections 62-2251 through 62-2272.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to three (3) acres.

2. actual development over the immediately preceding three years; and

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

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

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

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

No material violation of relevant policies has been identified.

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

The subject lot is 2.35-acres in size and is abutting AU undeveloped property to the east. There is a 2.5-acre AU single residential lot to the north and Wood Duck Lane to the immediate west. There is a 1.32-acre SR single residential developed lot to the north west abutting Wood Duck Lane and White Ibis Lane. Below to the south east abutting Wood Duck Lane and White Ibis Lane is a 1.22-acre SR single residential developed lot. There is a 1.26-acre SR single residential lot to the south west and another 1.26-acre SR single residential lot to the south east. The parcel was originally zoned GU and was rezoned from GU to SR on August 1, 1988, as zoning action **Z-8165**.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. The subject lot is 2.35 acres in size and is abutting AU undeveloped property to the east. To the north is a 2.5-acre AU single residential developed lot. Wood Duck Lane is to the immediate west. There is a 1.32-acre SR single residential developed lot to the north west abutting Wood Duck Lane and White Ibis Lane. Below to the south east abutting Wood Duck Lane and White Ibis Lane is a 1.22-acre SR single residential developed lot. There is a 1.26-acre SR single residential developed lot to the south west and another 1.26-acre SR single residential developed lot to the south east.

To the south east there is a planned unit development (PUD) called The Savannahs. To the north east there is an undeveloped PUD called Tranquility Estates. To the south west is a developed PUD called Bella Vita approved under Z-6625.

Within a half-mile radius there are no other parcels with the RR-1 zoning classification. Lot size for this zoning is a minimum of one (1) acre and allows for horses. The lot size of the subject parcel is similar to those in the surrounding area.

There have been a total of two zoning actions over the last three years within a half mile radius. There was a minor PDP amendment to the PUD (**22PUD00004**) which is located to the north side of E. Hall Rd. There was an Administrative Action extending the PDP from 22PUD00004, from 5/28/2021 through 5/28/2022 (**21AA00032**). Those have been the only zoning actions within a half mile radius within the last three years.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 1
South	SF residences	SR	RES 1
East	SF residence	AU	RES 1
West	SF residences	SR	RES 1

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

SR zoning classification permits single-family residences of relatively spacious land character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. Must meet a minimum lot size of 0.5 acres, with a minimum lot width of 100 feet and depth of 150 feet. The minimum house size in SR is 1300 square feet.

RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principle residence within RR-1 zoning.

PUD is an area of land to provide for a variety of residential and compatible uses and common open space. It is intended to encourage the development of planned residential neighborhoods and communities that provide a full range of residence type, as well as industrial, commercial and institutional land uses.

Preliminary Concurrency

The closest concurrency management segment to the subject property is East Hall Road, between N. Courtenay Parkway to N. Tropical Trail, which has a Maximum Acceptable Volume (MAV) of 41,790

trips per day, a Level of Service (LOS) of D, and currently operates at 37.36% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 37.36% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 560 feet south on E. Hall Road.

Environmental Constraints

- Hydric Soils/Wetlands
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The entire parcel is mapped with hydric soils, an indicator that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

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

For Board Consideration

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

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

Item #22Z00026

Applicant: Laura McCullough

Zoning Request: SR to RR-1

Note: Applicant wants 1 or 2 horses

P&Z Hearing Date: 08/15/22; **BCC Hearing Date:** 09/01/22

Tax ID No: 2320550

- 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:

- Hydric Soils/Wetlands
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The entire parcel is mapped with hydric soils, an indicator that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section

62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

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

Land Use Comments:

Hydric Soils/Wetlands

The entire parcel is mapped with hydric soils (Copeland-Bradenton-Wabasso complex and Riviera & Winder soils) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, or building permit submittal. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Floodplain

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

Indian River Lagoon Nitrogen Reduction Overlay

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required if no sewer is available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

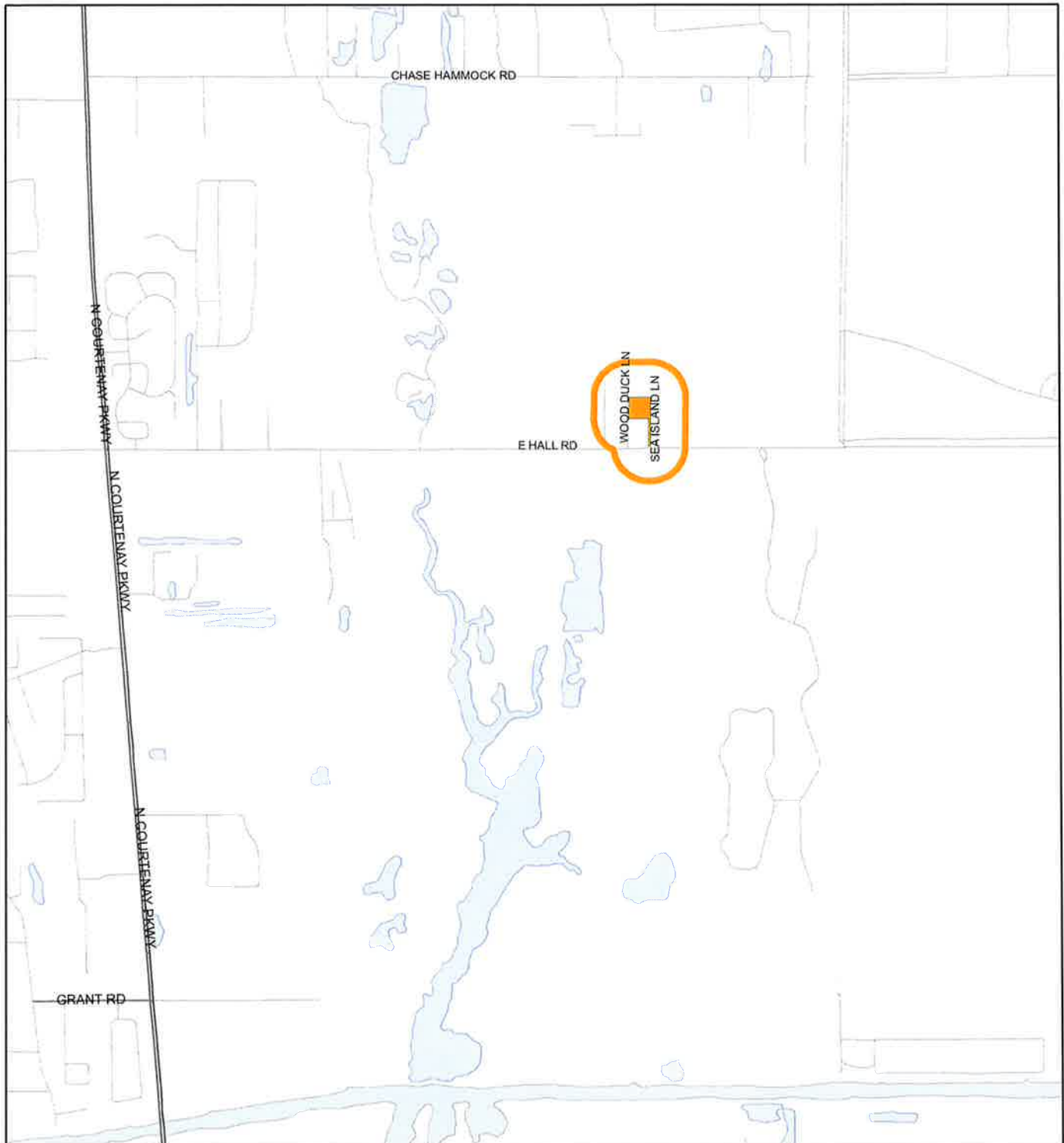
Protected Species

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

MCCULLOUGH, LAURA

22Z00026





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.

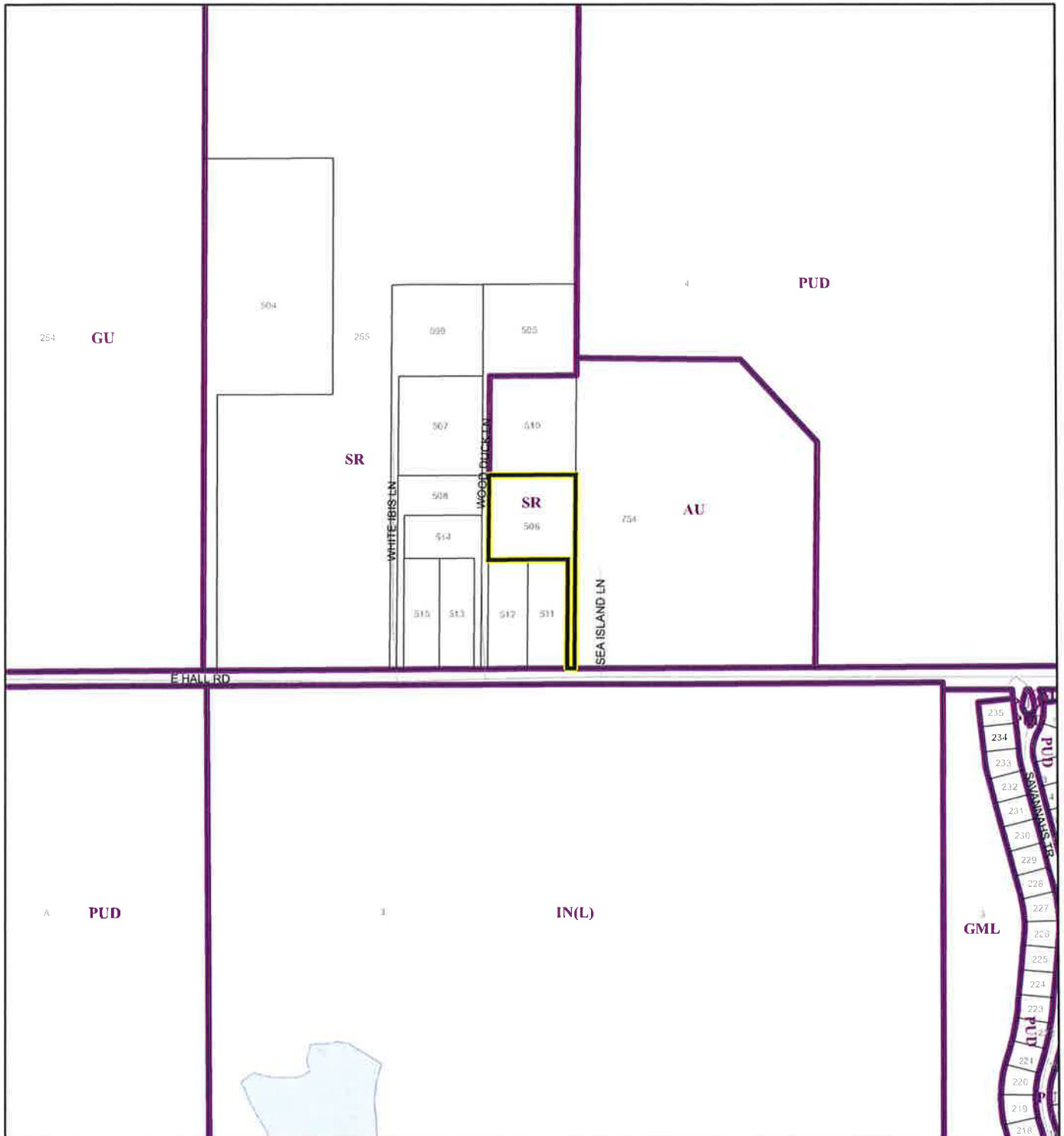
Produced by BoCC - GIS Date: 6/13/2022

-  Buffer
-  Subject Property

ZONING MAP

MCCULLOUGH, LAURA

22Z00026



1:6,000 or 1 inch = 500 feet

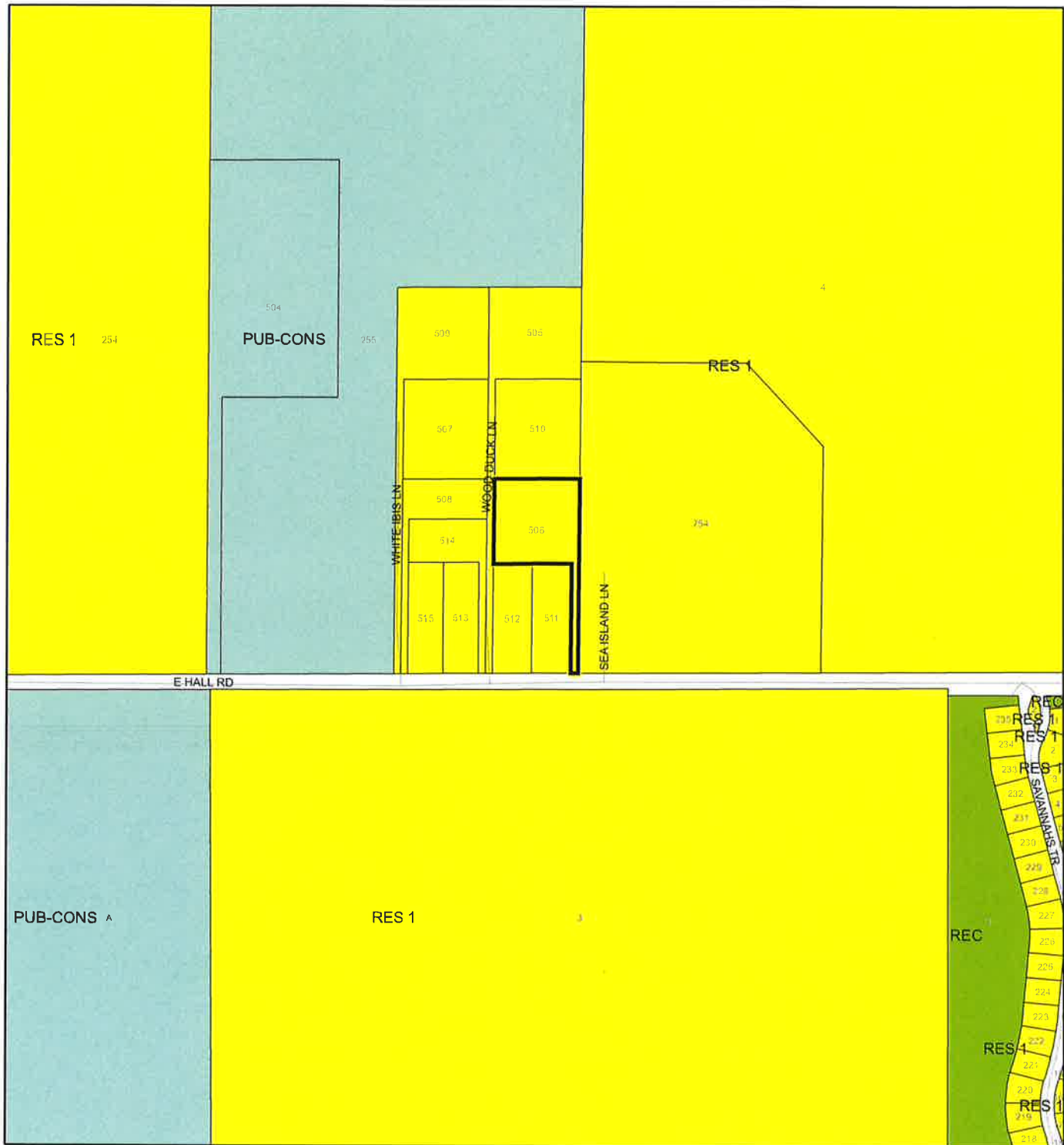
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

MCCULLOUGH, LAURA
22Z00026



1:6,000 or 1 inch = 500 feet

— Subject Property
□ Parcels

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Produced by BoCC - GIS Date: 6/13/2022

AERIAL MAP

MCCULLOUGH, LAURA

22Z00026



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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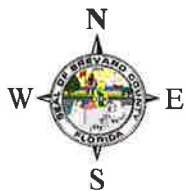
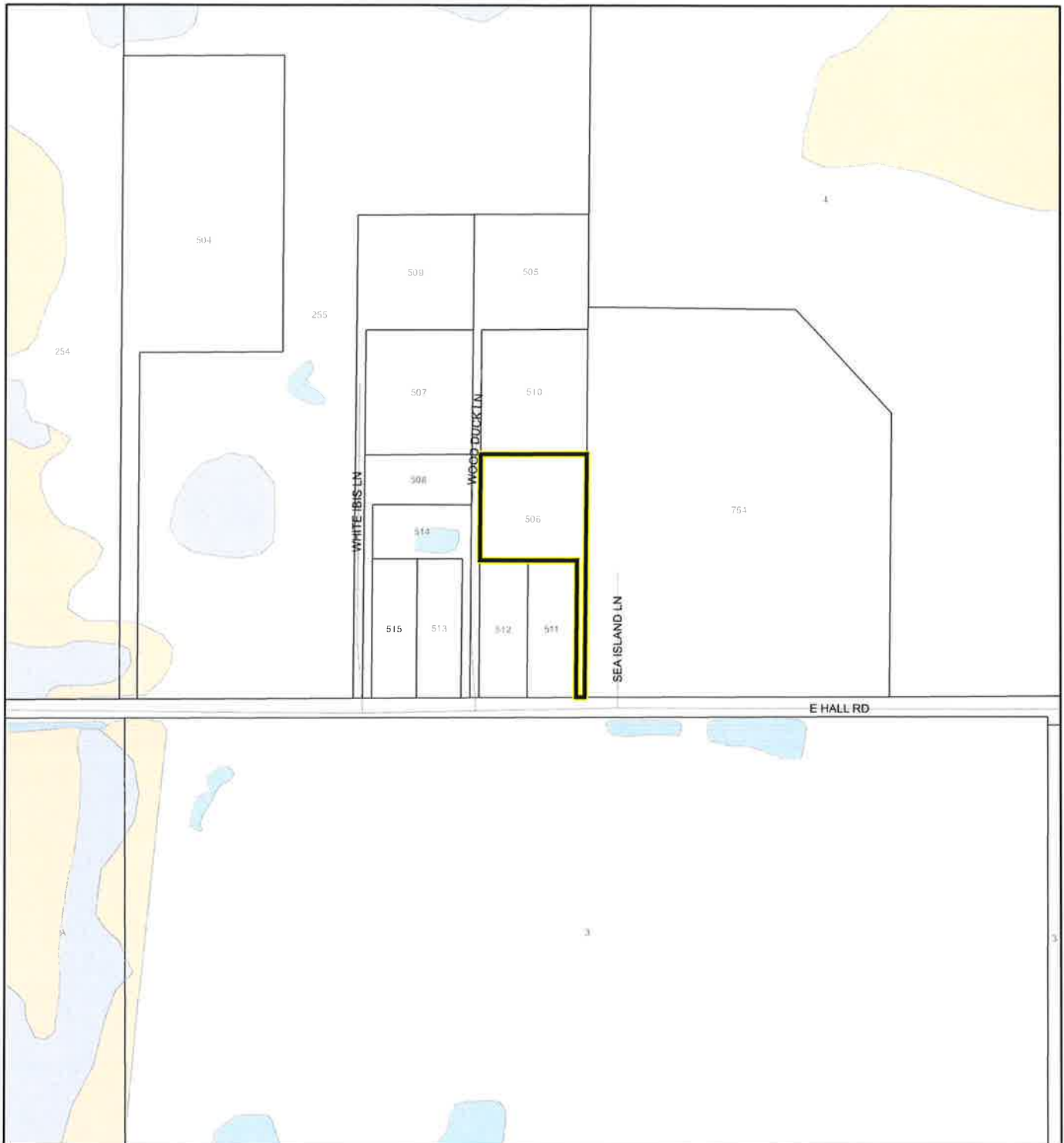
 Subject Property

 Parcels

NWI WETLANDS MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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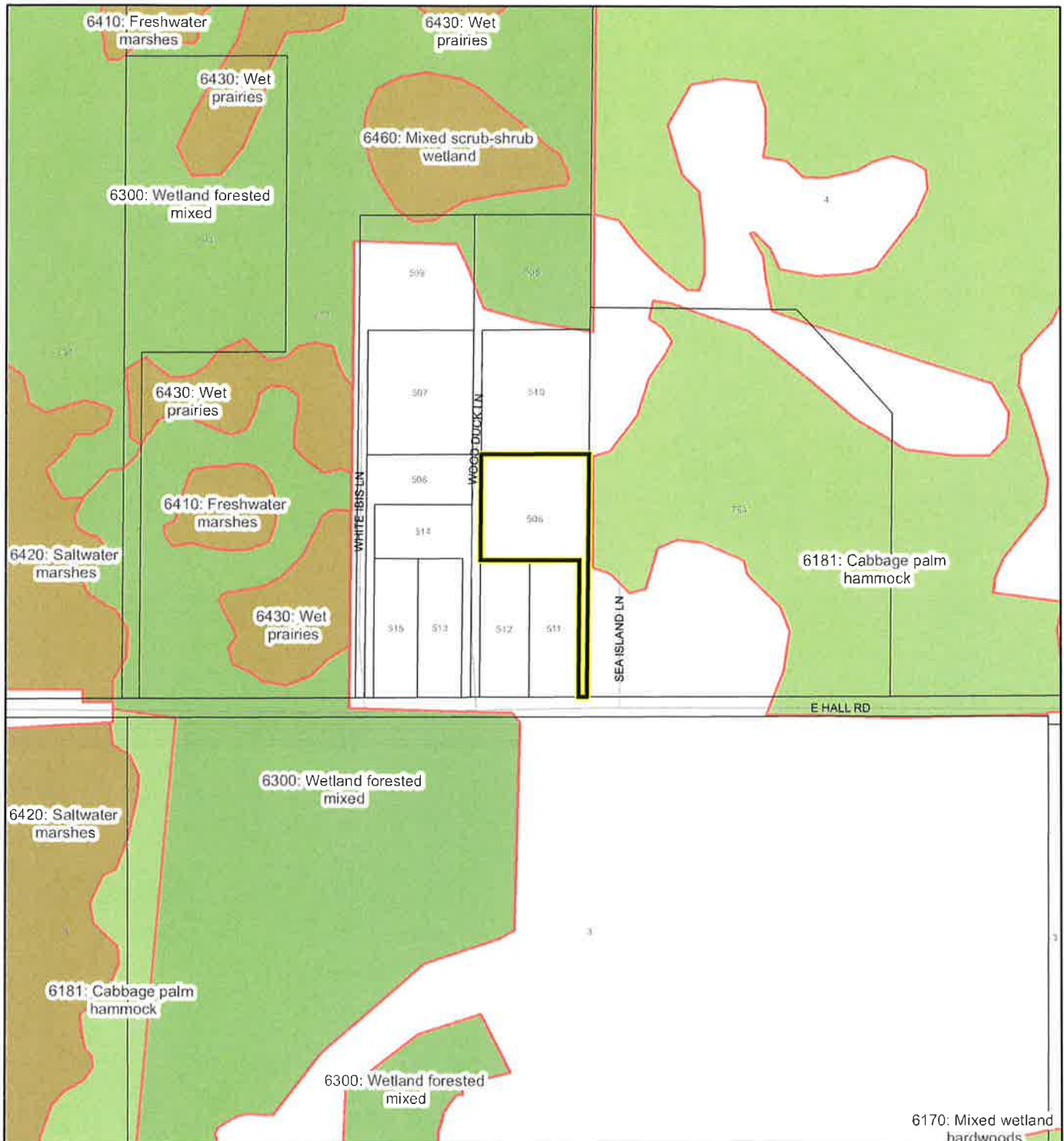
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

SJRWMD FLUCCS WETLANDS

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

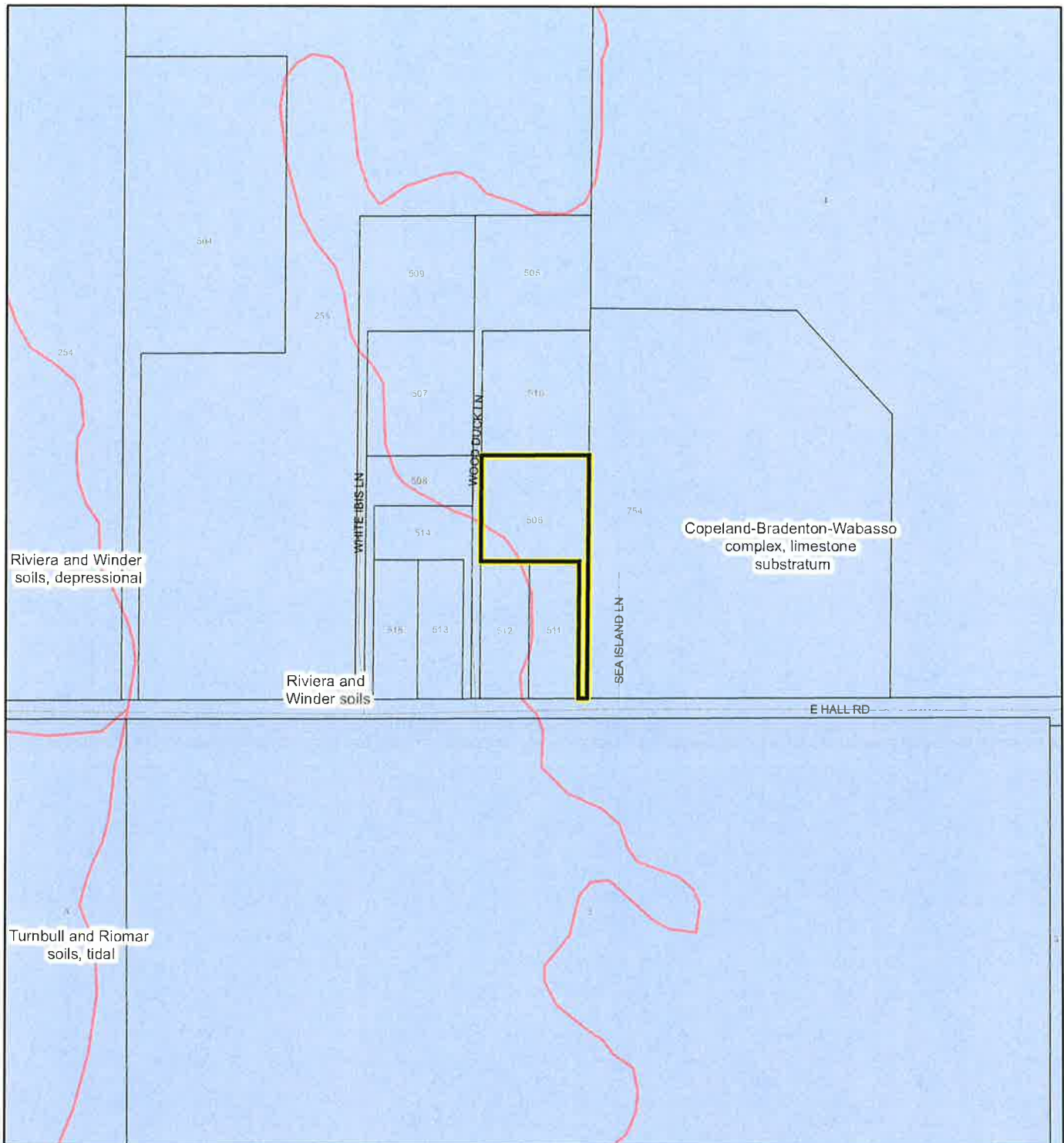
Subject Property

Parcels

USDA SCSSS SOILS MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

USDA SCSSS Soils

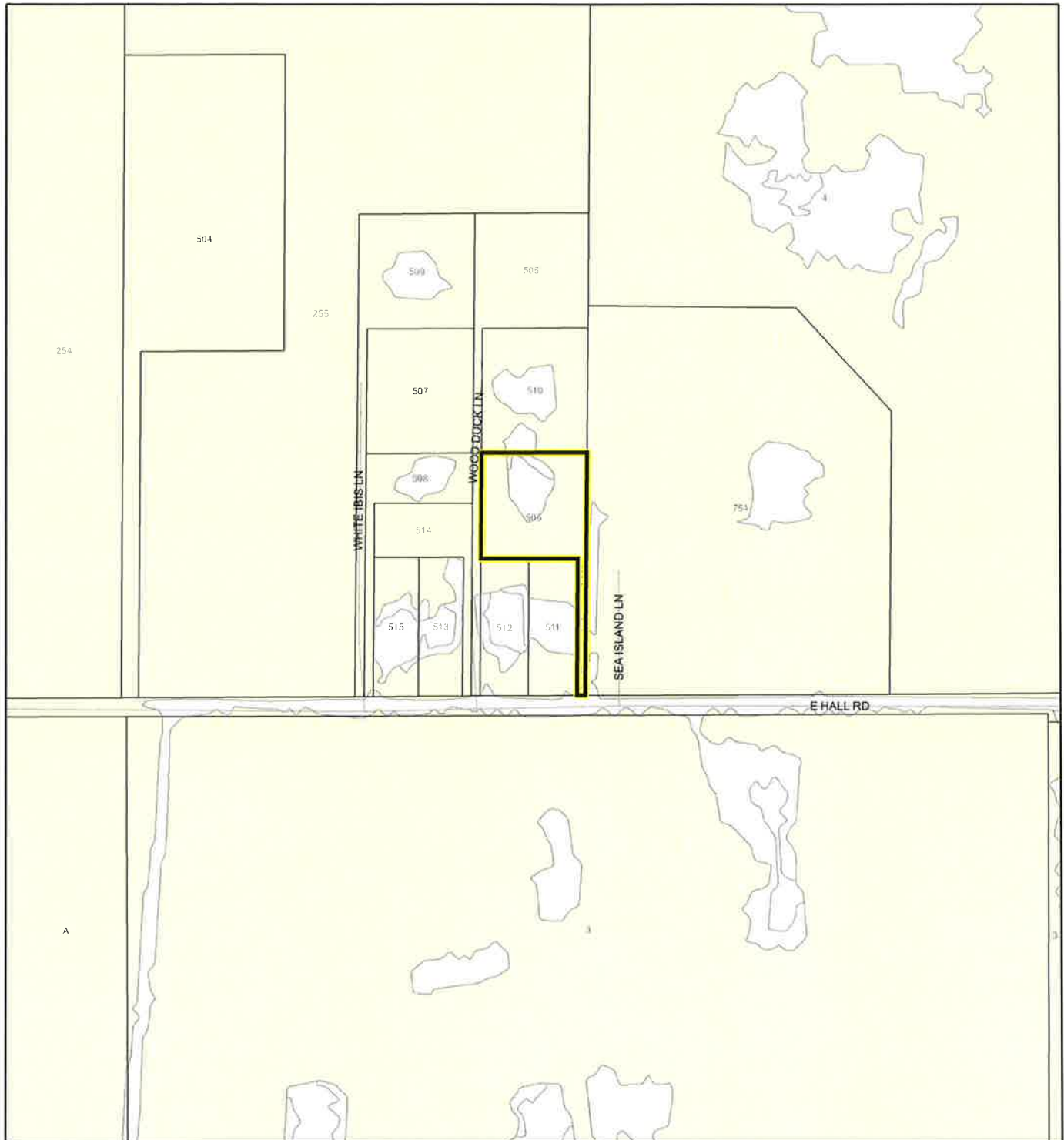
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

— Subject Property

□ Parcels

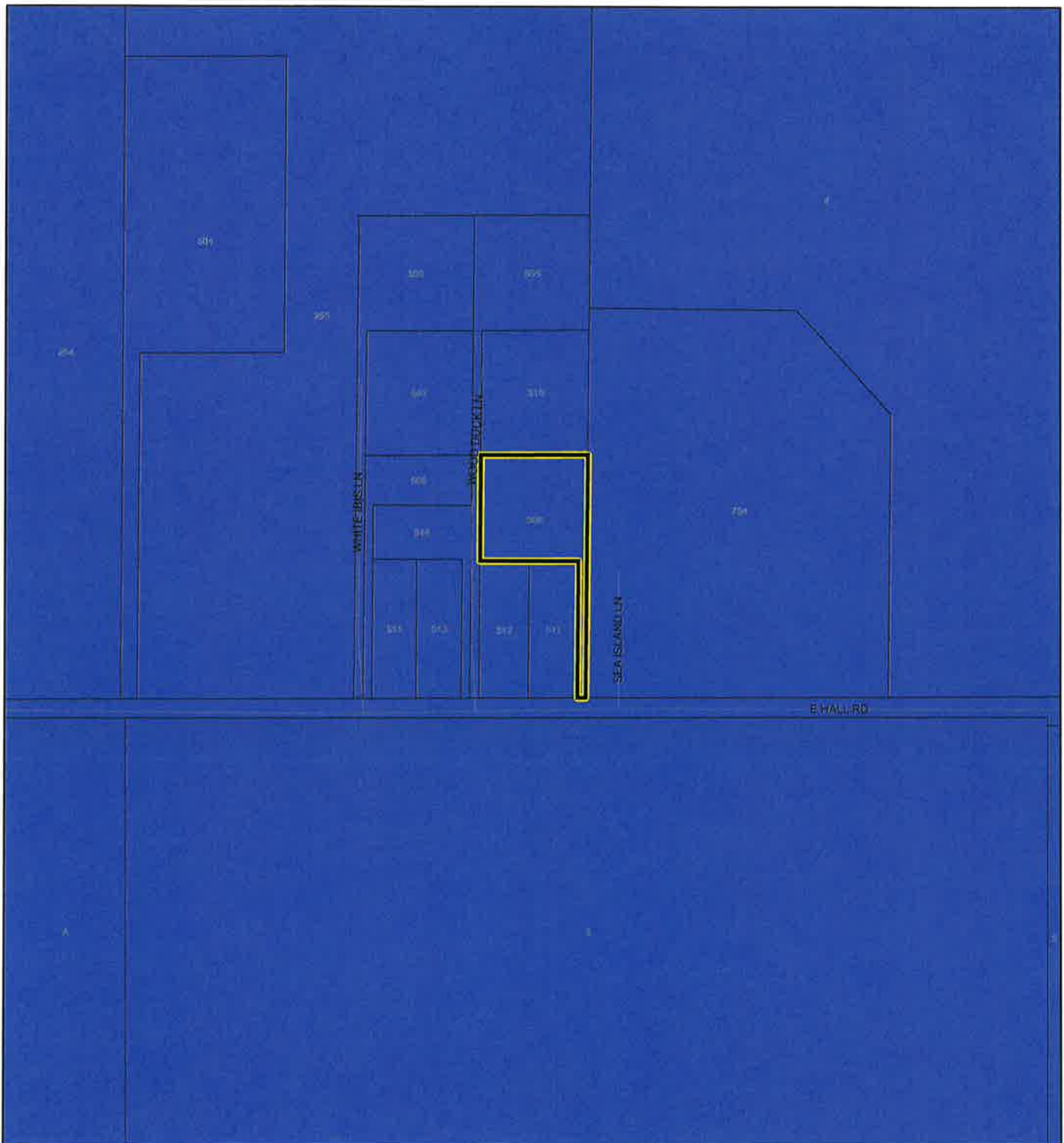
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

Subject Property

Parcels

Septic Overlay

40 Meters

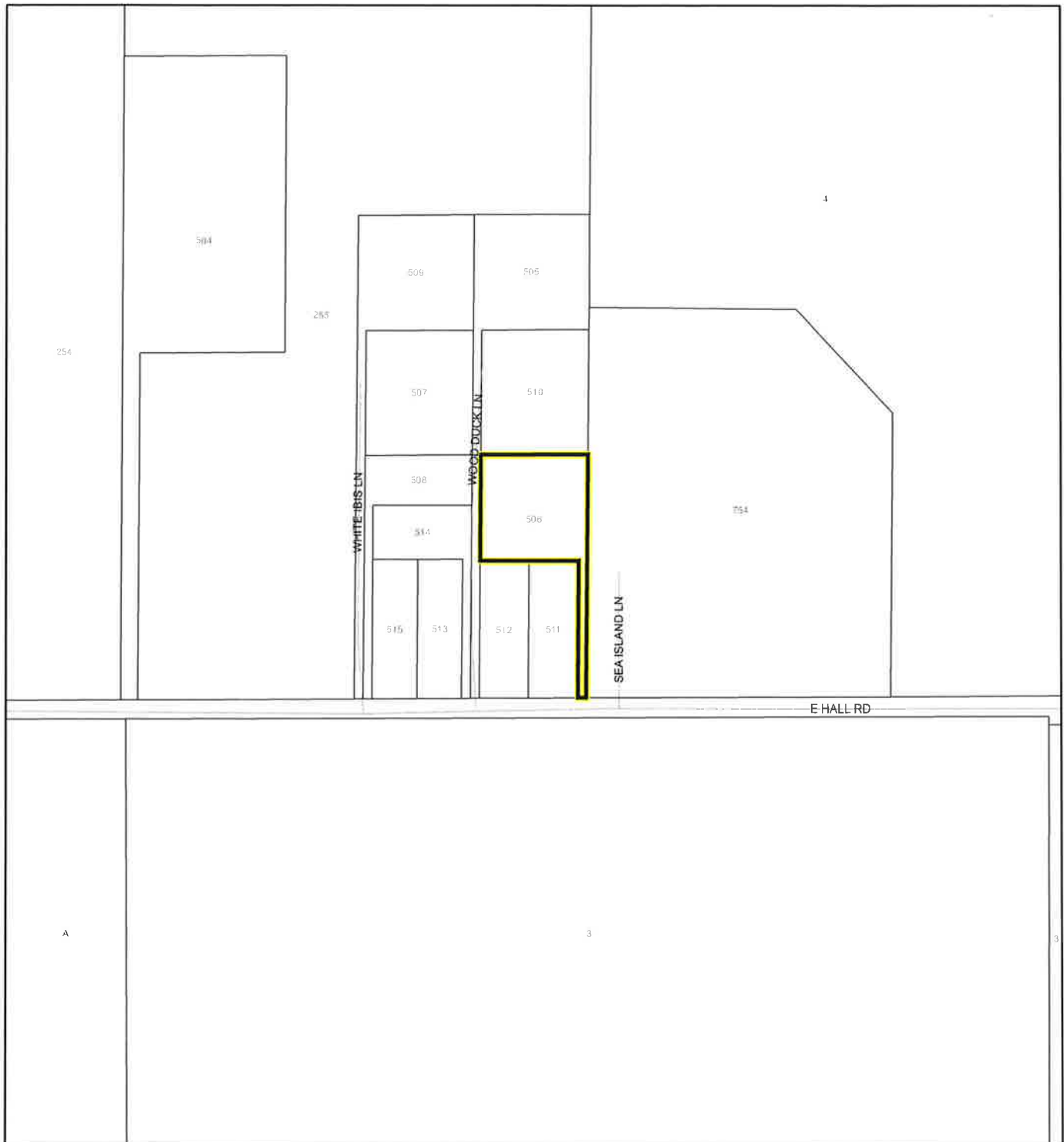
60 Meters

All Distances

EAGLE NESTS MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

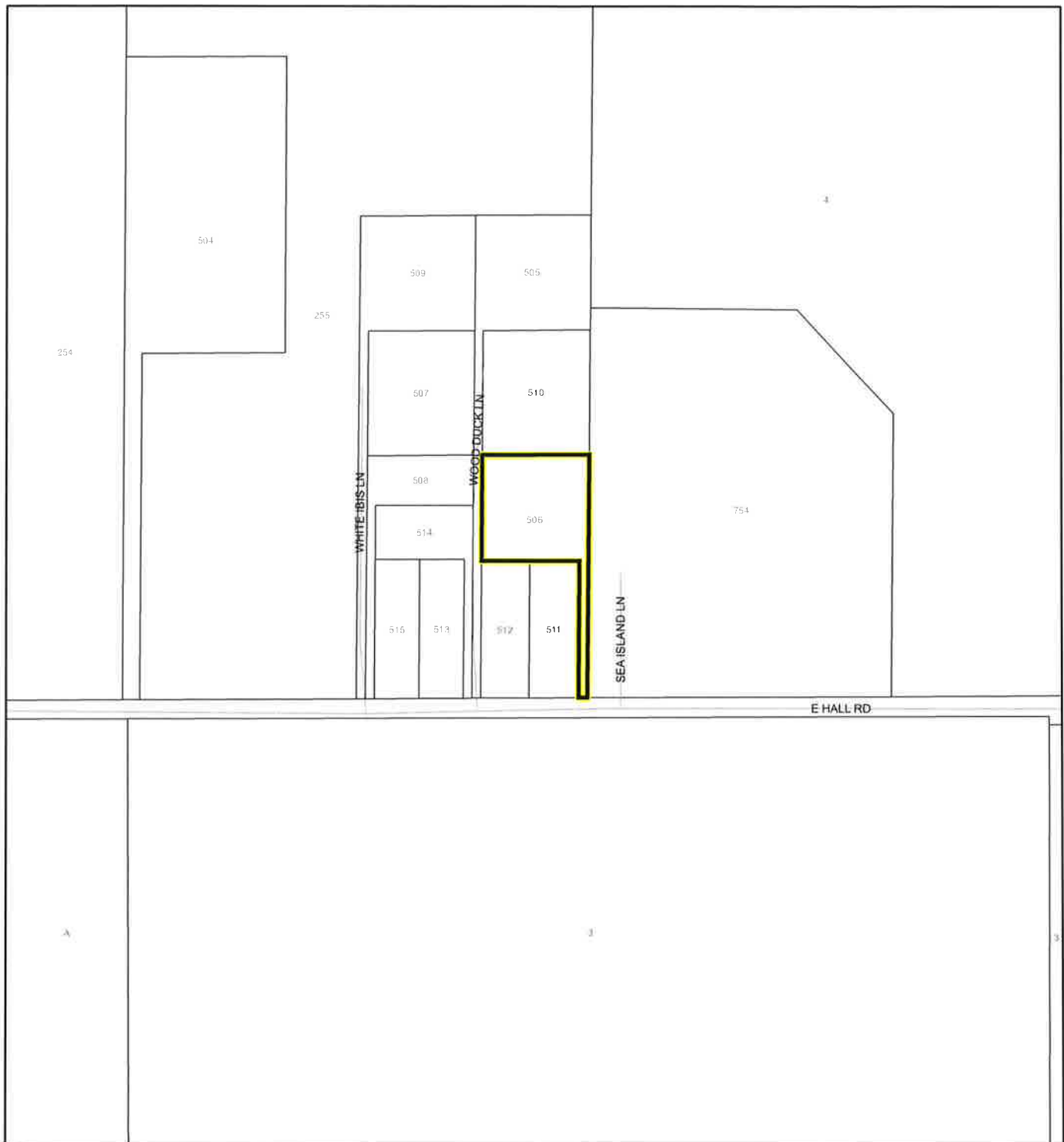
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MCCULLOUGH, LAURA




22Z00026



1:4,800 or 1 inch = 400 feet

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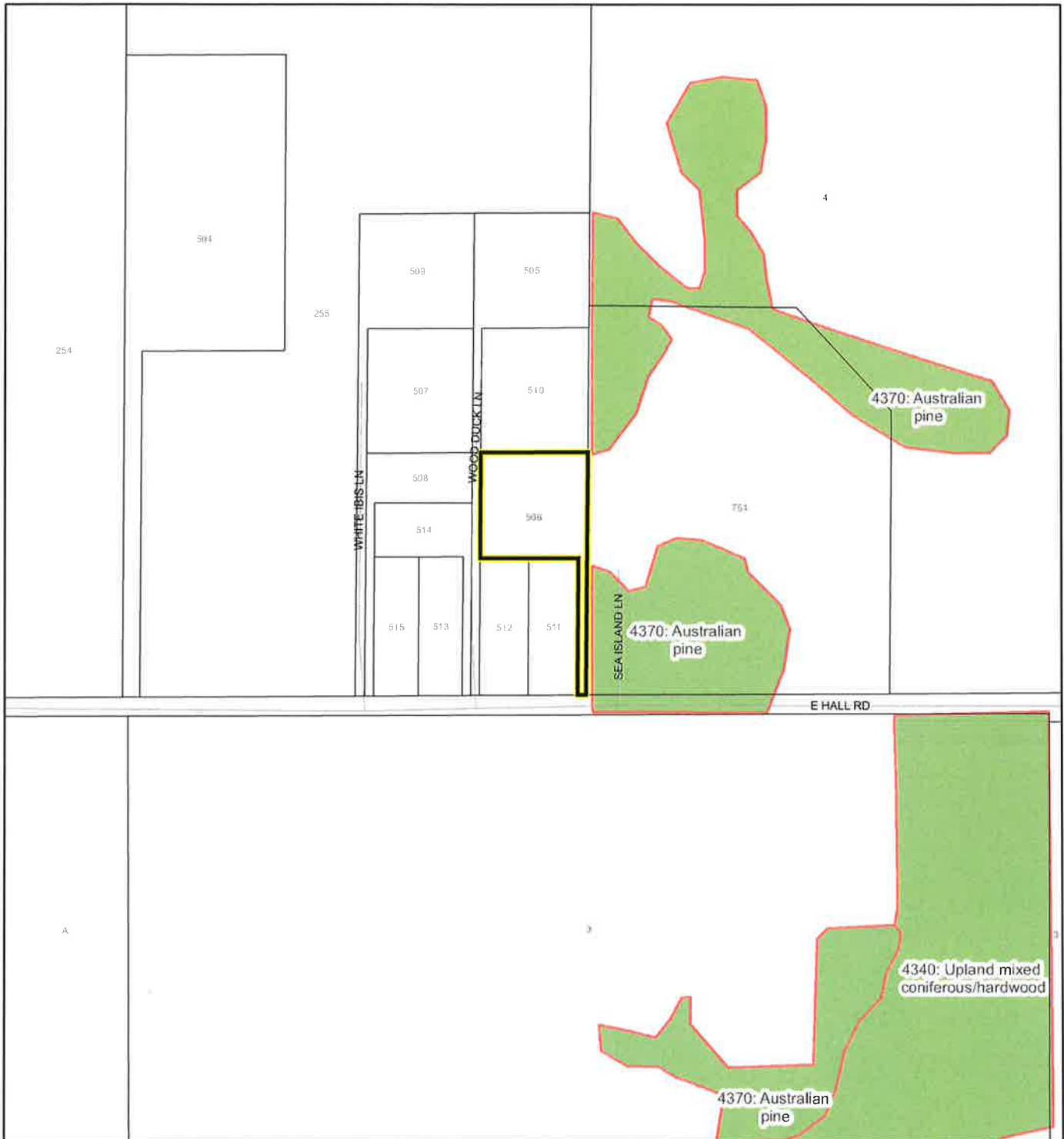
Produced by BoCC - GIS Date: 6/13/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MCCULLOUGH, LAURA

22Z00026



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

On motion of Commissioner Dobson, seconded by Commissioner Roberts, the following resolution was adopted by a unanimous vote:
WHEREAS, BUD CRISAFULLI and BRYAN FULMER

has/have applied for a change of classification from GU to SR

on property described as all of Parcels 255, 500 and 503. (120 acres) Located on the north side of Hall Road, 1 1/4 miles east of North Courtenay Pkwy. (S.R. #3)

Section 36, Township 23 S, Range 36 E, and,

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Planning and Zoning Board recommended that the application be approved subject to a Section 77 Binding Site Plan and,

WHEREAS, the Board, after considering said application and the Planning and Zoning Board's recommendation and hearing all interested parties and after due and proper consideration having been given to the matter, find that the application should be approved subject to a Section 77 Binding Site Plan, now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from GU to SR

be approved subject to a Section 77 Binding Site Plan, and that the zoning classification relating to the above described property be changed to SR subject to a Section 77 Binding Site Plan

and the Planning and Zoning Director 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 August 22, 1988.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

ATTEST:

by SUE SCHMITT
Chairman

R. C. WINSTEAD, JR., Clerk

by D.C.

(SEAL)

(Hearing - August 1, 1988)

II-01
Z-8165

From the Desk of

Bud Crisafulli

RE: Hall Road/S.36-T.23-R.36
Parcel 255-500 503

We agree to the following:

1. 120 Unit overall max density on 120 Ac. site.
2. Work with governing agencies regarding wetlands regulations & permitting.

5918-2

IO9

Bud Crisafulli 7/20/88

COVER SITE PLAN

Sec 17
PE
7-26-88

5525 N. Courtenay Pkwy. Merritt Island, FL 32953
(407) 453-7131

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 11, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

(22Z00026) Laura and Earl McCullough

A change of zoning classification from SR (Suburban Residential), with an existing BSP (Binding Site Plan), to RR-1 (Rural Residential), retaining the existing BSP. The property is 2.35 acres, located on the north side of Hall Rd., approx. 285 ft. east of Wood Duck Lane. (4400 Sea Island Dr., Merritt Island) (Tax Account 2320550) (District 2)

Jeffrey Ball - For those of you who don't know, a BSP is a Binding Site Plan which are pre-cursors to Binding Development Plans. A few years ago, all of the existing BSP's were converted to Binding Development Plans, so they are the same thing. This is a rezoning request to RR-1 and there are revised staff comments for you, with a couple of changes. The first change in the comments is that this request will not be heard by the Planning & Zoning Board because it is not an increase in density. Also, RR-1 does not allow for farm animals and fowl other than horses. In order to have farm animals and fowl, the applicants would need to apply for a conditional use permit and also have a minimum of 2.5 acres.

Colin McCullough - I'm here on behalf of my parents, who are requesting a rezoning to RR-1 for the purpose of having one horse for personal use. Nearby is agricultural zoning as well as SR. One of the adjacent lots is a large lot that has farm animals that frequently cross over to my parents' property.

Public comment.

Chris Minerva, North Merritt Island Homeowners Association, PO BOX 542372, Merritt Island - Regarding the rezoning request by Earl and Laura McCollough, the homeowner's association has no objections.

Mary Hillberg - I think the property is in the floodplain, so remind your parents that horses hate standing in water.

Motion by Jim Carbonneau, seconded by Ted Balke, to recommend approval of the change of zoning classification from SR, with an existing BSP, to RR-1, retaining the existing BSP. The motion passed unanimously.