



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

11/3/2022

Subject:

John H. and Diana Beni request a change of zoning classification from RRMH-1 to AU. (22Z00043) (Tax Account 2000678) (District 1)

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 RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from RRMH-1 to AU for the purpose of having two donkeys, two goats, fowl, and a greenhouse. The property is undeveloped. 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, and a minimum house size of 750 square feet. The AU classification permits the raising/grazing of animals and plant nurseries.

In the AU and AU(L) zoning classifications accessory buildings shall be located to the rear of the front building line of the principal building (except for barns) and shall be set back not less than 15-feet from the side property lines and not less than 15-feet from the rear property line. Barns and stalls shall be setback 125 feet from the front property line, 50 feet from the side property lines, and 50 feet from the rear property line.

The surrounding area contains a mix of RRMH-1, RR-1, GU, and AU zoning classifications. The adjacent properties to the subject parcel are all zoned RRMH-1. The AU(L) is considered to be a lower intensity more residential than the more commercial agricultural character of AU.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential agritourism activities adversely affect the surrounding area.

On October 17, 2022, the Planning and Zoning Board heard the request and unanimously recommended approval as AU(L) (Agricultural Residential, Low-Intensity)

Clerk to the Board Instructions:

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

Resolution 22Z00043

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

WHEREAS, John H. and Diana Beni, have requested a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential), on property described as Lot 7, Block 6, Indian River Park Subdivision, as recorded in ORB 8739, Page 819, of the Public Records of Brevard County, Florida. **Section 03, Township 20G, Range 34.** (6 acres) Located on the north side of Peoples St., approx. 750 ft. west of International Dr. (4250 Peoples St., Mims); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved as AU(L) (Agricultural Residential, Low-Intensity); 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 as requested; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RRMH-1 to AU, 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 November 3, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on November 3, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – October 17, 2022

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, 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

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

STAFF COMMENTS

22Z00043

John H. and Diana Beni

RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential)

Tax Account Number: 2000678
Parcel I.D.: 20G-34-03-A1-6-7
Location: East of I-95, north of Peoples St. and west of International Ave. (District 1)
Acreage: 6.0 acres

Planning & Zoning Board: 10/17/2022

Board of County Commissioners: 11/03/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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	RRMH-1	AU
Potential*	6 units	2 units
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.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential) for the purpose of having (2) two donkeys, (2) two goats, fowl and a greenhouse. The property is undeveloped.

In the AU and AU(L) zoning classification accessory buildings shall be located to the rear of the front building line, excluding barns, of the principal building and shall be set back not less than 15-feet from the side lot lines and not less than 15-feet from the rear lot lines. There are also setback for barns and stalls: 125-feet from the front lot line, 50-feet from the side lot lines and 50-feet from the rear lot line.

The existing lot was originally zoned AU and GU. The property was rezoned to all RRMH-1 in September 1970 as part of zoning action **Z-2682**.

Land Use

The subject property retains a FLU designation of Residential 1 (RES 1) and is adjacent to the east of Highway I-95. Both the existing RRMH-1 and the proposed AU zoning classifications are consistent with the RES 1 FLU designation.

Applicable Future Land Use Policies

FLUE Policy 1.9 – The Residential 1 Future 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 could 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.

The subject parcel retains a FLU designation of Residential 1. There is (1) one FLU designation (RES 1) within 500-feet of this parcel. There have been no FLU changes within 500-feet. 83 out of 259 parcels within ½ mile are undeveloped. All immediate surrounding parcels are either single-family residential, undeveloped or rural residential mobile homes. Out of the nine (9) immediate surrounding parcels, none of them have an agricultural exemption.

The closest parcel with AU zoning is 802-feet to the south; there are others to the east that are 1,000-feet away.

There has not been any actual development within this area in the preceding three (3) years. There has not been any approved development within 500-feet in the preceding three (3) years.

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

Zoning Resolution **Z-2682**, changed the parcel's zoning from AU (Agricultural Residential) & GU (General Use) to RRMH-1 (Rural Residential Mobile Home) in 1970. Property sizes range from 17.8-acres across ROW Highway I-95 to 1-acre. The site is located in a residential neighborhood east of Highway I-95. The proposal of the rezoning to AU on 6-acres for the purpose of agricultural pursuits, fowl raising, and raising and grazing of animals may be considered as spot zoning.

Properties to the east are all zoned RRMH-1. The properties to the south of Peoples St. are also zoned RRMH-1. Property to the north is zoned RRMH-1. Properties to the southeast are zoned RR-1. To the west is I-95.

The Board may consider a lower intensity zoning classification such as AU(L). The AU(L) zoning classification is a lower intensity sub-classification of AU. The AU(L) classification allows agricultural pursuits of a personal non-commercial nature. It also allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities to help preserve the residential character of the neighborhood.

All parcels in the immediate area are one (1) acre or larger in size and most are developed with either single-family homes or manufactured housing, with the exception of the two undeveloped parcels to the west of the ROW of Highway I-95. To the north is one (1) developed parcel, 6.32-acres with a single-family residence zoned RRMH-1. To the south are three (3) parcels (3.36-acres, 1-acre and 1.82-acres), each developed with manufactured housing, two (2) that are doublewide and one (1) that is singlewide, all zoned RRMH-1. To the east are three (3) parcels (1.55-acres, 2.41-acres and 1.21-acres) all zoned RRMH-1. To the west is Highway I-95. Across ROW of Highway I-95 are two (2) undeveloped parcels. The northwest parcel is 17.8-acres and zoned GU; the southwest parcel is 8-acres zoned RRMH-1.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF Residence	RRMH-1	RES 1
South	SF Residences	RRMH-1	RES 1
East	SF Residences	RRMH-1	RES 1
West	Undeveloped across I-95 ROW	N/A	N/A

The RRMH-1 classification permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

The GU zoning classification is a holding category allowing single-family residences on five-acre lots with a minimum width and depth of 300-feet. The minimum house size in GU is 750 square feet.

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 permits the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

The AU(L) is considered to be a lower intensity sub-classification of AU and to be suited for smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities.

In the surrounding area there has been one (1) rezoning action over the past (3) three years. **19PZ00098** was a rezoning application going from GU (General Use) to SR (Suburban Residential) with a BDP to limit development to one lot. This application was approved February 11, 2020.

Environmental Constraints

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

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. 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. 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. Brevard County Building Permit No. 21BC08861 - for a single-family duplex and agricultural activity area on the property - depicted two wetlands on the property. All proposed development avoided wetland impacts.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 1, between Burkholm Rd. and Volusia County, which has a MAV (Maximum Acceptable Volume) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 10.16% of capacity daily. The maximum development potential from the proposed rezoning does not increase the level of MAV utilization. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by Brevard County sewer or water. The closest water line to the parcel is approximately 3.1 miles to the south at the intersection of Highway 1 and Lionel Rd. The closest sewage line to the parcel is approximately 3.2 miles away to the south at Sandhill Crane Circle. The existing six-acre parcel is not served as it is undeveloped.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential agritourism activities adversely affect the surrounding area.

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

Item #22Z000043

Applicant: John H. & Diana Beni

Zoning Request: RRMH-1 to AU

Note: Applicant wants two donkeys, two goats, fowl, and greenhouse

P&Z Hearing Date: 10/17/22; **BCC Hearing Date:** 11/03/22

Tax ID No: 2000678

- 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:

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

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. 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. 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. Brevard County Building Permit No. 21BC08861 - for a single-family duplex and agricultural activity area on the property - depicted two wetlands on the property. All proposed development avoided wetland impacts.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands; and hydric soils (Myakka sand, depressional), as shown on the NWI Wetlands, SJRWMD, and USDA Soil Conservation Service Soils Survey maps.

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. 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. Brevard County Building Permit No. 21BC08861 - for a single-family duplex and agricultural activity area on the property - depicted two wetlands on the property. All proposed development avoided wetland impacts.

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 would render 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 acreage. 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 revisions to site plan design or permit applications.

Aquifer Recharge Soils

The property contains a sliver of aquifer recharge soils (Pomello sand). The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected Species

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

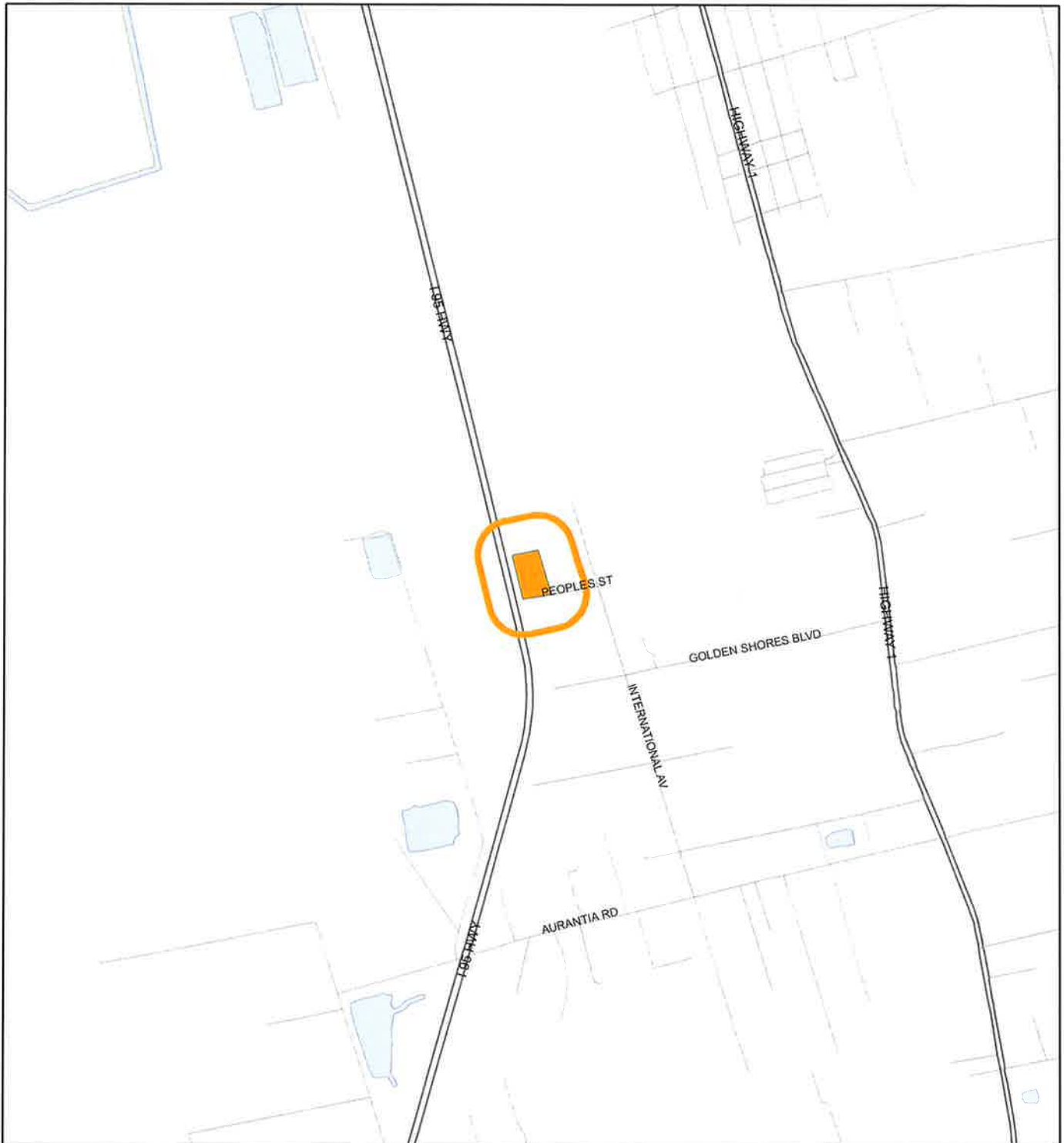
Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage

requirements. The discovery of unpermitted land clearing may result in enforcement action. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

— Buffer
— Subject Property

ZONING MAP

BENI, John H and Diana
22Z00043



1:4,800 or 1 inch = 400 feet

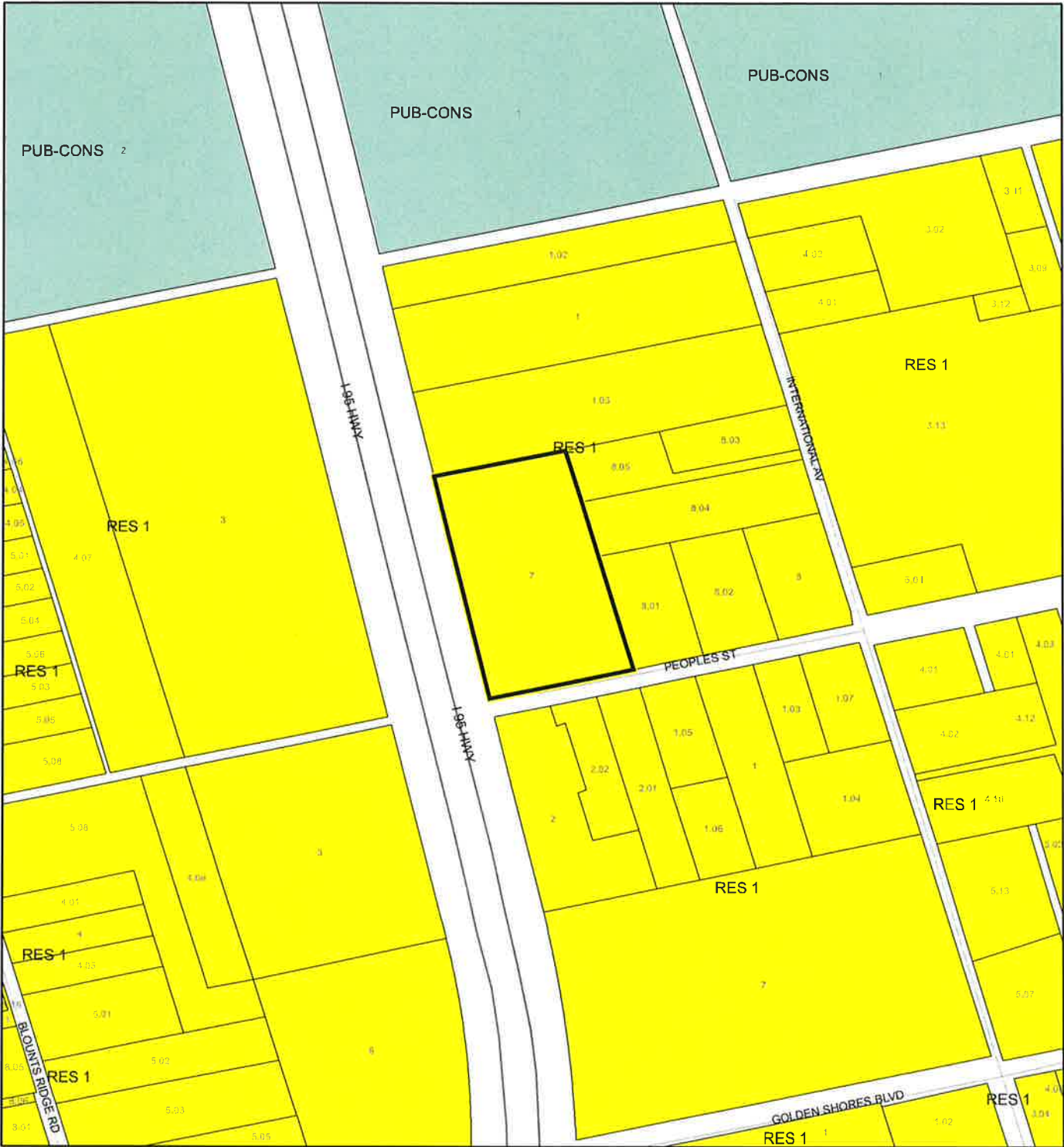
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/24/2022

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

AERIAL MAP

BENI, John H and Diana
22Z00043



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

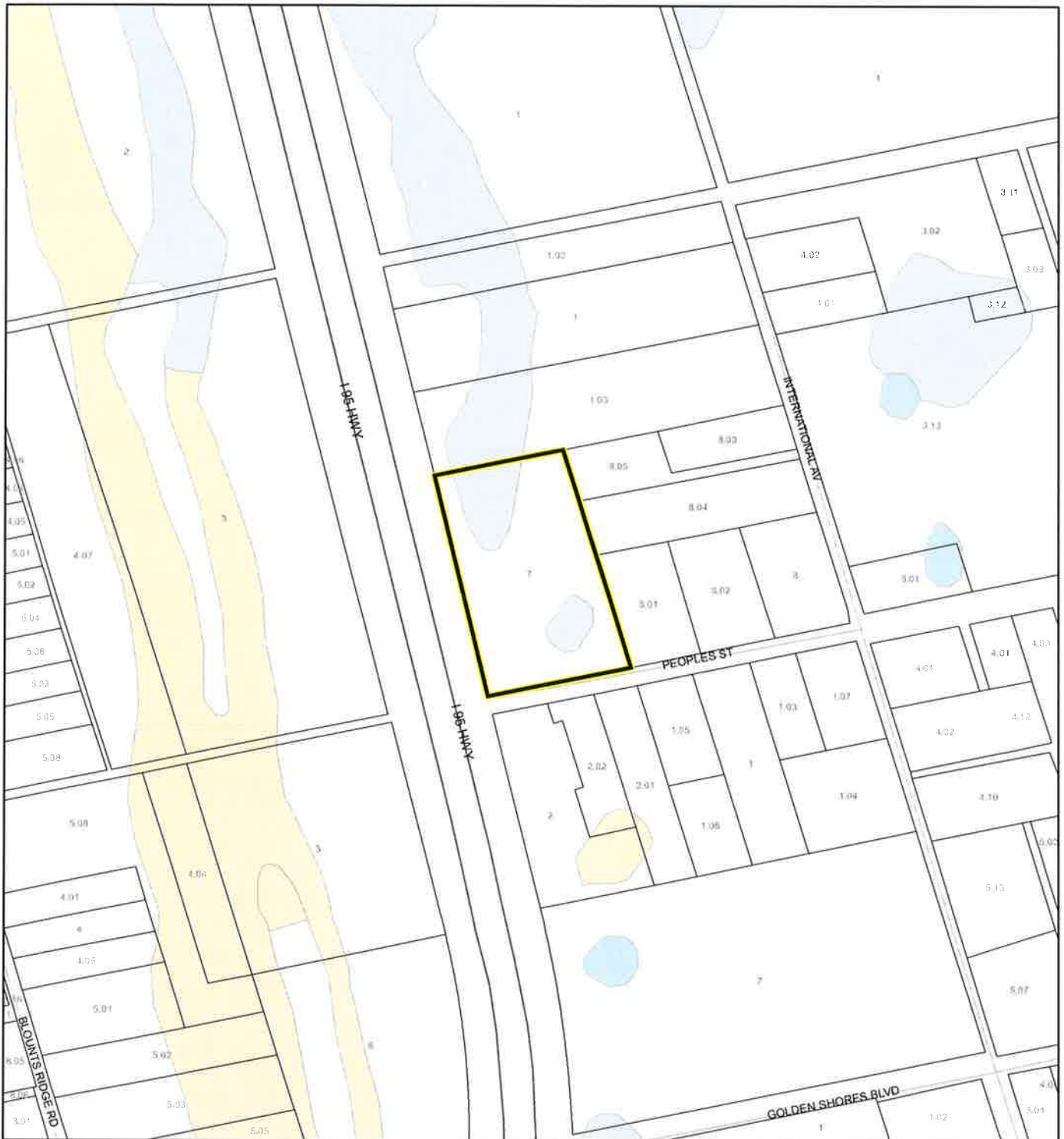
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/24/2022

— Subject Property
□ Parcels

NWI WETLANDS MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

SJRWMD FLUCCS WETLANDS

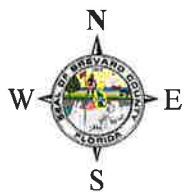
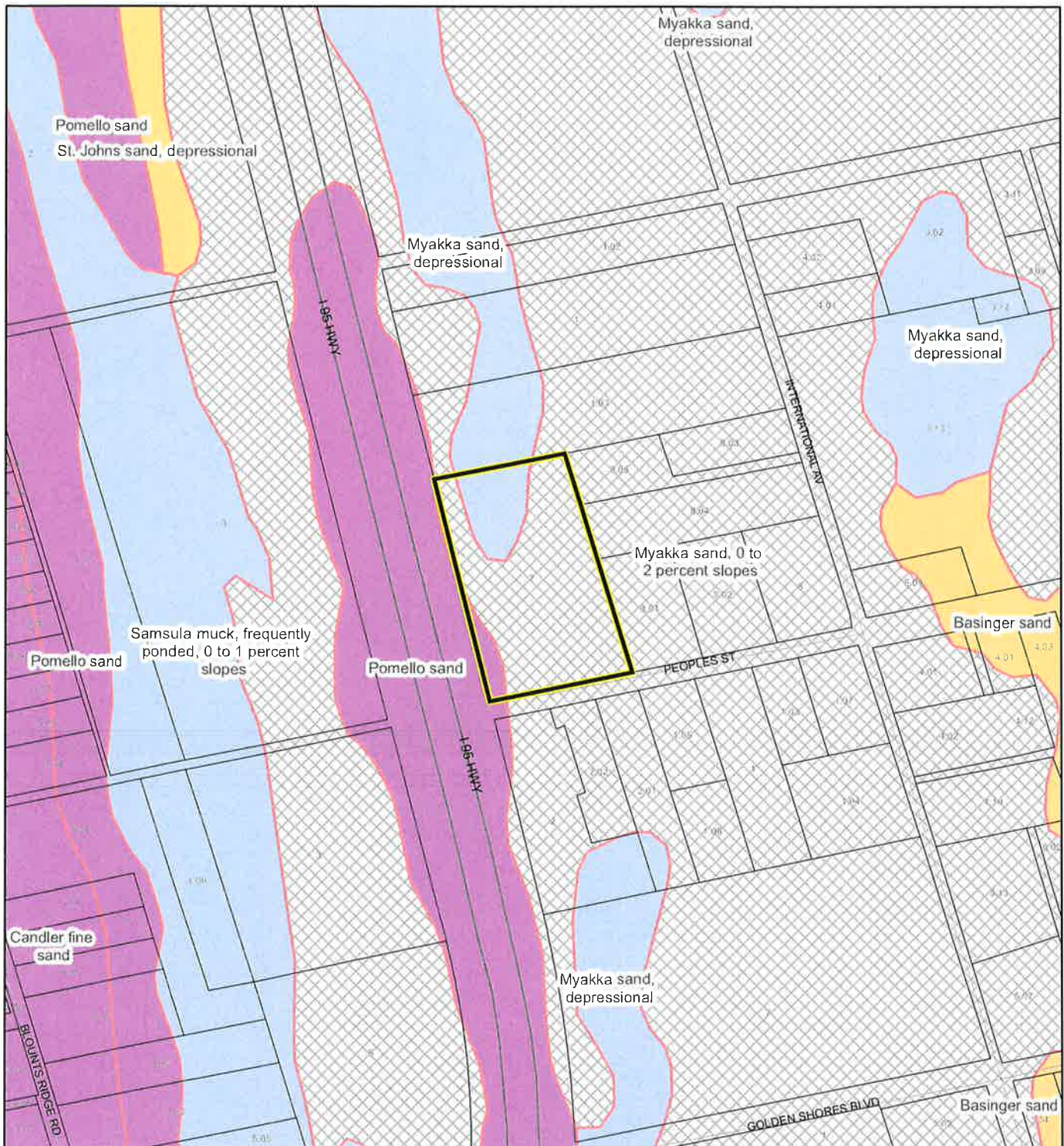
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

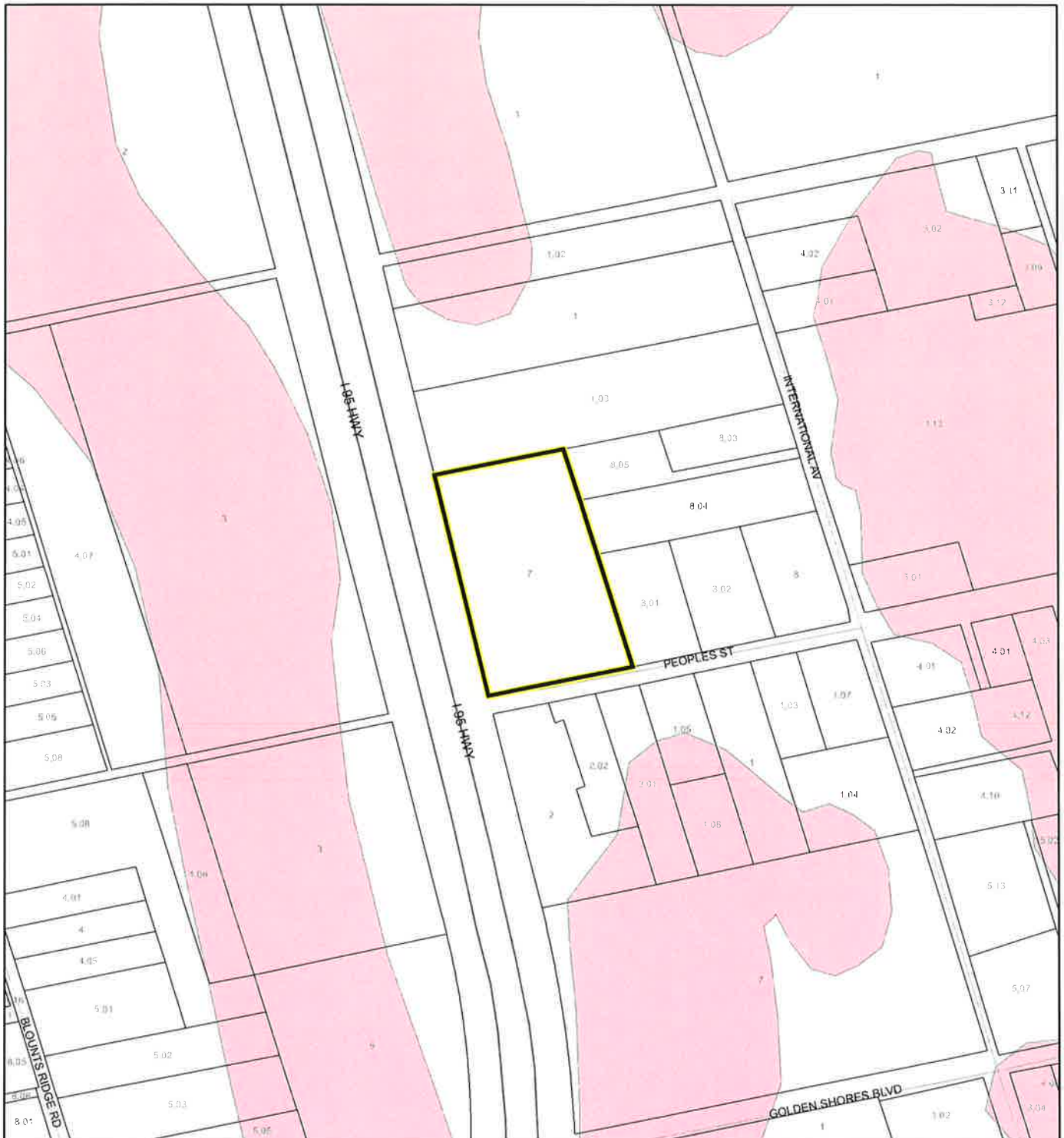
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

BENI, John H and Diana
22Z00043



1:4,800 or 1 inch = 400 feet

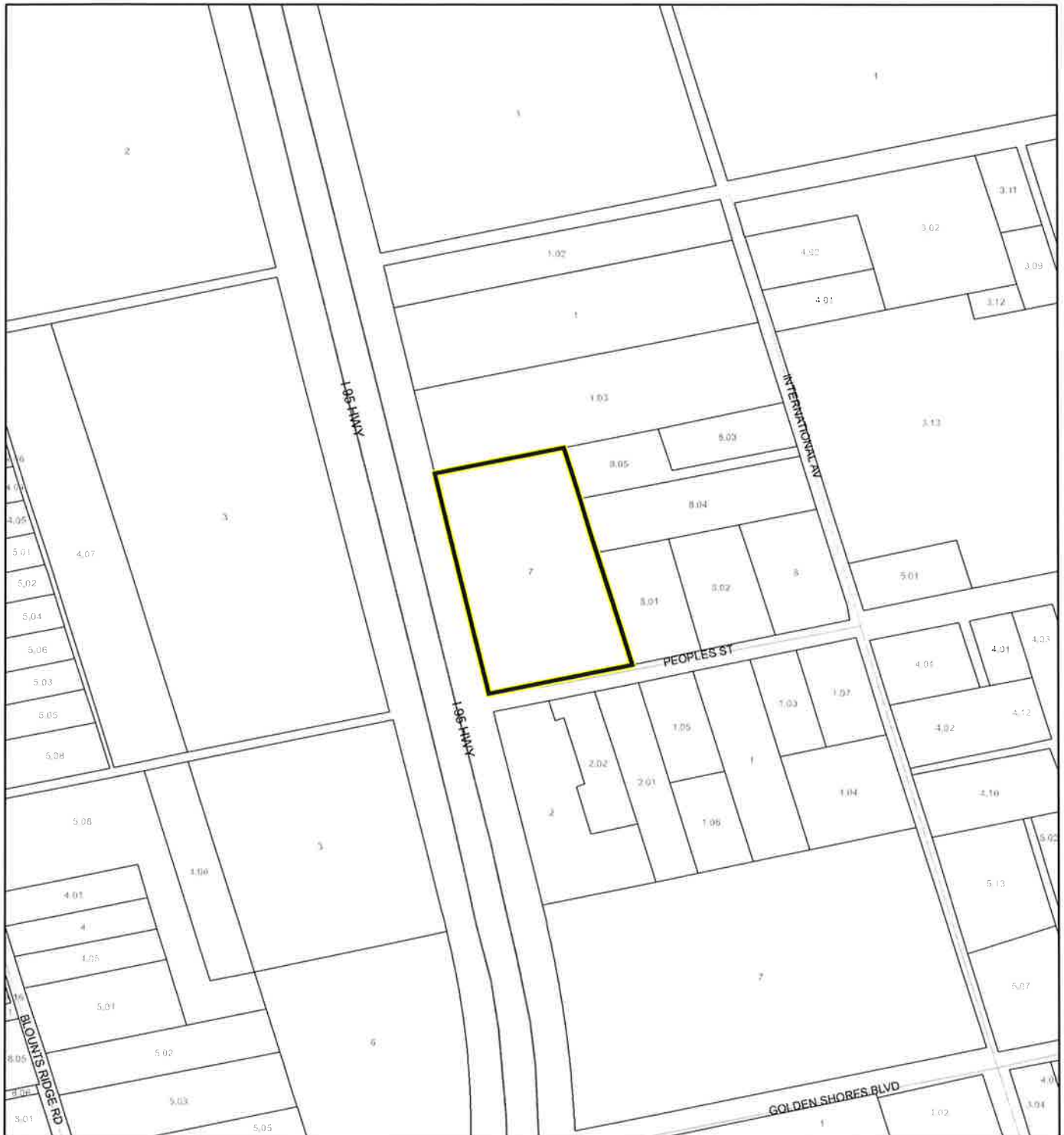
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/24/2022

FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

— Subject Property

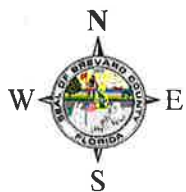
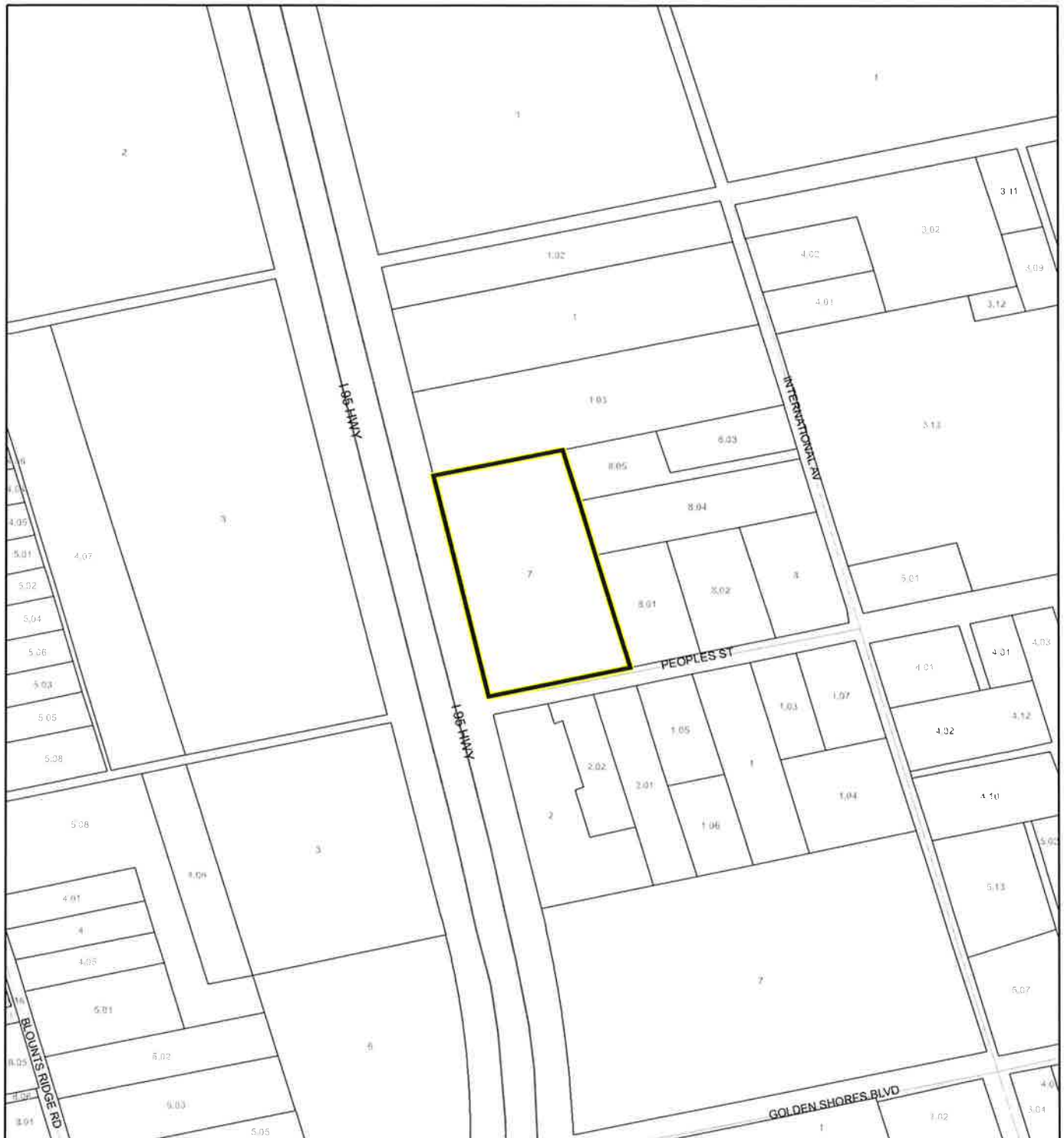
□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

— Subject Property

□ Parcels

Septic Overlay

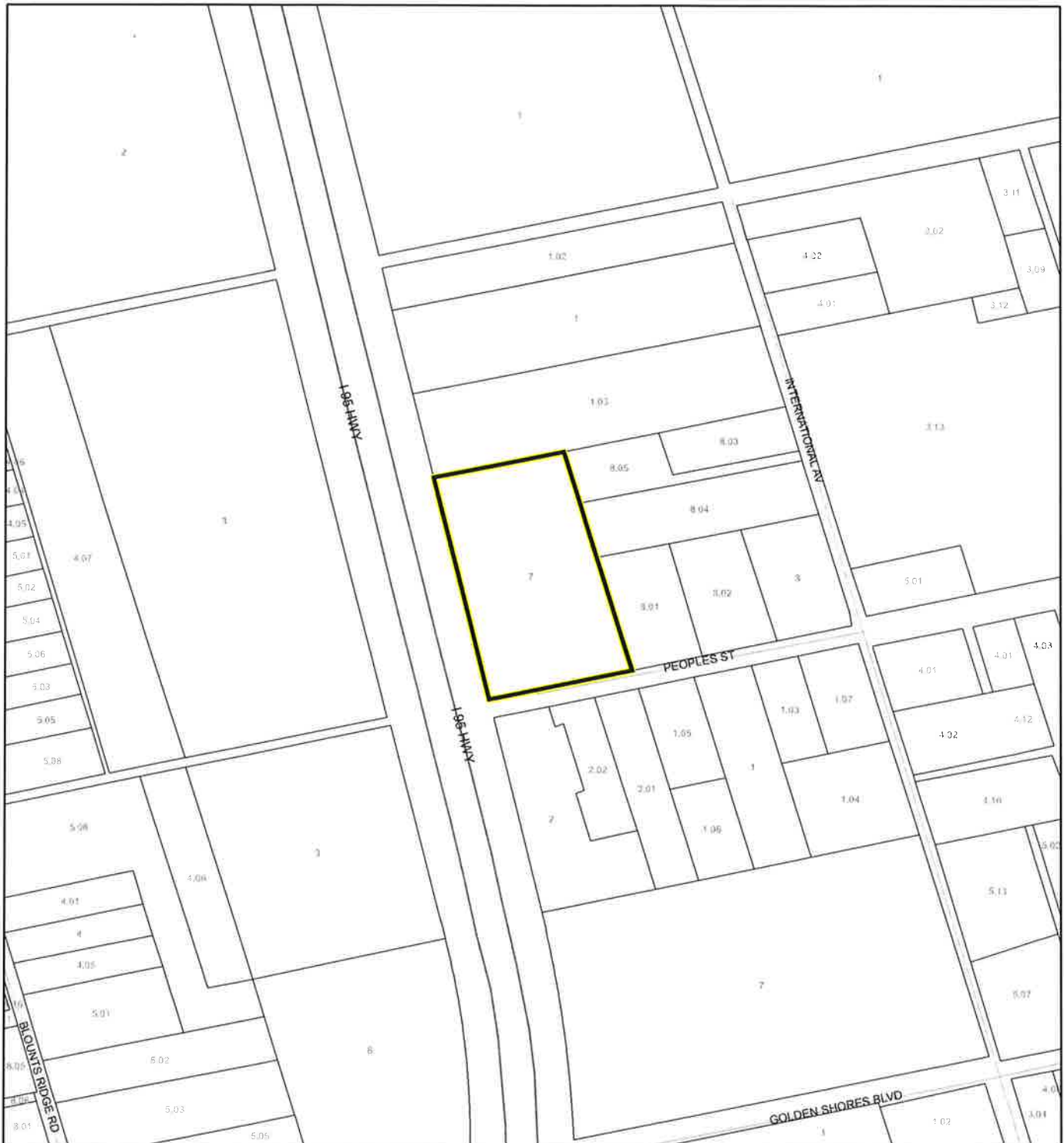
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

 Subject Property

 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




BENI, John H and Diana
22Z00043



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: 8/24/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BENI, John H and Diana
22Z00043



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: 8/24/2022

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 17, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover, Vice Chair (D3); Liz Alward (D4); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Paul Body, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

John H. and Diana Beni

A change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential). The property is 6 acres, Located on the north side of Peoples St., approx. 750 ft. west of International Dr. (22Z00043) (4250 Peoples St., Mims) (Tax Account 2000678) (District 1)

John Beni, 1763 Robinhood Avenue, Titusville, stated the property has 4.4 acres of uplands and 1.6 acres of wetlands, and he would like to have a pasture area for donkeys, goats, chickens, and a greenhouse. He stated he will not be doing any commercial activity on the property and will not impact the wetlands.

No public comment.

Liz Alward stated she doesn't see any other AU property in the area. Jeffrey Ball noted the closest AU is to the south of Peoples Street.

Ms. Alward stated if Mr. Beni only wants donkeys and chickens, there is the AU(L) zoning classification that will allow what he wants, but does not allow any commercial activity. She asked if Mr. Beni would agree to AU(L). Mr. Beni replied yes, he would agree to AU(L).

Logan Luse asked if Mr. Beni would be able to see eggs from his property if zoned AU(L). Mr. Ball replied no, not from the property. Mr. Beni stated he does not want to sell eggs from the property.

Motion by Liz Alward, seconded by Ron Bartcher, to recommend approval of the change of zoning classification from RRMH-1 to AU(L) (Agricultural Residential, Low-Intensity). The motion passed unanimously.