



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.5.

11/5/2020

### Subject:

St. Luke's Episcopal Church of Courtenay FL, Inc. requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1. (20Z00018) (Tax Account 2317060) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a request for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 (Residential 1:2.5) to RES 1 (Residential 1).

### Summary Explanation and Background:

The applicant requests to amend the FLU (Future Land Use) designation from RES 1:2.5 to RES 1 on a 1.50 acre parcel located east of North Tropical Trail, approximately 257 feet south of Church Road. The subject property is currently developed with one single-family residence that was built in 1967 and served as an on-site residence for the abutting property to the west which has been operated as a church. The subject parcel is a smaller portion of the overall 7.06 acre parcel which is located on both sides of North Tropical Trail.

The subject property has retained the FLU designation of RES 1:2.5 since the 2009 adoption of a Comprehensive Plan Amendment implemented from the recommendations of the North-North Tropical Trail Small Area Study. Amendment 2009-1.9 resulted in the designation of over 505 acres within the study area as RES 1:2.5. The subject parcel originally retained a FLU designation of RES 2 at the adoption of the Comprehensive Plan in 1988.

A companion rezoning application was submitted accompanying this FLU amendment requesting to change the zoning classification of the 1.50-acre subject parcel from IN(L) (Institutional Use - Low intensity) to RR-1 (Rural Residential). The applicant wants to make the subject parcel conforming, so it can be sold as a stand-alone single-family lot.

To the north of the subject property is 1 single-family residence with a FLU designation of RES 1:2.5. To the south is undeveloped land with a FLU designation of RES 1:2.5. To the east is 1 single-family residence with a FLU designation of RES 2. To the west is a church and cemetery with a FLU designation of RES 1:2.5.

The Board may wish to consider that the proposed RES 1 FLU designation would be consistent with FLU Policy 1.9 which states that the Residential 1 land use designation may be considered for lands and serves as a transition between higher and lower land use densities. In addition, if the request is consistent and compatible with the surrounding RES 1, RES 2, and RES 1:2.5 FLU designations.

The Board may also consider the recommendations of the 2009 North-North Tropical Trail Small Area Study that resulted in the FLU designation of RES 1:2.5 on the subject property.

On October 8, 2020, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

On October 19, 2020, the Local Planning Agency heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

Upon receipt of resolution, please execute and return to Planning and Development.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

November 9, 2020

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

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 20-21, which was filed in this office on November 6, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

**Resolution 20Z00019**

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

**WHEREAS, St. Luke's Episcopal Church of Courtenay FL, Inc.** has requested a change of zoning classification from IN(L) (Institutional Use – Low Intensity) to RR-1 (Rural Residential), on property described as a parcel of land lying in Section 27, Township 23 South, Range 36 East, Brevard County, Florida, the same being a portion of those lands described in ORB 1232, Page 740, of the Public Records of Brevard County, Florida, the same being more particularly described as follows: Commence at the mid-section corner of said Section 27 as described in ORB 1232, Page 740; thence run S89deg53'43"E along the south line of the NE ¼ of said Section 27 for 209.86 feet to a point that is marked with a ½ inch iron rod driven in the physical centerline of N. Tropical Trail, said point being the Point of Beginning of the following described parcel of land; thence continue S89deg53'43"E along said south line for 333.33 feet to the SW corner of the land described in ORB 4266, Page 4251, of the Public Records of Brevard County, Florida; thence run N00deg01'54"E along the west line of said ORB 4266, Page 4521 for 200 feet to the SE of that certain parcel of land described in ORB 996, Page 424, of the Public Records of Brevard County, Florida; thence run N89deg53'43"W along the south line thereof for 322.48 feet to a formally set nail and disc marked PLS 2351 located on the physical centerline of N. Tropical Trail; thence run S03deg08'14"W along the physical centerline of N. Tropical Trail for 200.28 feet, more or less, to the point of beginning, subject to the public interest in the maintained limits of N. Tropical Trail. (1.50 acres). Located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, 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 IN(L) to RR-1, 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 5, 2020.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

*Bryan Andrew Lober*

Bryan Andrew Lober, Chair  
Brevard County Commission

As approved by the Board on November 5, 2020.

ATTEST:

*Scott Ellis*  
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 8, 2020

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.**



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

November 6, 2020

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item H.5., Ordinance for 20S.05 Small Scale Comprehensive Plan Amendment

The Board of County Commissioners, in regular session on November 5, 2020, conducted the public hearing and adopted Ordinance No. 20-21, setting forth Plan Amendment 20S.05 of the Small Scale Comprehensive Plan to change the Future Land Use designation from Residential 1:2.5 to Residential 1 for St. Luke's Episcopal Church of Courtenay FL, Inc. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for Donna Scott*  
Kimberly Powell, Clerk to the Board

Encls. (1)

ORDINANCE NO. 20- 21

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIFTH SMALL SCALE PLAN AMENDMENT OF 2020, 20S.05, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.05; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.05; and

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

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

Officially filed with the Secretary of State on November 6, 2020.

WHEREAS, on October 19, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.05, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on November 5, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.05; and

WHEREAS, Plan Amendment 20S.05 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.05 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.05 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.05, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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



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


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

DONE AND ADOPTED in regular session, this 5 day of November, 2020.

ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
\_\_\_\_\_  
Bryan Andrew Lober, Chairman

As approved by the Board on Nov. 5, 2020.

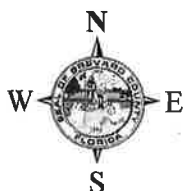
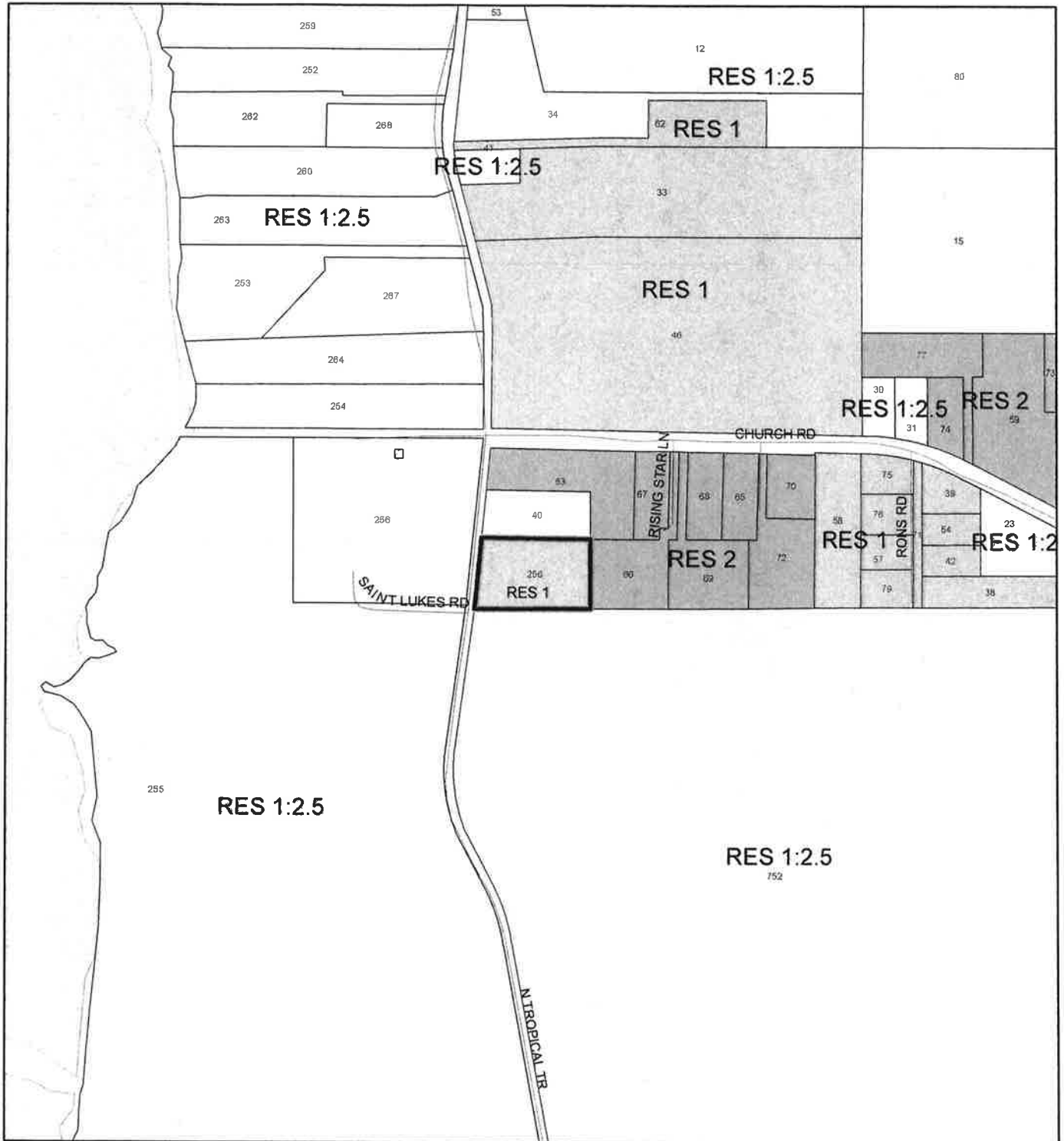
**EXHIBIT A**  
**20S.05 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

- 1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



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: 8/7/2020

## **EXHIBIT B**

### **Contents**

#### **1. Legal Description**



## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.



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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.
- (c) General Standards of Review.
  - (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
- b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 20S.05 (20Z00018)*  
**Township 23, Range 36, Section 27**

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**Property Information**

Owner / Applicant: **St. Lukes Episcopal Church of Courtenay Fla, Inc.**

Adopted Future Land Use Map Designation: Residential 1:2.5 (RES 1:2.5)

Requested Future Land Use Map Designation: Residential 1 (RES 1)

Acreage: 1.50 acres

Tax Account #: 2317060

Site Location: East side of North Tropical Trail, approximately two hundred fifty-seven feet (257') south of Church Road

Current Zoning: Institutional Use – Low intensity (IN(L))

Requested Zoning: Rural Residential (RR-1) (20Z00019)

**Background & Purpose**

The applicant requests to amend the Future Land Use (FLU) designation from Residential 1:2.5 (RES 1:2.5) to Residential 1 (RES 1) on a 1.50 acre parcel located east of North Tropical Trail, approximately two hundred fifty-seven feet (257') south of Church Road. The subject property is currently developed with one (1) single-family residence that was built in 1967 and served as an on-site residence for the abutting property to the west. The subject parcel is a smaller portion of the overall 7.06 acre parcel which is located on both sides of North Tropical Trail.

The subject property has retained the FLU designation of RES 1:2.5 since the 2009 adoption of a Comprehensive Plan Amendment implemented from the recommendations of the North-North Tropical Trail Small Area Study. Amendment 2009-1.9 resulted in the designation of over five hundred five (505) acres within the study area as RES 1: 2.5. The subject parcel originally retained a FLU designation of RES 2 at the adoption of the Comprehensive Plan in 1988.

A companion rezoning application (20Z00019) was submitted accompanying this FLU amendment requesting to change the Zoning classification of the 1.50 acre subject parcel from Institutional Use – Low intensity (IN(L)) to Rural Residential (RR-1). The

applicant wants to make the subject parcel conforming, so it can be sold as a stand-alone single-family lot.

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. Potable water service to the subject parcel is currently provided by the City of Cocoa Utilities. Sanitary sewer is not currently available for the subject parcel; however, a Brevard County sanitary sewer line exists approximately eight hundred sixty-five feet (865') east of the property. No school concurrency information has been provided as the development potential is considered de minimis and is below the minimum number of new residential lots that would require a formal review.

### **Surrounding Land Use Analysis**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	One (1) Single-Family residence	GU	RES 1:2.5
<b>South</b>	Vacant	GML(H)	RES 1:2.5
<b>East</b>	One (1) Single-Family residence	SR	RES 2
<b>West</b>	Across North Tropical Trail - Church	IN(L)	RES 1:2.5

To the north of the subject property is one (1) single-family residence with a Future Land Use designation of RES 1:2.5. To the south is undeveloped land with a FLU designation of RES 1:2.5. To the east is one (1) single-family residence with a FLU designation of RES 2. To the west (across North Tropical Trail) is a church and cemetery with a FLU designation of RES 1:2.5.

### **Environmental Resources**

*Preliminary review of mapped resources indicates five (5) noteworthy land use issues:*

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

*Please refer to the attached comments provided by the Natural Resources Management Department.*

## Historic Resources

*There are no recorded historic or archaeological sites on the 1.50 acre property associated with this application according to the Master Site File (MSF) from the Florida Division of Historic Resources; however, one (1) standing structure (church) and a cemetery located on the western portion of the 7.06 acre overall parcel (across North Tropical Trail) are listed on the MSF.*

## Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

## Future Land Use Element – Policies/Analysis:

### Residential Land Use Designations

#### Policy 1.1

The residential land use designations adopted as part of the Future Land Use Map represent maximum density thresholds. Approved densities may be lower than the maximum allowed by a residential land use designation as a result of one or more of the following:

#### Criteria:

- A. Environmental constraints identified in applicable objectives and policies of the Conservation Element which impose more stringent density guidelines;

*Portions of the subject property are mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) as shown on the FEMA Flood Zones Map. Please refer to attached comments provided by the Natural Resources Management Department.*

- B. Land use compatibility pursuant to Administrative Policy 3;

*Analysis of historical future land use indicates that the subject parcel has retained a FLU designation of RES 1:2.5 since 2009. The subject parcel originally retained a future land use designation of RES 2 at the adoption of the FLU map in 1988. The proposed land use of RES 1 is compatible with the existing land uses surrounding the subject property.*

- C. Unavailability or inadequacy of public facilities and services, including educational facilities, to accommodate adopted density allowances, as set forth in Policy 1.2 and the policies found in the 'Service Delivery, Concurrency and Growth' section of this Element as well as related objectives and policies in the Capital Improvements Element; Character of the general area, pursuant to Administrative Policy 4;

*The subject parcel is not currently serviced by County or municipal sanitary sewer; however, Brevard County Utilities provides sanitary sewer approximately 865 feet east of the property. Potable water is provided to the subject parcel by the City of Cocoa Utilities.*

**Residential 1 (maximum of 1 dwelling unit per acre)  
Policy 1.9**

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

**Criteria:**

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

*The subject parcel serves as a transition between land uses with a density greater than one (1) units per acre and areas with lesser density. The subject parcel is currently adjacent to a RES 2 land use designation to the east and a RES 1:2.5 land use designation to the north, south and west (across North Tropical Trail).*

**For Board Consideration**

The Board may wish to consider that the proposed RES 1 FLU designation would be consistent with FLU Policy 1.9 which states that Residential 1 land use designation may be considered for lands and serves as a transition between higher and lower land use densities. In addition, if the request is consistent and compatible with the surrounding RES 1, RES 2, and RES 1:2.5 FLU designations.

The Board may also consider the recommendations of the 2009 North-North Tropical Trail Small Area Study that resulted in the FLU designation of RES 1: 2.5 on the subject property.



**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use Review & Summary**  
**Item # 20Z00018**

**Applicant:** St. Lukes Episcopal Church

**Future Land Use Request:** RES 1:25 to RES 1

**Note:** Applicant wants to make the lot on east side of N Tropical Trail conforming, so it can be sold as SFR.

**NMI Hearing Date:** 10/08/2020; **LPA Hearing Date:** 10/19/20; **BCC Hearing Date:** 11/05/20

**Tax ID No:** 2317060 – the portion on east side of N. Tropical Trail

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

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

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

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Tavares fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Floodplain**

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

**Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Per Section 62-3666 (14), all onsite sewage treatment and disposal systems (OSTDS) shall be set back at least 100 feet from the buffer establishment line, the safe upland line, mean high water line or ordinary high-water line.

#### **Protected and Specimen Trees**

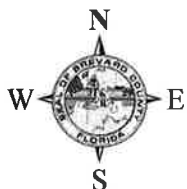
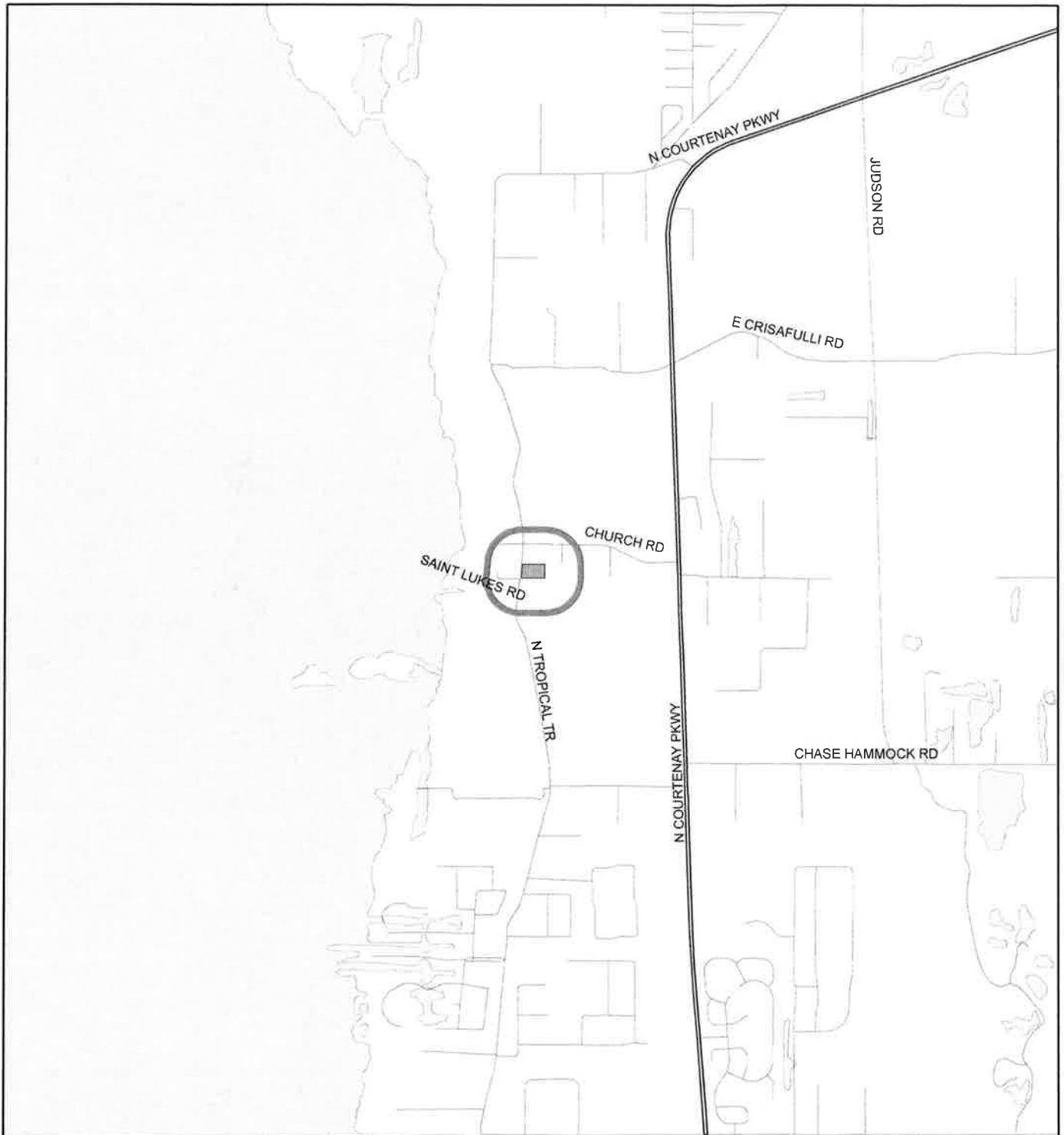
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen (greater than or equal to 24 inches in diameter) trees may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. 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

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



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.

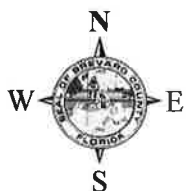
Produced by BoCC - GIS Date: 8/7/2020

— Buffer

■ Subject Property

# ZONING MAP




ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

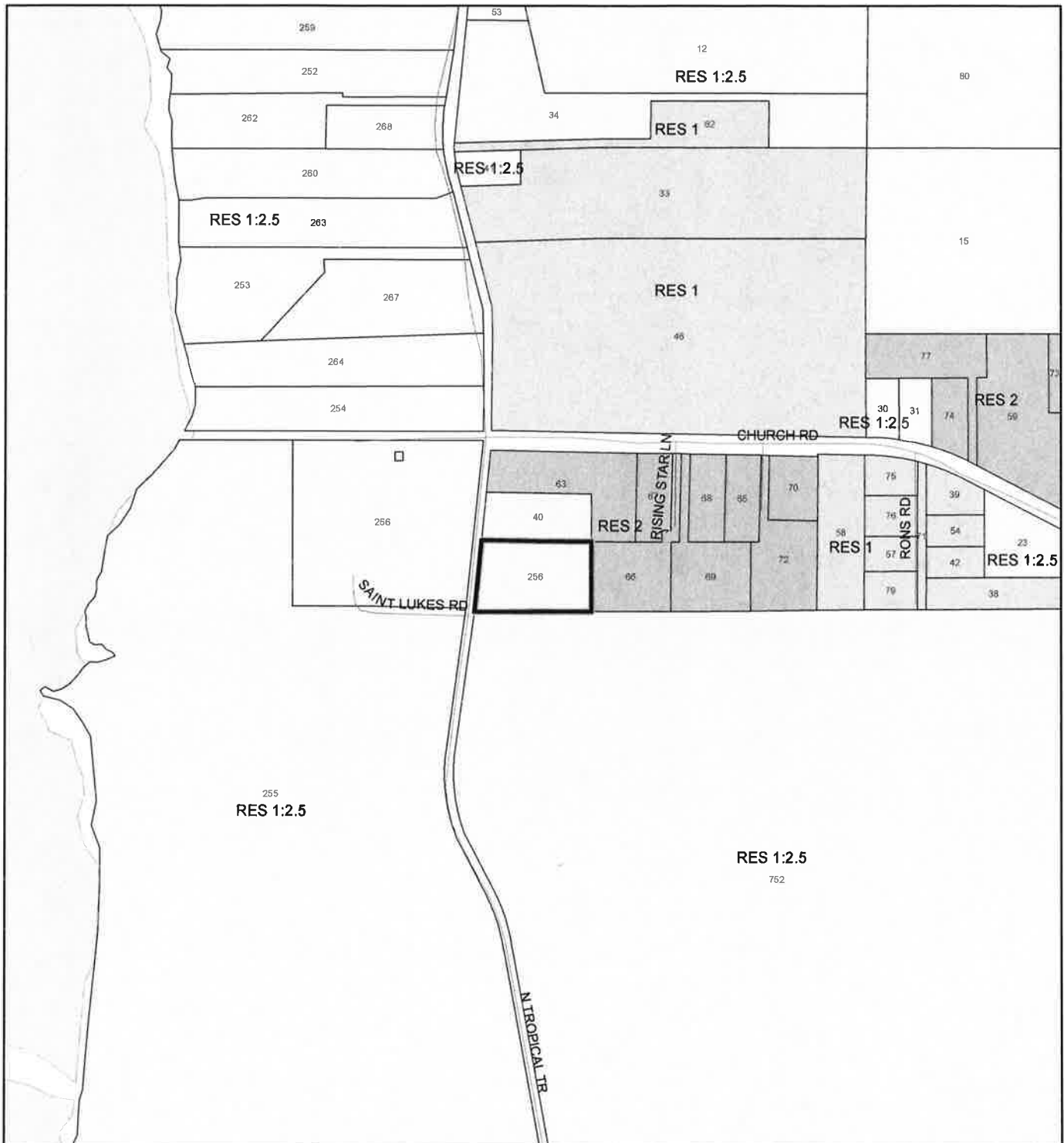
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/7/2020

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

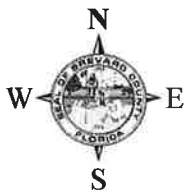
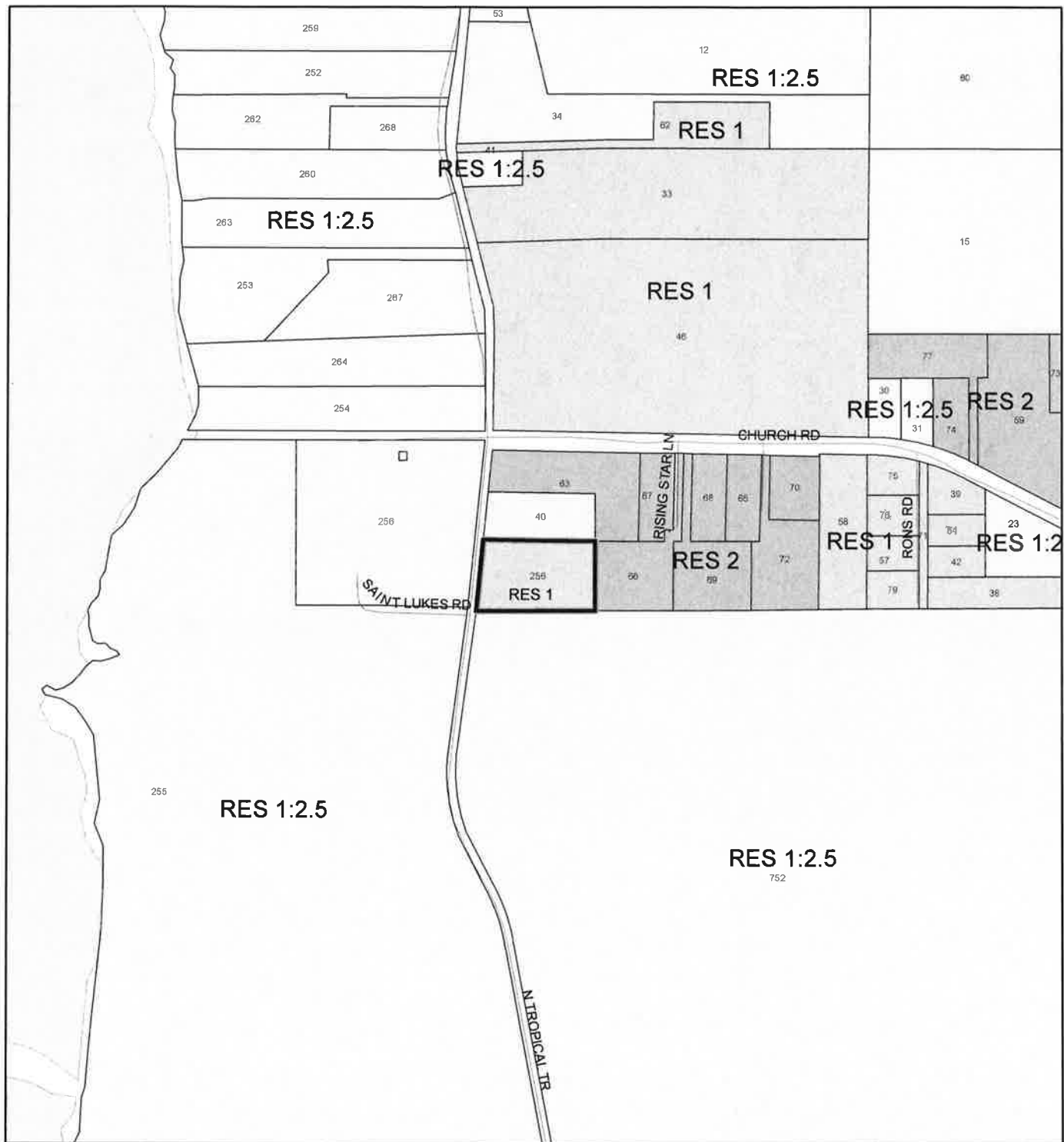
**Subject Property**  
**Parcels**

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: 8/7/2020

## PROPOSED FUTURE LAND USE MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800      or 1 inch = 400 feet

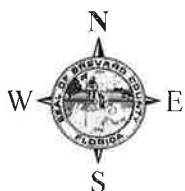
— Subject Property  
 □ Parcels

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: 8/7/2020

# AERIAL MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

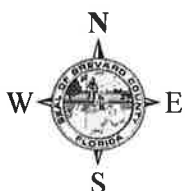
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/7/2020

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



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: 8/7/2020

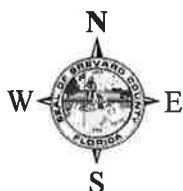
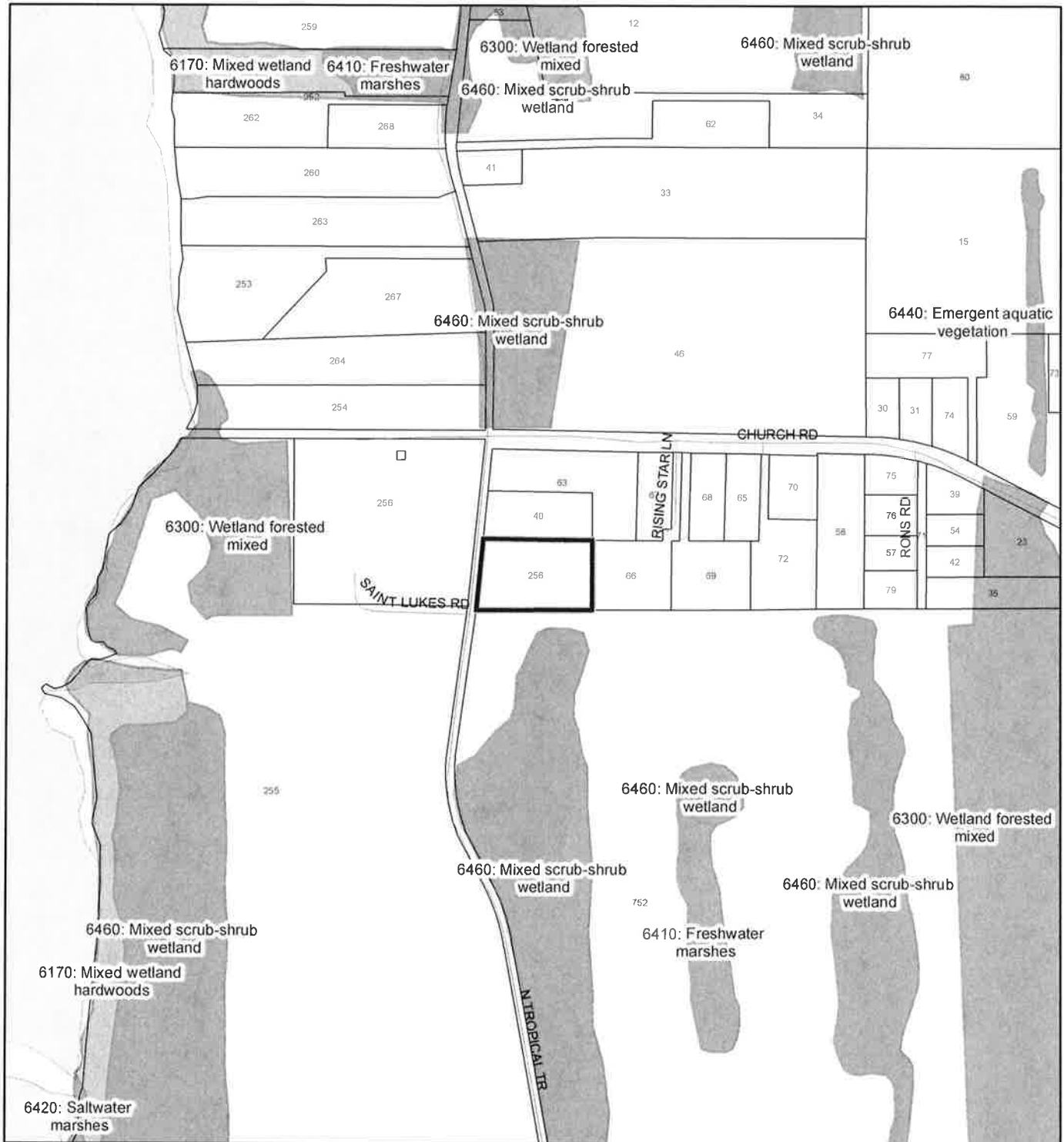
## National Wetlands Inventory (NWI)

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

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2020

## 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

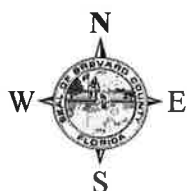
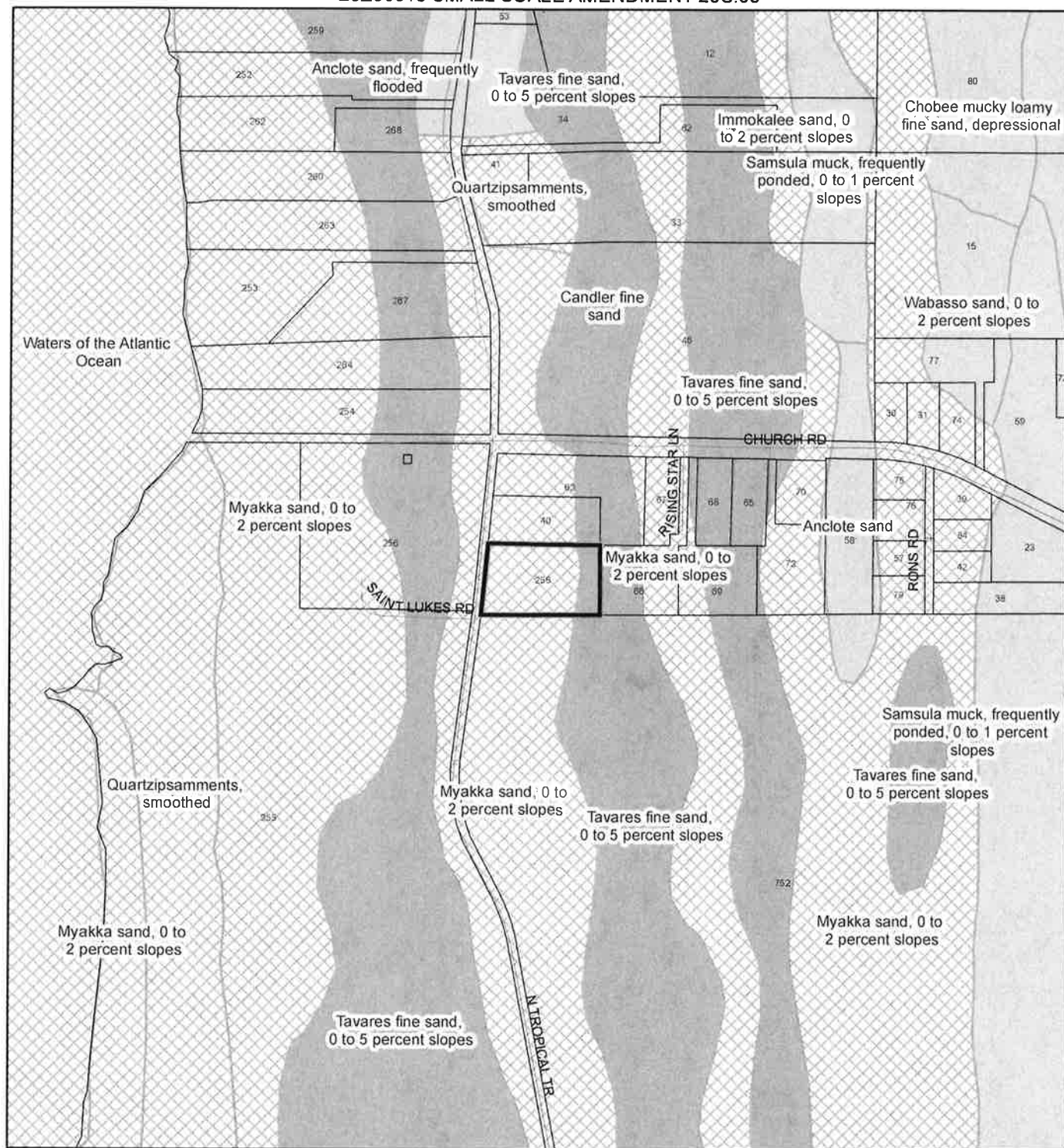
Subject Property

Parcels

# USDA SCSSS SOILS MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC

20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2020

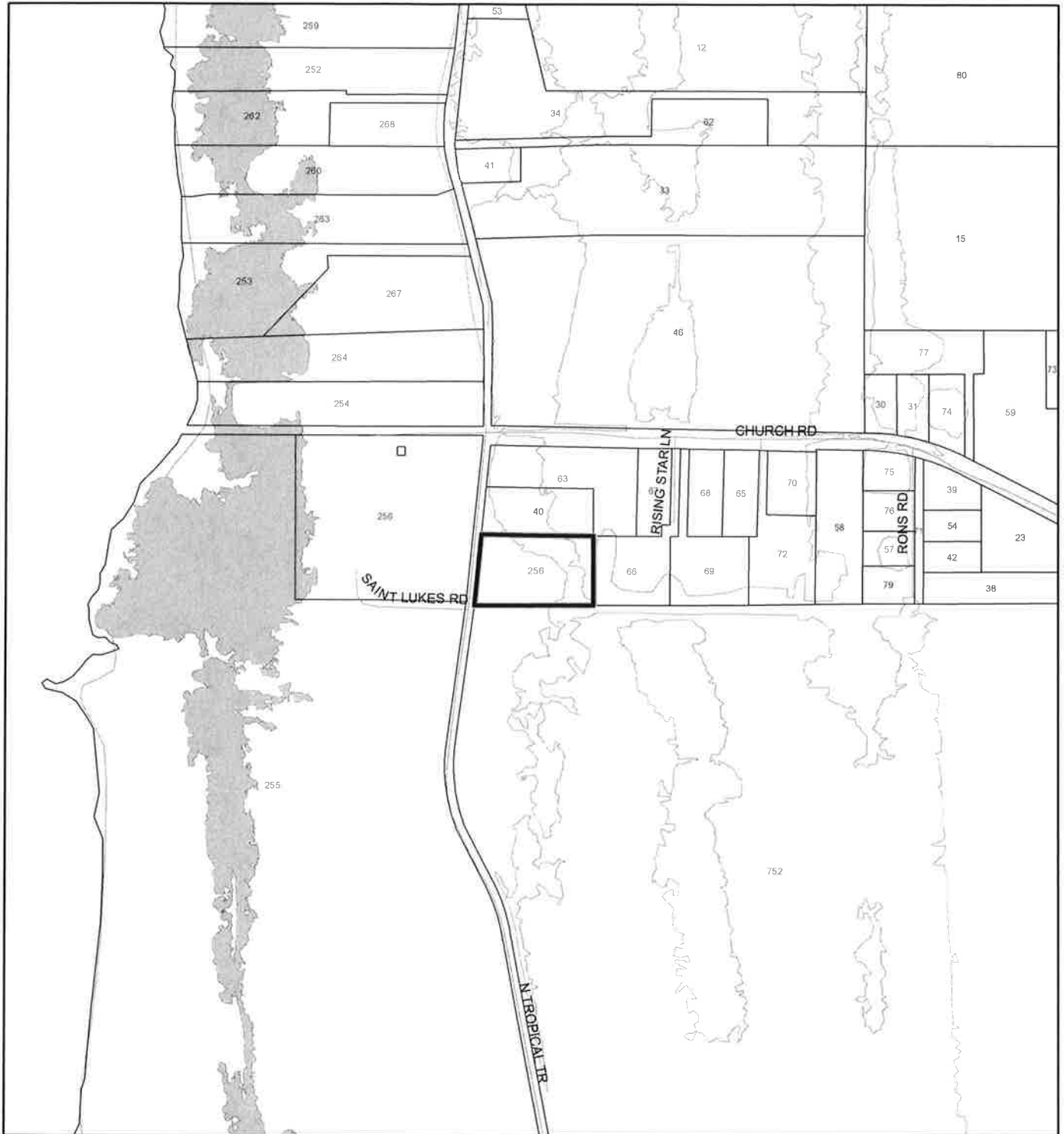
## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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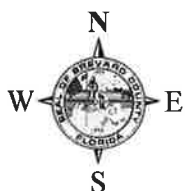
Produced by BoCC - GIS Date: 8/7/2020

## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  |            | Parcels              |

# COASTAL HIGH HAZARD AREA MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2020

— Subject Property

□ Parcels

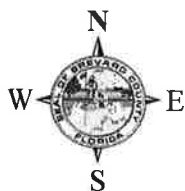
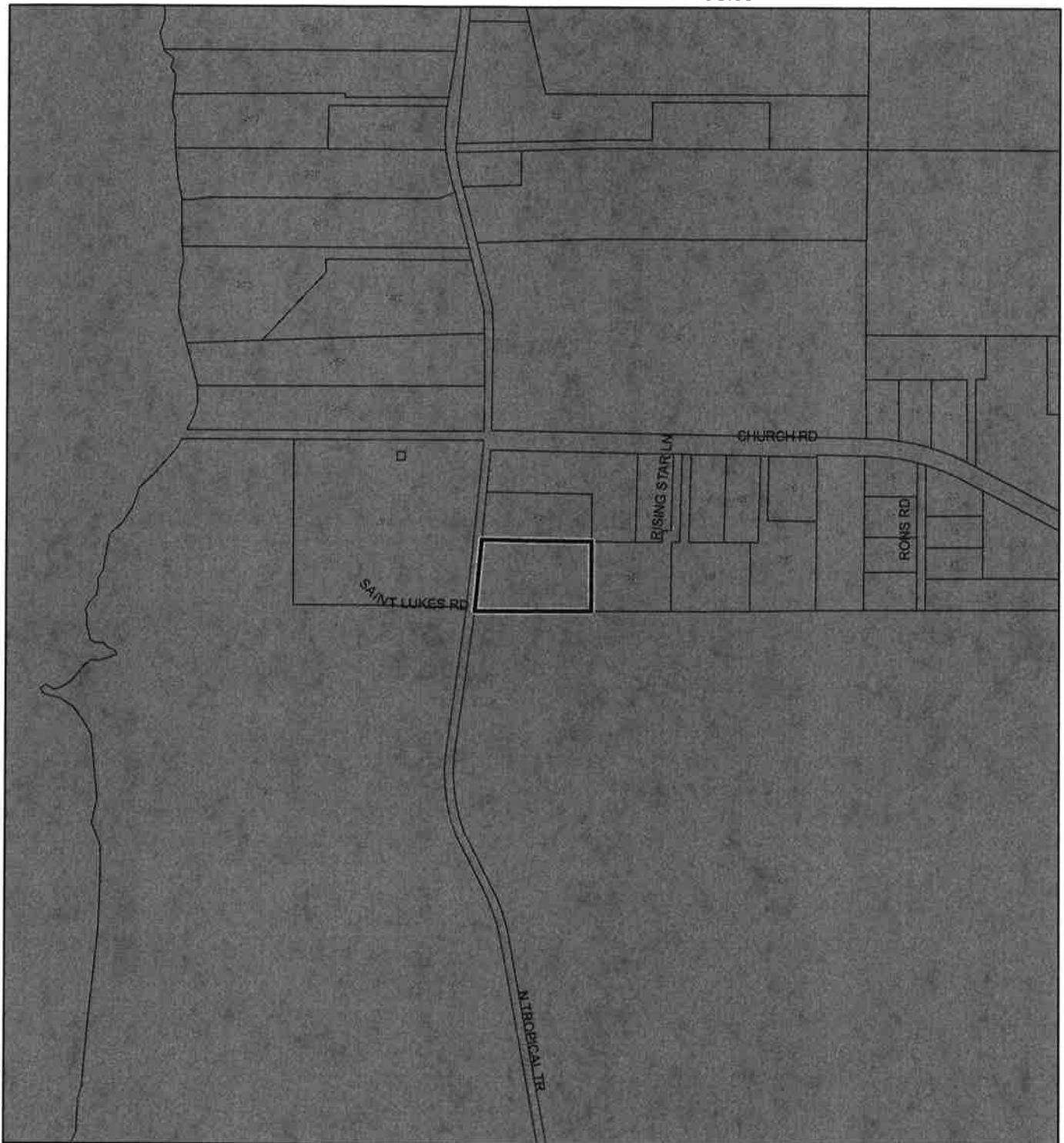
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC

20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2020

— Subject Property

□ Parcels

## Septic Overlay

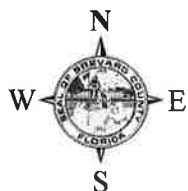
■ 40 Meters

■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

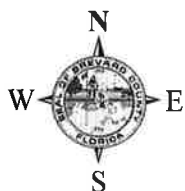
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/7/2020

-  Subject Property
-  Parcels
-  Eagle Nests FWS 2010

# SCRUB JAY OCCUPANCY MAP




ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05



1:4,800 or 1 inch = 400 feet

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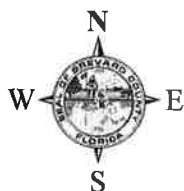
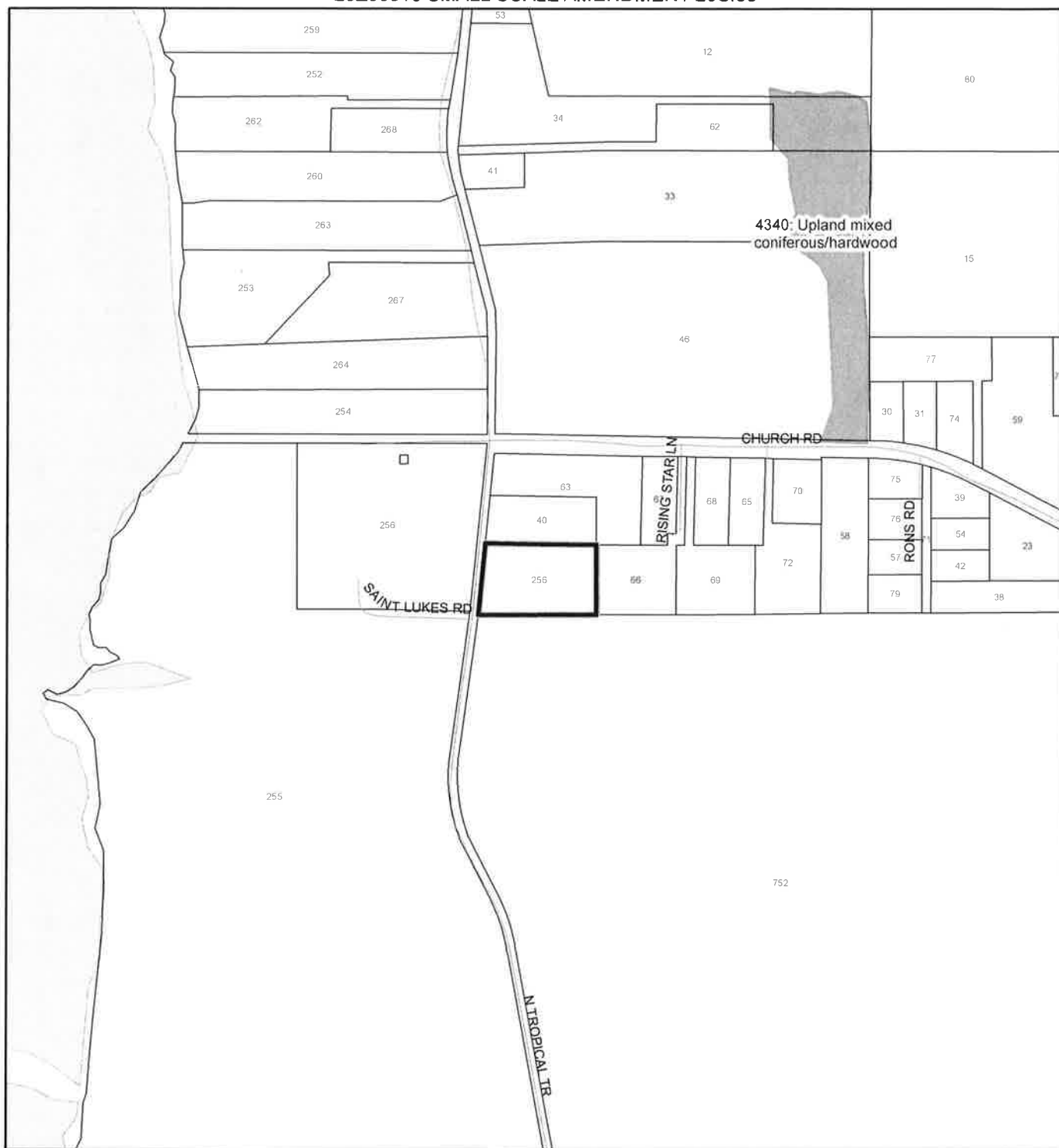
Produced by BoCC - GIS Date: 8/7/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

ST. LUKE'S EPISCOPAL CHURCH OF COURTENAY FL., INC  
20Z00018 SMALL SCALE AMENDMENT 20S.05




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: 8/7/2020

## 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



**From:** Kim Smith  
**To:** Jones, Jennifer  
**Subject:** Thurs eve 10/8/20, Re: 20Z00018, 20Z00019.Campbell Surveying/St. Luke's Episcopal Church  
**Date:** Thursday, October 8, 2020 4:51:59 PM

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

Dear Jennifer -

I don't know, at this late date/time, if you are attending the NMIDSDB meeting tonight.

If you are or you know who is - and you wish to pass this along to the NMIDSDB during the public comment phase - the NMIHOA would appreciate it.

This is really not a job for county employees; I am, however, attempting to get this information last-minute to the NMIDSDB before their meeting.

There are technical reasons no one from the NMIHOA is presenting this at the NMIDSDB meeting; they are Covid/Zoom meeting related and something that the NMIHOA must resolve. I did not have this info to pass along to them until late this afternoon, hence me sending it to you now in hopes that you would be able to convey their opinion to the NMIDSDB.

If not so be it. I will let the NMIHOA board know. I will also let them know that if they wish to participate in community hearings, a future practice of tardy decisions will foil their participation goal.

Thank you for your help, and if you cannot I completely understand. Either way this will be a lesson to the NMIHOA.

Sincerely appreciative, Kim Smith

To be stated to the NMIDSDB:

"Regarding the rezoning requests 20Z00018 and 20Z00019 of John Campbell Surveying/St. Luke's Episcopal Church, the NMIHOA has no objections. Thank You."

## **NORTH MERRITT ISLAND**

### **DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, October 8, 2020**, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

**Board members present were:** Mary Hillberg, Chair; Jack Ratterman, Vice Chair; Gina Lindhorst; Catherine Testa; and Ted Balke.

**Planning and Development staff present were:** Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

#### **Approval of July 16, 2020, Minutes**

Motion by Gina Lindhorst, seconded by Jack Ratterman, to approve the minutes from July 16, 2020. The motion passed unanimously.

#### **St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)**

A Small Scale Plan Amendment (20S.05) to change the Future Land Use designation from RES 1:2.5 to RES 1. The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00018) (Tax Account 2317060) (District 2)

#### **St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)**

A change of zoning classification from IN(L) (Institutional Use – Low Intensity) to RR-1 (Rural Residential). The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00019) (Tax Account 2317060) (District 2)

Jeffrey Ball – It's my understanding that the applicant wishes to have a land use change for the pastor's residence because this property, in conjunction with the property on the west side of N. Tropical Trail, was used as a place of worship. For whatever reason, they are no longer in operation and they would like to sell off the pastor's residence, and in order to do that, the land use and zoning need to be changed.

John Campbell – I brought Cheryl Stremara with me, who is the church representative, and I've asked her to give a brief history of the church.

Cheryl Stremara – The church was formed as a mission in 1886, and our first church was built in 1988. We acquired the property that the rectory is on in 1911; our first full-time rector was appointed in 1962 and the rectory was built after that in order to provide him a home, as well as a private office and meeting spaces for Christian education and other types of meetings. Subsequently, we built a large fellowship hall that has an adjoining office area, so we no longer need the rectory for those functions. Our last rector left last year; he returned to England. We have a search committee to find a new part-time rector. We don't anticipate needing the rectory, but we won't sell it until we have that person on-board, just in case they might need it. We want to have all the pieces in place in case that's the decision.

Mary Hillberg – We're happy to hear that you're not closed.

Cheryl Stremara – We haven't folded, no. We're still alive and doing fine. It's just that the rectory is a 1960's home.

John Campbell – Cheryl has asked me to address the board for the technical stuff and the surveying. I've got some exhibits, and the first one is the GIS zoning map with the parcel outlined in yellow. The property to the south is government property; the property to the north, for the most part, is either SR with half-acre lots, or EU, which is even smaller; and also to the north is RR-1. There is a provision in the code that we can have a transitional zoning from the higher density requirements. We would like you to address first the density, which is currently one unit per two and a-half acres; our parcel is 1.5 acres, and there is no way we can make it larger. The church property is on the west side of the road. I have some other exhibits, but I think most of you are my neighbors and most of you know about our church. The important thing is that the deed to this piece of property, which is 1.5 acres, was transferred to the church 110 years ago, so we've existed before anything else in this area existed, and I think we can cut this really quick. We need your help, the church has surplus property because they no longer need the rectory, and that's the reason for this request. There is an existing single-family home on the property. The property is 1.5 acres; therefore, if RR-1 zoning is granted there is no way we can build two units. The house is over 50 years old and I would think that the life of that house has probably reached its maximum, and the land value is worth more than the home is. I've surveyed the property with the dimensions of the property. Also, Cheryl was able to get the deed, which is dated 1911; the deed itself is pretty hard to read, but I've transcribed as much of it as I could in order to do the survey. I'm here to ask for your help in first changing the Future Land Use to Residential 1, and then secondly, I would hope that you approve the zoning change. I notice we don't have any objectors here, and we have no objections from the North Merritt Island Homeowners Association. If you have any questions, myself or Cheryl would be happy to answer them.

Jack Ratterman – What is the little red square in the graveyard?

Cheryl Stremara – That is the Porcher mausoleum, and it was transferred to them in 1914.

Ted Balke – I have a question. Why can't the property be changed to GU rather than changing it to Residential 1 and violate the Tropical Trail Small Area Study?

John Campbell – The property can't be GU because I believe GU requires five acres.

Ted Balke – No, it does not. The house next to you is already GU, and all you have to do is comply with the County board, and that would let you have an acre and a half as one house, which is exactly what your north neighbor is, rather than change the small area study that took three and a half years and calls for the entire island to be converted over to 2.5 acres for a house, for development, and the North Tropical Trail study that is already in force.

Mary Hillberg – Ted, may I say that I think you mean the North Merritt Island area, not the whole Merritt Island.

Ted Balke – Both sides of Courtenay.

Mary Hillberg – On North Merritt Island.

Ted Balke – The east side, unfortunately, is Residential 1 and they're doing it as one house per acre, as opposed to one per 2.5. We wanted the whole thing to be one per 2.5, all of North Merritt Island, which was never put into effect, but the North Tropical Trail is in effect at one per 2.5.

Jeffrey Ball – The Future Land Use of 2.5 was recommended by the North Merritt Island Study several years ago, so this property does not meet that minimum 2.5 acres. That's the reason for the land use change, to allow for that property to be used as a single-family home, regardless of it being attached to a house of worship.

Ted Balke – But your codes indicate that you can change this to be a General Use property, and that will permit you with one house for that 1.5 acres and it will not violate the residential agreement.

Jeffrey Ball – Just so everyone understands, GU has a minimum lot size of five acres, regardless of what is existing out there; I don't know the certain circumstances of each of those lots, they may be considered nonconforming lots of record. This property has to meet the five acres and it does not. That's why before the board today is a land use change and a zoning change to bring the property into compliance. This house was used as a rectory with a church, and now it's the intent to separate those properties in the future, and when it's a stand-alone single-family home, there are different requirements that need to be adhered to.

Ted Balke – The property directly to the north, Lot 40, is GU, and according to your Section 62-1151, that property stands with one residence built on it and it is one and one-third of an acre.

Mary Hillberg – Isn't that a nonconforming lot?

Ted Balke – Yes, it is.

Jeffrey Ball – We would have to do the research to confirm that, but from the looks of it, it seems to be.

Ted Balke – The first handout he showed, the map, indicated that you can see that the house directly to the north on that smaller, even, piece of property is a GU.

Mary Hillberg – Are we allowed to change properties into nonconforming properties? Is it appropriate to change property when you're doing a zoning change, into something that is nonconforming?

Jeffrey Ball – No. The guiding principle is that when you change zoning, you remedy the nonconformity. We wouldn't want to change the zoning on a property that doesn't meet that zoning classification.

Mary Hillberg – That's why we wouldn't be going with GU then?

Jeffrey Ball – Correct.

Ted Balke – Not according to your codes 14-20.57 or 97-49.56, or 12-9.7. Those are all of the codes that permit you to make it a non-compliant, one-house property without changing it to Residential 1.

George Ritchie – In looking at the zoning, the GU zoning is a residential zoning, so that has to be consistent with the Comprehensive Plan (Comp Plan). If it was there before the Comp Plan was

initiated or reduced in size, it would be nonconforming to the Comprehensive Plan. The difference between Institutional zoning is that it is not a residential zoning, so there are zero residential units allowed on that property. Because it was used for a church, we allow the pastor to live on that property and it would not be seen as a residential use. What they are trying to do is divide the church from the residence and create that as a residential use. Institutional zoning by itself only needs to meet a 7,500 square-foot lot size, and they could have another Institutional activity, such as a group home or assisted living facility. There are other permitted uses that could be done under the current zoning on that property without a land use or zoning change, but if you want to make this a residential lot to sell to somebody to have a home, then we have to address the Comp Plan size limit because the lot is not grandfathered in for residential use. We have to fix the Comp Plan because the lot is not 2.5 acres, unless they want to convey property over to meet 2.5 acres, we're looking at the Comprehensive Plan amendment. Then, based on having 1.5 acres on that side of the street, we can apply for a one acre-plus zoning. AU zoning is 2.5 acres, but you don't meet the size requirement, so you would have to ask them to get variances to that zoning before they could apply for that zoning. You have the option, if you want to change the land use from one per 2.5 acres down to 1 acre, or do you just want them to change the zoning to something else that would be consistent. You're looking at what the applicant is requesting, and they need two submittals, one to increase the land use intensity from a 2.5-acre lot down to 1 acre, and then use a 1-acre zoning classification so that the house would be a legal permitted use on that property.

Mary Hillberg – And it would be compliant with all of our codes?

George Ritchie – Correct.

Mary Hillberg called for public comment, and hearing none, brought the item back to the board.

Mary Hillberg – The North Merritt Island Homeowners Association has submitted a comment I'll read into the record. "Regarding the rezoning requests 20Z00018 and 20Z00019 of John Campbell Surveying/St. Luke's Episcopal Church, the NMIHOA has no objections. Thank You." Does the applicant have any other comments?

John Campbell – No, I really don't. This is surplus property that needs to be disposed of and there is no other way to do it. If you don't grant our request we won't be able to use it. It is 1.5 acres, which is consistent with everything near it and around it.

Mary Hillberg – Is there a motion here?

Jack Ratterman – I'll make a motion that we accept their request for RR-1.

Jeffrey Ball – If I can just interject, we need to have two motions; one for the land use and one for the zoning.

Mary Hillberg – On the issue of zoning, you're making a motion to change it to RR-1.

Jack Ratterman – Right.

Mary Hillberg – Is there a second?

Catherine Testa – I'll second it.

Mary Hillberg called for a vote on the motion as stated and it passed 4:1, with Ted Balke voting nay.

Mary Hillberg – Next is the Comprehensive Plan amendment to change from Residential 1:2.5 to Residential 1.

Catherine Testa – I'll make a motion to accept.

Gina Lindhorst – Second.

Mary Hillberg – I have one thing for discussion in general for changing to RR-1. The properties on North Merritt Island are so vulnerable to high waters and flooding, and as much as we try to move the water in circles, it still is there. I would prefer that sewer be on this property, and there is no way this board has anything to say about that, but I know it's 865 feet away from the property, and now it's on septic, but for the record I'd like to say that.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Upon consensus, the meeting adjourned at 6:24 p.m.

## **LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES**

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, October 19, 2020, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Peter Filiberto, Vice Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Michelle Adams, Administrative Secretary.

### **Excerpt of Complete Minutes**

#### **1. St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)**

A Small Scale Plan Amendment (20S.05) to change the Future Land Use designation from RES 1:2.5 to RES 1. The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00018) (Tax Account 2317060) (District 2)

#### **2. St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)**

A change of classification from IN(L) (Institutional Use – Low Intensity) to RR-1 (Rural Residential). The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00019) (Tax Account 2317060) (District 2)

John Campbell, 115 Alma Boulevard, stated the first item being requested is RES 1:2.5 to RES 1, which requires an amendment to the Future Land Use Map.

Cheryl Stremara, 1811 Abby Ridge Drive, Merritt Island, stated the church would like to change the Future Land Use to RES 1 so that the property can be sold. She noted that the church is moving from a full-time rectory to a part-time rectory, and will probably not need a house.

No public comment.

John Campbell stated the North Merritt Island Dependent Special District Board approved the requests, and there were no objections from the North Merritt Island Homeowners Association. The reason for the request is that the existing zoning allows for a church as an institutional use, but it does not provide a residential use, although there is a home on the property that has been used as a pastor's residence and an office. In order for the church to divest themselves of this surplus property, the institutional zoning needs to be taken off of the record, and once that is done he will request to amend the existing zoning to RR-1, which requires 1 acre. The site is 1.5 acres; it cannot be divided any smaller, nor can it be enlarged.

Motion by Joe Buchanan, seconded by Ben Glover, to approve the Small Scale Plan Amendment (20S.05) to change the Future Land Use designation from RES 1:2.5 to RES 1. The motion passed unanimously.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the change of classification from IN(L) to RR-1. The motion passed unanimously.