



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.9.

7/11/2024

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### Subject:

Alexis DeJesus, Rosemary DeJesus, & Brandon DeJesus request a Small-Scale Comprehensive Plan Amendment (24S.07) from CC and NC to all CC. (24SS00007) (Tax Account 2102561) (District 1)

### 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 Small-Scale Comprehensive Plan Amendment (24S.07) to change the Future Land Use Designation from CC (Community Commercial) and NC (Neighborhood Commercial) to all CC (Community Commercial).

### Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use (FLU) designation from Community Commercial (CC) and Neighborhood Commercial (NC) on 2 acres for the purposes of a unified FLUM across the entire property. The CC portion includes approximately 1.9 acres and 0.1 acres of NC. The applicant proposes to develop the site for mobile home sales and automobile sales. A CC FLU designation is required for consistency with the requested BU-2 zoning classification.

A companion application, 24Z00021, if approved, would amend the zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

The requested BU-2 zoning classification requires CC FLU designation to be considered consistent with Community Commercial (CC) FLUM.

To the north is developed with mix of single-family homes with BU-1 zoning, an auto body shop with CC FLU designation and BU-2 zoning and single-family with NC FLU designation and TR-1 zoning. To the east is vacant with RES 4 FLU designation and AU zoning. To the south is vacant land with CC designation and RU-1-11 zoning. To the west is Highway 1, is developed as a retail store.

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

On June 10, 2024, the Planning and Zoning Board/Local Planning Agency heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

Once filed with the State, please return a copy of the ordinance to Planning and Development.



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

July 12, 2024

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

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

**RE:** Item H.9., Small Scale Comprehensive Plan Amendment (24S.07)

The Board of County Commissioners, in regular session on July 11, 2024, conducted the public hearing and adopted Ordinance No. 24-14, setting forth the third Small Scale Comprehensive Plan Amendment (24S.07) to change the Future Land Use designation from CC and NC to all CC (24SS00007). Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

ORDINANCE NO. 24-14

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2024, 24S.07, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 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 2024 as Plan Amendment 24S.07; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 24S.07; and

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

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

Officially filed with the Secretary of State on July 15, 2024.

WHEREAS, on June 10, 2024, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 24S.07, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on July 11, 2024, 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 24S.07; and

WHEREAS, Plan Amendment 24S.07 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 24S.07 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 24S.07 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 24S.07, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

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

Section 6.        Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of 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 11 day of July, 2024.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



By: Jason Steele  
Jason Steele, Chair

As approved by the Board on July 11, 2024.

## **EXHIBIT A.I**

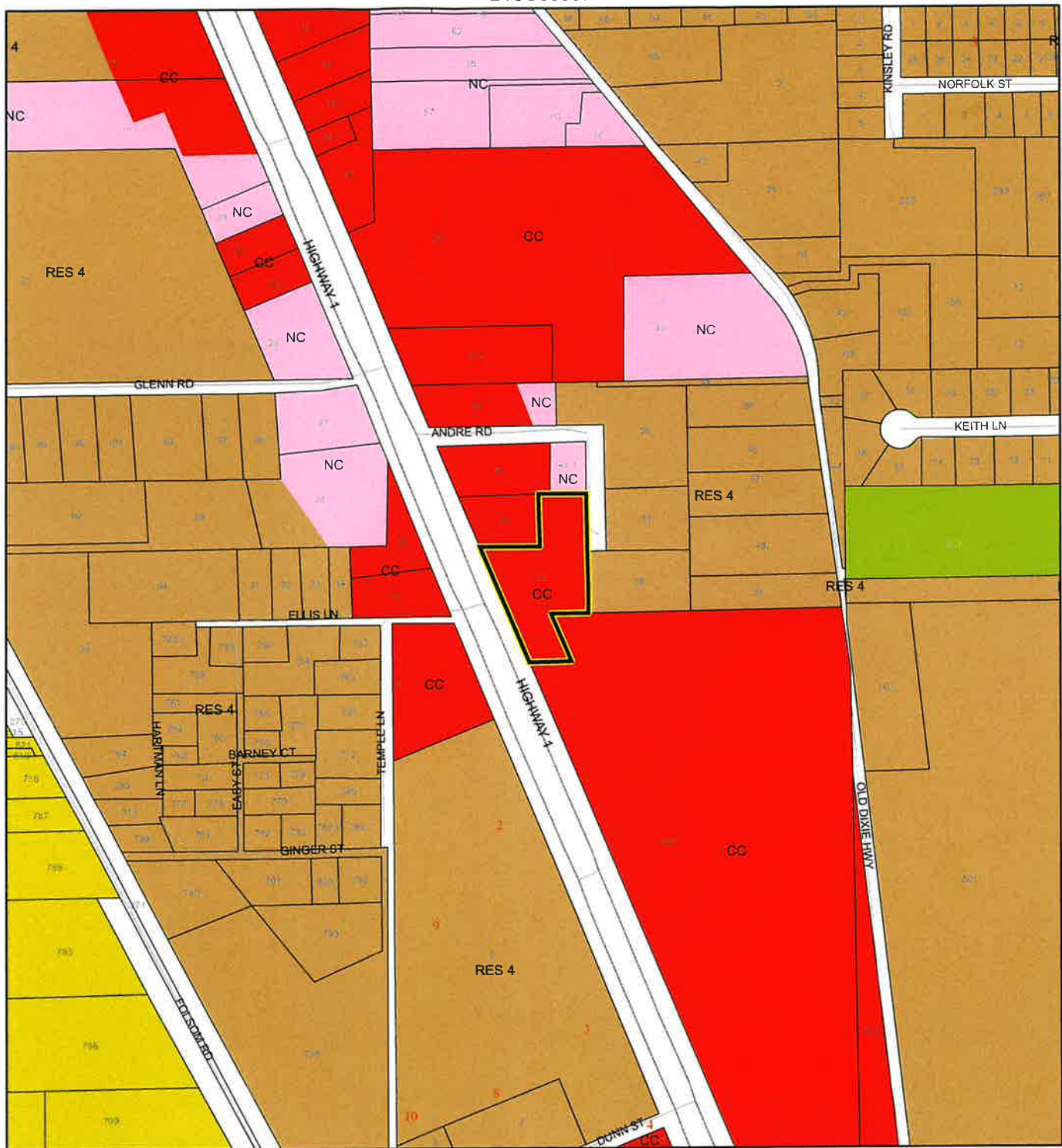
### **Contents**

#### **1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



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: 4/16/2024



## **EXHIBIT B**

### **Contents**

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

Tax Parcel 37, as recorded in ORB 9850, Pages 2271 – 2273, of the Public Records of Brevard County, Florida. **Section 07, Township 21, Range 35.** (2.02 acres) Located on the east side of Hwy US 1, approx. 400 ft. south of Andre Rd. (3003 Hwy. 1, Mims)

## **EXHIBIT B.I**

### **Contents**

#### **1. Other Maps**

# AERIAL MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007





1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

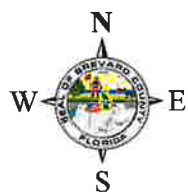
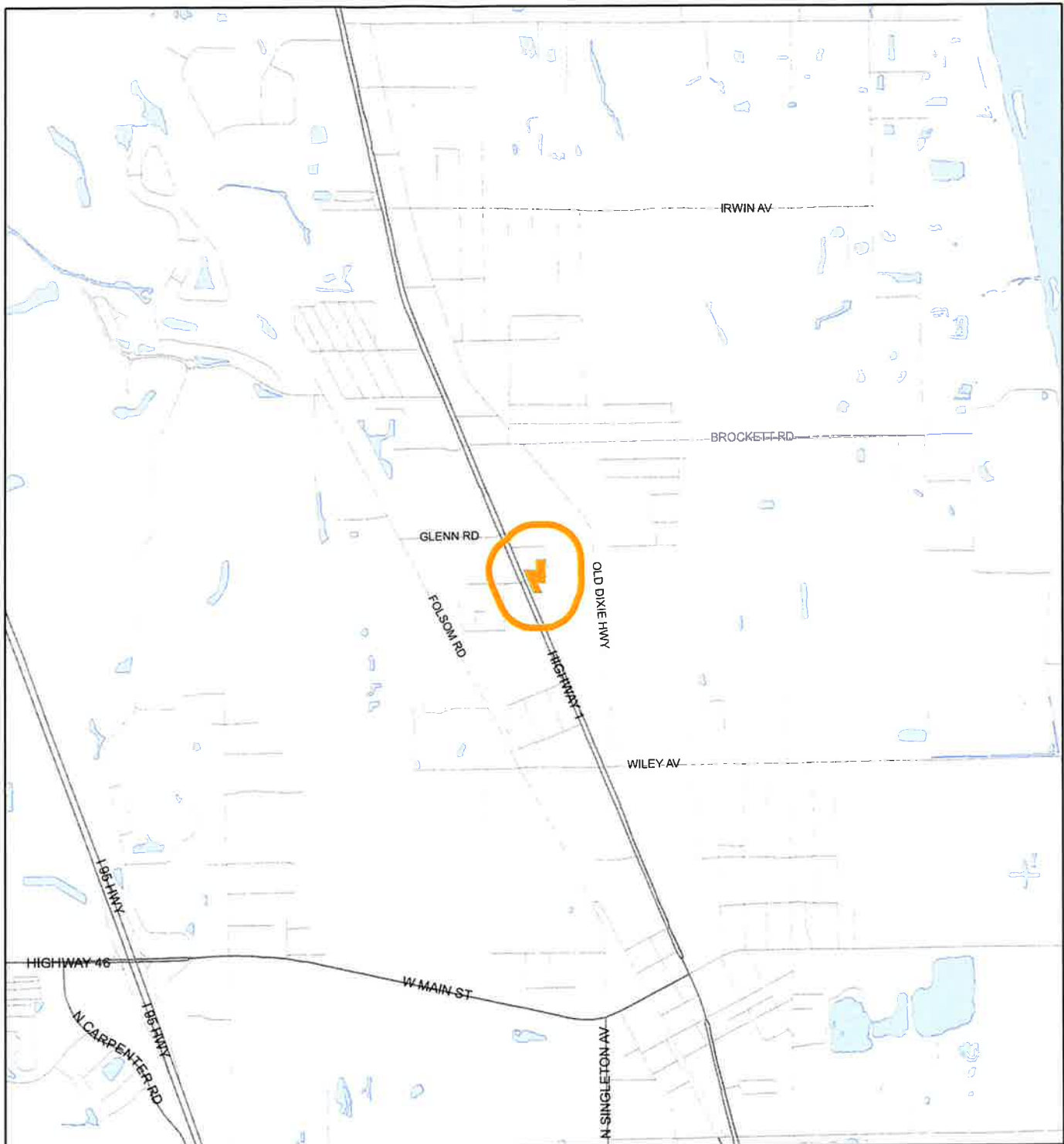
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/17/2024

 Subject Property  
 Parcels

# LOCATION MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 4/16/2024

Buffer  
Subject Property



# ZONING MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

Subject Property

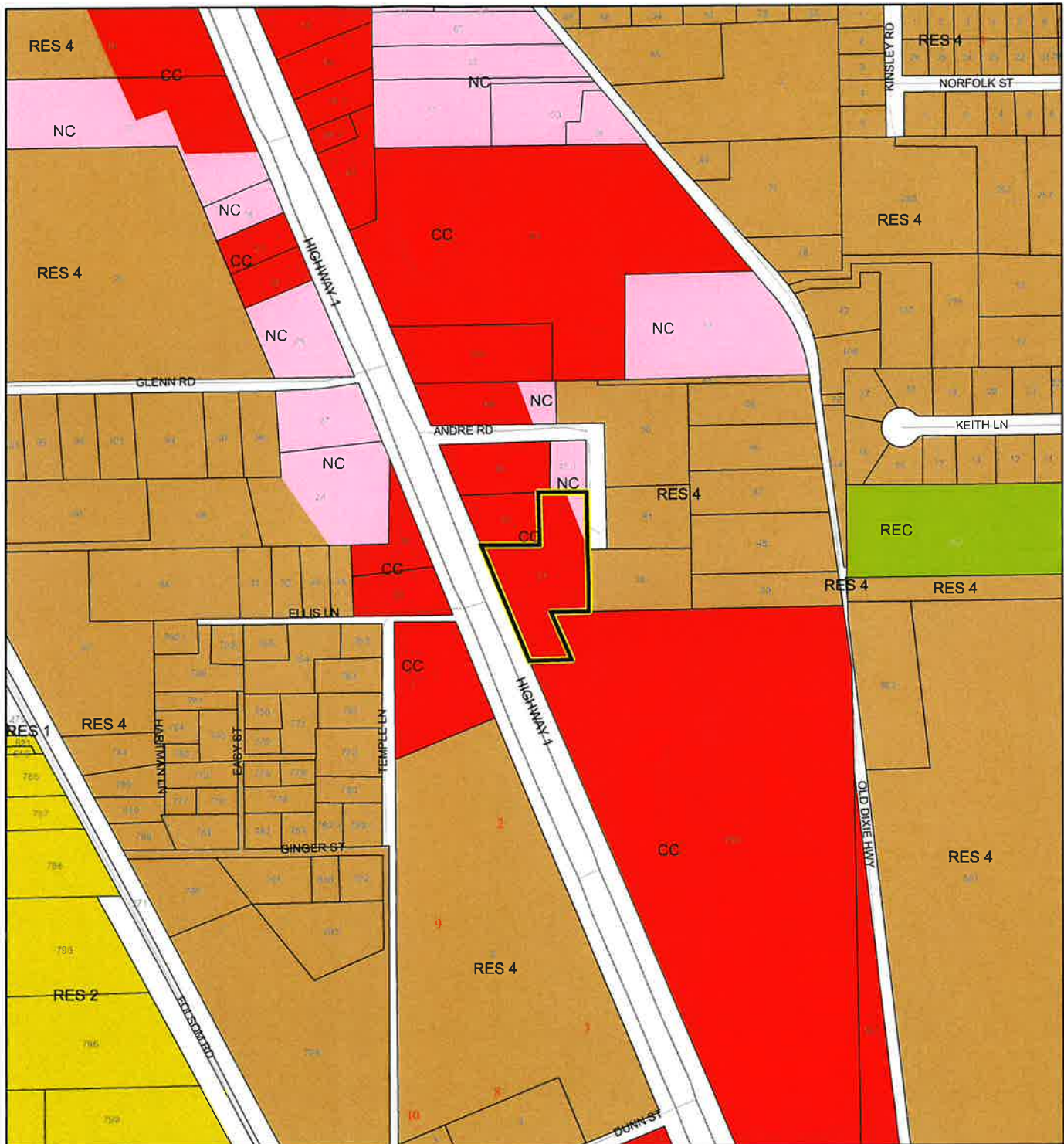
Parcels

Zoning

# FUTURE LAND USE MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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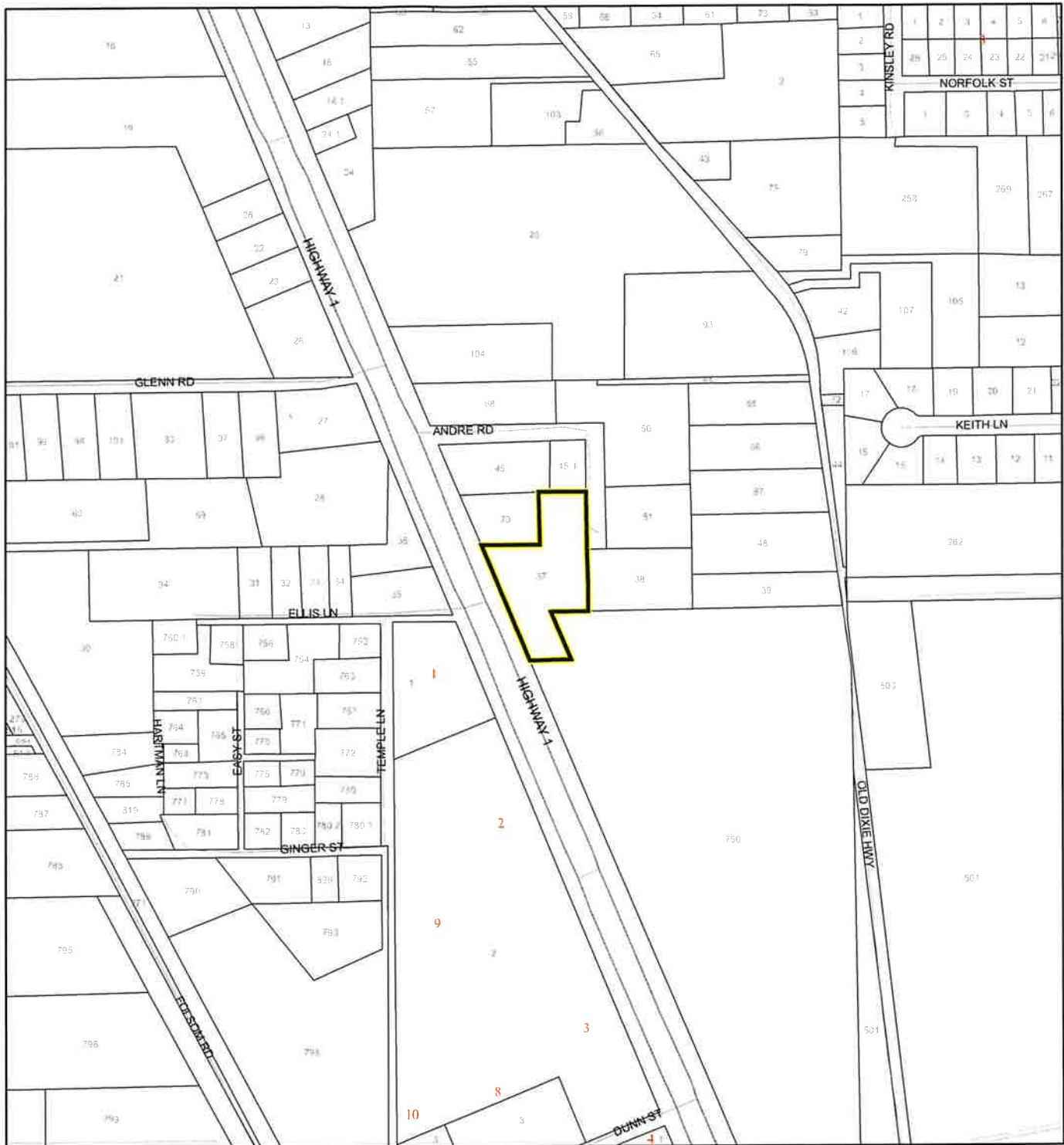
Produced by BoCC - GIS Date: 4/16/2024



# NWI WETLANDS MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## 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

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## SJRWMD FLUCCS WETLANDS

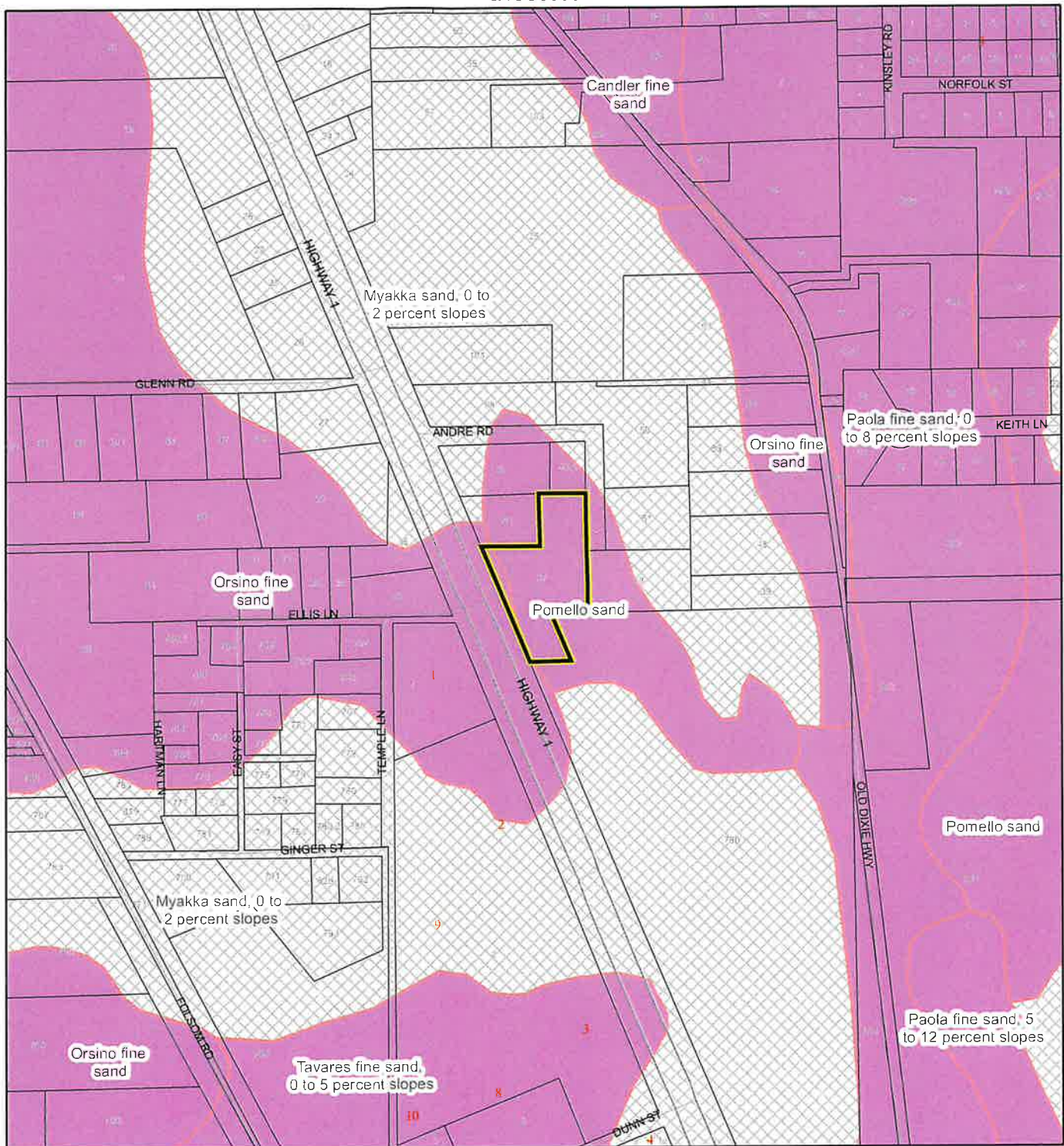
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

# USDA SCSSS SOILS MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



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## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

# COASTAL HIGH HAZARD AREA MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

— Subject Property

□ Parcels

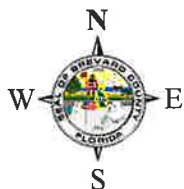
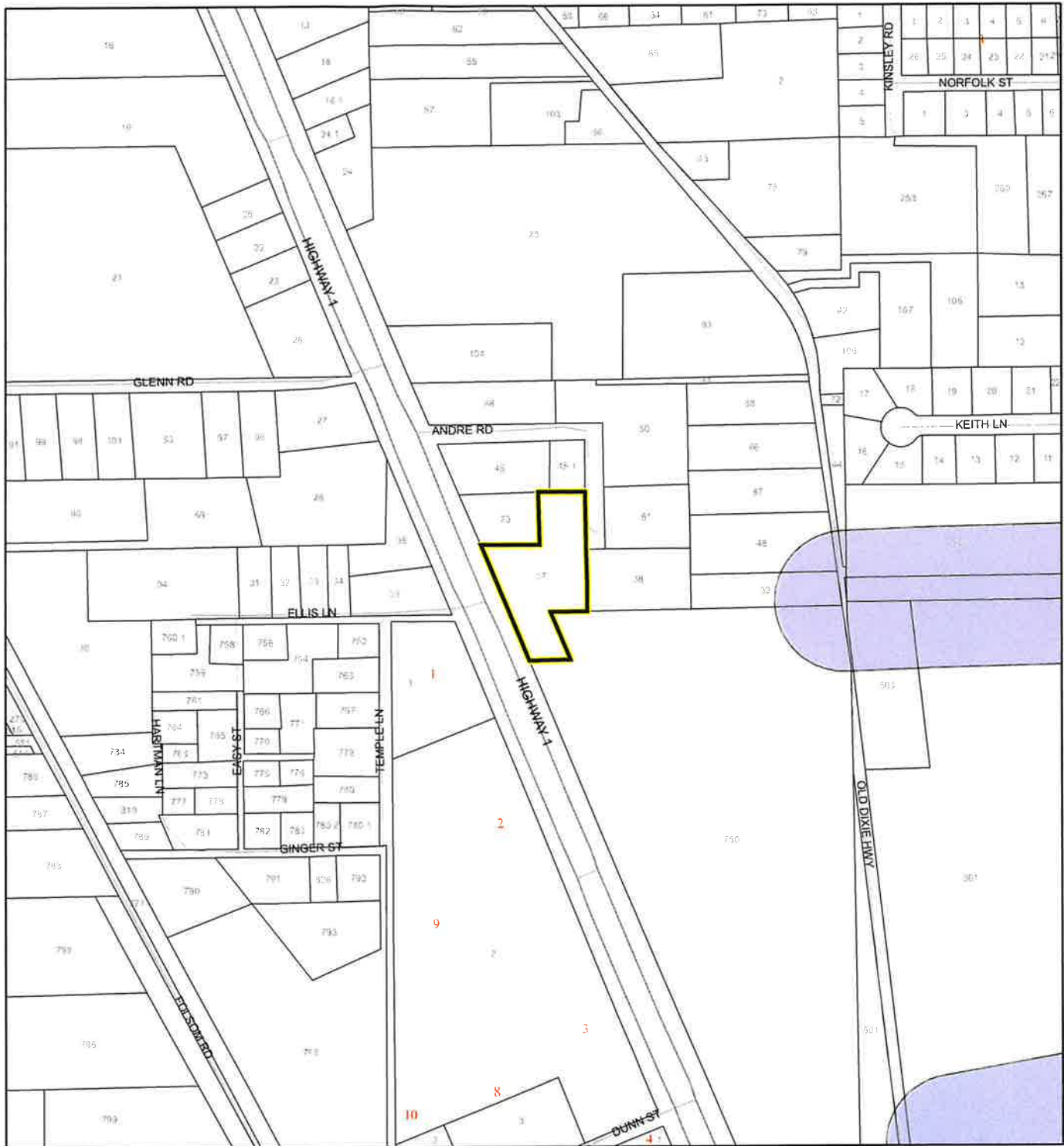
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

 Subject Property

 Parcels

## Septic Overlay

 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

 Subject Property

 Parcels

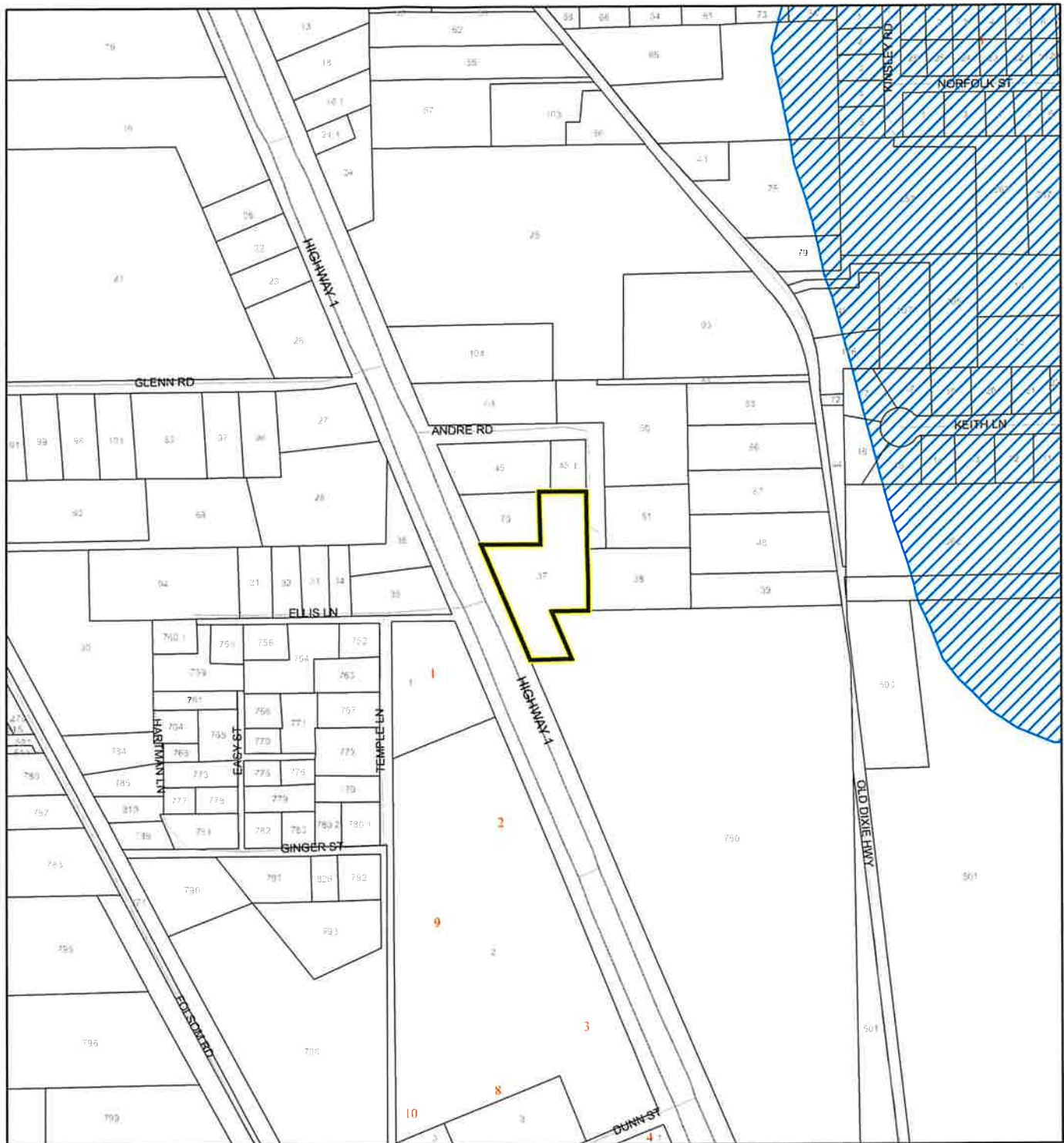
 Eagle Nests FWS



# SCRUB JAY OCCUPANCY MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

 Subject Property

 Parcels

 Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## SJRWMD FLUCCS Upland Forests

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

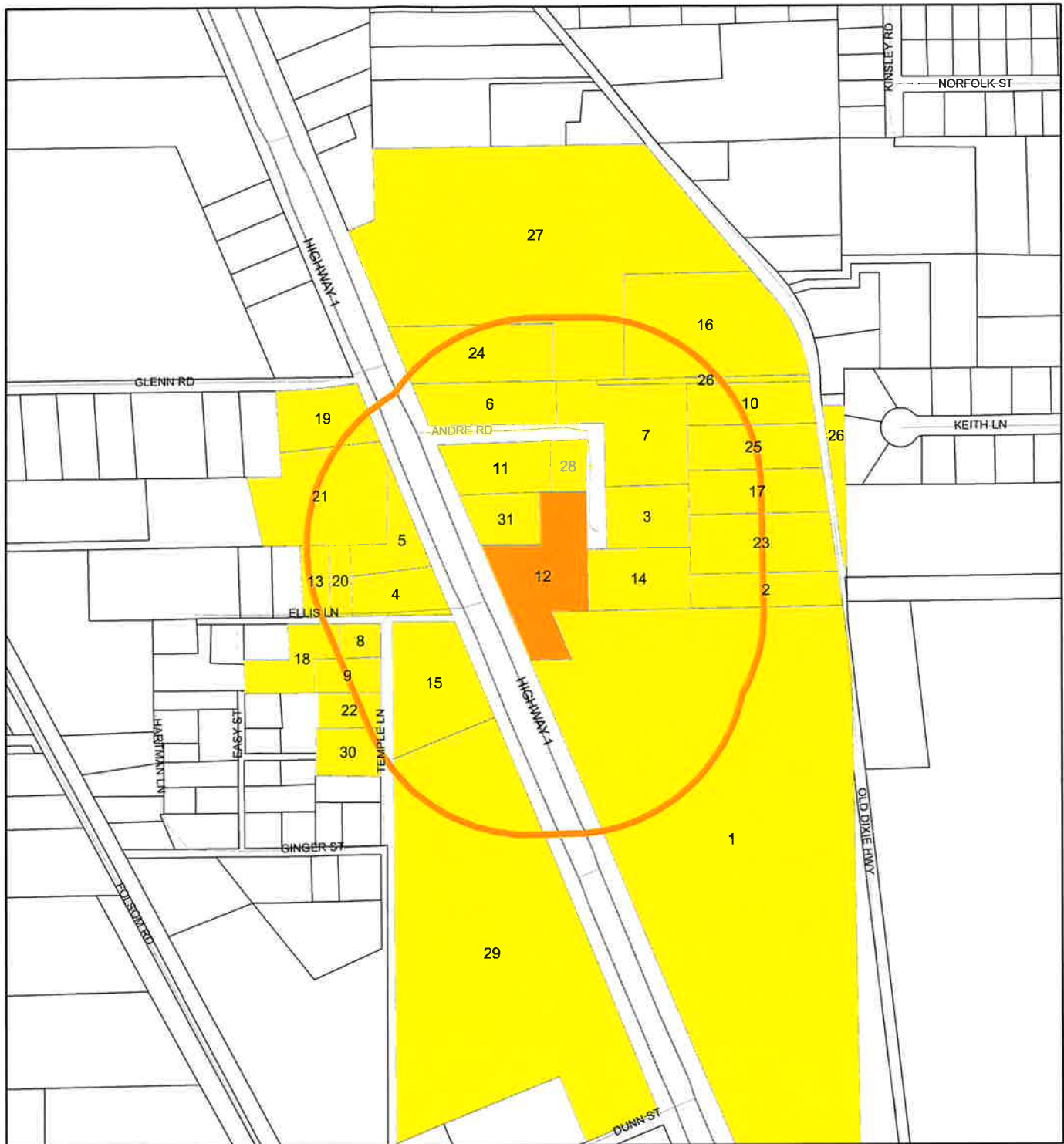
Subject Property

Parcels



# RADIUS MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 4/16/2024

- Buffer
- Subject Property
- Notify Property
- Parcels



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

July 15, 2024

Honorable Rachel M. Sadoff  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 24-14, which was filed in this office on July 15, 2024.

Sincerely,

Matthew Hargreaves  
Administrative Code and Register Director

MJH/wlh

## **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.

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 24S.07 (24SS00007)  
Township 20G, Range 34, Section 22*

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**Property Information**

**Owner / Applicant:** Alexis DeJesus

**Adopted Future Land Use Map Designation:** Community Commercial (CC) and  
Neighborhood Commercial (NC)

**Requested Future Land Use Map Designation:** Community Commercial (CC)

**Acreage:** 2 acres

**Tax Account #:** 2102561

**Site Location:** East side of Highway US 1 approximately 400 feet south of Andre Road.  
(District 1).,

**Commission District:** 1

**Current Zoning:** General Use (AU & BU-1)

**Requested Zoning:** BU-2

**Background & Purpose**

The applicant is requesting to amend the Future Land Use (FLU) designation from Community Commercial (CC) and Neighborhood Commercial (NC) on 2 acres for the purposes of a unified FLUM across the entire proposed project area. The CC portion includes approximately 1.9 acres and 0.1 acres of NC. The applicant proposes to develop the site for mobile home sales and automobile sales. A CC FLU designation is required for consistency with the requested BU-2 zoning classification.

The parcel has access to Highway US 1. According to the survey there are at least three frame buildings (one used as a single-family residence), one concrete pad, and two carports on the subject property.

In 1988, Brevard County Comprehensive Plan went into effect applying the CC and NC Future Land Use designation to the subject property. The subject property retains the 1988 adopted Future Land Use designation. Approval of this request would provide a consistent FLU designation across the subject property.

The requested Community Commercial (CC) FLU permits development activities which are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation include the following: a) Existing strip commercial; b) Transient commercial uses; c) Tourist commercial uses; d) Professional offices; e) Personal service establishments; f) Retail establishments; g) Non-retail commercial uses; h) Residential uses; i) Institutional uses; j) Recreational uses; k) Public facilities; l) Transitional uses pursuant to Policy 2.1; and m) Planned Industrial Park development (as permitted by PIP zoning).

A companion application, **24Z00021**, if approved, would amend the zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, warehousing and wholesale commercial). The requested zoning classification requires CC FLU designation to be considered consistent with Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan.

Under the CC FLU designation, BU-2 is the most intensive commercial zoning classification permitted.

The proposed BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services, outdoor storage yards, warehousing activities, and outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

BU-2 zoning is the county’s most intense commercial zoning classification due to the intensive nature of commercial activities permitted such as dry-cleaning plants; Seafood processing plants not located within 300 feet of any residential zone boundary; and testing laboratories. Other activities permitted with conditions in BU-2; Crematoriums; Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products such as: Electronic assembly, Food, beverage and tobacco products, Pottery and figurines, Professional, scientific, photographic and optical instruments, Technical and scientific products and materials; and Recovered materials processing facility.

### Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Single family dwellings/auto body shop	BU-1, BU-2, TR-1	CC, NC
<b>South</b>	undeveloped	RU-1-11	CC
<b>East</b>	Single family dwellings	TR-1, RRMH-1, AU, RU-1-11	RES 4
<b>West</b>	Highway/retail store/undeveloped	BU-1, BU-2	CC

To the north are 3 parcels; single family with BU-1 zoning, classified by Brevard County Property Appraiser as auto body shop with CC FLU designation and BU-2 zoning and single family with NC FLU designation and TR-1 zoning.

To the east is 1 parcel; 0.41-acre (unplatted residential vacant land) with RES 4 FLU designation and AU zoning.

To the south is 1 parcel; 30 acres vacant land with CC designation and RU-1-11 zoning.

To the west is Highway 1, 0.72 acres of undeveloped land and 0.66 acres developed as a retail store, according to the Brevard County Property Appraiser.

The surrounding Land Use within half mile area is predominately Residential 4 (RES 4). Residential 4 (RES 4). This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within FLU element. Community Commercial (CC) is the dominate land use along the Highway 1 corridor.

Future Land Use (FLU) designations, the county's Comprehensive Plan, indicates the intended use and development density for a particular area, while zoning classification specifically defines allowable uses and contains the design and development guidelines for those intended uses. The county's Comprehensive Plan shall be the guidance for consideration when considering the appropriate zoning district to rezone a property to, moving towards consistency with the FLUM.

### **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.

### **Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1**

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

#### **Criteria:**

- A. Overall accessibility to the site;

**The subject property has access along Highway 1. Accessibility will be reviewed at site plan.**

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

**The requested CC land use designation is present along this segment to north and south of Highway 1 on the same side of the road.**

- C. Existing commercial development trend in the area;

**Existing commercial development is limited along the Highway 1 corridor. The west side of Highway 1 and one lot to the North are developed with commercial uses. All of the commercial uses in the area have been established for sometime. Commercial uses in the area includes, but not limited to a garage and auto body shop, a small light manufacturing plant, warehousing and truck terminal, a retail store, fraternal organization clubhouse and vacant commercial parcel. Single-family residential are also located within this segment of Highway 1.**

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

**There are no changes in the character of the area prompted by infrastructure improvements undertaken by the county. All development occurring is by private owners.**

- E. Availability of required infrastructure at/above adopted levels of service;

**The proposed development increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% of capacity daily. The proposed development will not create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.**

**Potable water service may be provided by Brevard County Utility Water service. The closest Brevard County sewer line is approximately one and one-third (1.3) miles west across other properties to Indian River Parkway. An approved concurrency application, including potable water service capacity, sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.**

- F. Spacing from other commercial activities;

**Existing commercial activity begins approximately 160 feet to the north and west across Highway 1. Commercial activity to the west is separated by Kelly Rd.**

- G. Size of proposed commercial designation compared with current need for commercial lands;

**A market analysis would determine the need for additional commercial in this area relative to the extent of the existing single-family residential development in the area.**

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

**Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands.**

**The provisions of this Criterion will be addressed at the site plan stage.**

- I. Integration of open space; and

**Open space requirements will be addressed during site plan.**

- J. Impacts upon strip commercial development.

**Based on staff analysis this request would qualify as an infill development rather than an expansion of strip commercial.**

## **Activities Permitted in the Community Commercial (CC) Future Land Use Designations**

### **FLUE Policy 2.7**

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;

- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

**The applicant is proposing to develop the property for mobile home and automobile sales.**

#### **Locational and Development Criteria for Community Commercial Uses Policy 2.8**

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

**There are 3 clusters of Community Commercial within and extends outward from the 500 foot boundary. Total acreage of the cluster to the north on the east side of Highway 1 is approximately 17.4 acres. The CC cluster to the south on the east side of Highway 1, including the subject property, is approximately 35.6 acres. RES 4 FLUM designation is located on the perimeter of these clusters.**

- B. Community commercial complexes should not exceed 40 acres at an intersection.

**The proposed commercial development of the subject will not exceed 40 acres at an intersection.**

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.



**The existing community commercial clusters are abutting the subject property and extend approximately quarter mile to the north and half mile to the south.**

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

**At this time, the applicant has not presented a conceptual plan for the proposed use. Any proposed development will be addressed during site plan stage to ensure compliance with Brevard County Land Development Regulations and other regulations.**

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

**A gross Floor Area Ratio (FAR) of 1.00, if FLUM amendment is approved, would be applicable to the subject property.**

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

**The concurrent requested zoning classification is BU-2 and does not permit recreational vehicle parks.**

### **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;

**Although there are properties developed as residential in the surrounding area, it would not be considered an existing neighborhood. The applicant is proposing to develop the property for mobile home and automobile sales.**

**The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage should the zoning and Future Land Use change be approved.**

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

**Only a certified MAI (Master Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.**

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

**There are three (3) FLU designations within 500 feet of the subject site: CC, NC and RES 4. Predominant FLU designations CC and RES 4.**

**There are 3 clusters of Community Commercial within and extends outward from the 500 feet boundary. Total acreage of the cluster to the north on the east side of Highway 1 is approximately 17.4 acres. The CC cluster to the south on the east side of Highway 1, including the subject property, is approximately 35.6 acres. Located to the west across Highway 1 are several smaller clusters of CC.**

**Staff analysis indicates the proposed use may be considered consistent with the existing pattern of development along Highway 1.**

**FLUM amendments within one-half mile within the past three years:**

- **23SS00007 request to amend FLUM designation from REC to RES 4 on 2.12 acres, approved 09/01/2022 located approximately 735 feet east of the subject property.**

**Zoning actions within one-half mile within the past three years:**

- **22Z00029 – RU-1-11 with BDP, SR with BDP, GML & AU to RU-1-7 with BDP on 76.52 acres limiting the project density to 197 units,**
- **21Z00026 – AU to SR on 0.5 acres,**
- **21Z00025 – AU to RR-1 on 1.15 acres,**
- **There are no pending zoning actions within one-half mile of the subject property.**

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

**Construction of one single family home has occurred within the immediate preceding three years approximately 625 feet north west of the subject property.**

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

**There has not been any development approved but not yet constructed within this area in the preceding three (3) years.**

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

**No material violation of relevant policies has been identified.**

#### **Administrative Policy 4**

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

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**Staff analysis indicates the subject property is not located within an established residential neighborhood. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. The proposed development increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.**

- 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.

**Staff analysis indicates the subject property is not located in an established residential neighborhood or area.**

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.

**The east side corridor of Highway 1 has existing FLU designation of commercial. This request does not encroach into the existing the residential area.**

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.

**Along the east side of Highway 1 is a mix of commercial uses, single-family residential and vacant land.**

#### **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.

**Based on Natural Resources analysis, the proposed use is not anticipated to 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. However, development of the property may be limited due to Type 2 Aquifer Recharge soils that have impervious area restrictions.**

#### **Concurrency**

The closest concurrency management segment to the subject property is US Hwy 1, from Lionel Rd. to State Road 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 6.90%. The corridor is anticipated to operate at 34.19% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the proposed uses. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with

the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The subject parcel is within the Brevard County Water utilities service area for potable water. A Brevard County water node and line is located directly fronting the property on Highway 1. The closest Brevard County sewer line is approximately one and one-third (1.3) miles west across other properties to Indian River Parkway. An approved Concurrency Application, including potable water service capacity, Sanitary sewer service capacity and solid waste capacity is required upon a formal site plan submission.

## **Environmental Resources**

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

- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees
- Enforcement

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

## **Historic Resources**

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

## **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Land Use Review & Summary  
Item No. 24SS00007**

**Applicant:** Alexis DeJesus (Owners: Alexis DeJesus, Rosemary DeJesus, Brandon DeJesus)

**Land Use Request:** CC & NC to all CC

**Note:** To sell mobile homes and automobiles

**LPA Hearing:** 06/10/2024; **BCC Hearing:** 07/11/2024

**Tax ID No.:** 2102561

- 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
- Protected Species
- Protected and Specimen Trees
- Enforcement

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

**Land Use Comments:**

**Aquifer Recharge Soils**

This property contains Pomello sand and Orsino fine sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Protected and Specimen Trees**

Protected and Specimen Trees likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance Section 62-4337, entitled Permit Application Requirements and Review Process, states that a permit shall be required

prior to any land clearing activities unless exempt. 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 confirmation of unpermitted land clearing activities may result in code enforcement action. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

#### **Protected Species**

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

#### **Enforcement**

There is an active Code Enforcement case (24CE-00510) for unpermitted land clearing on the property in 2023/2024. The case is pending.



# AERIAL MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

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.

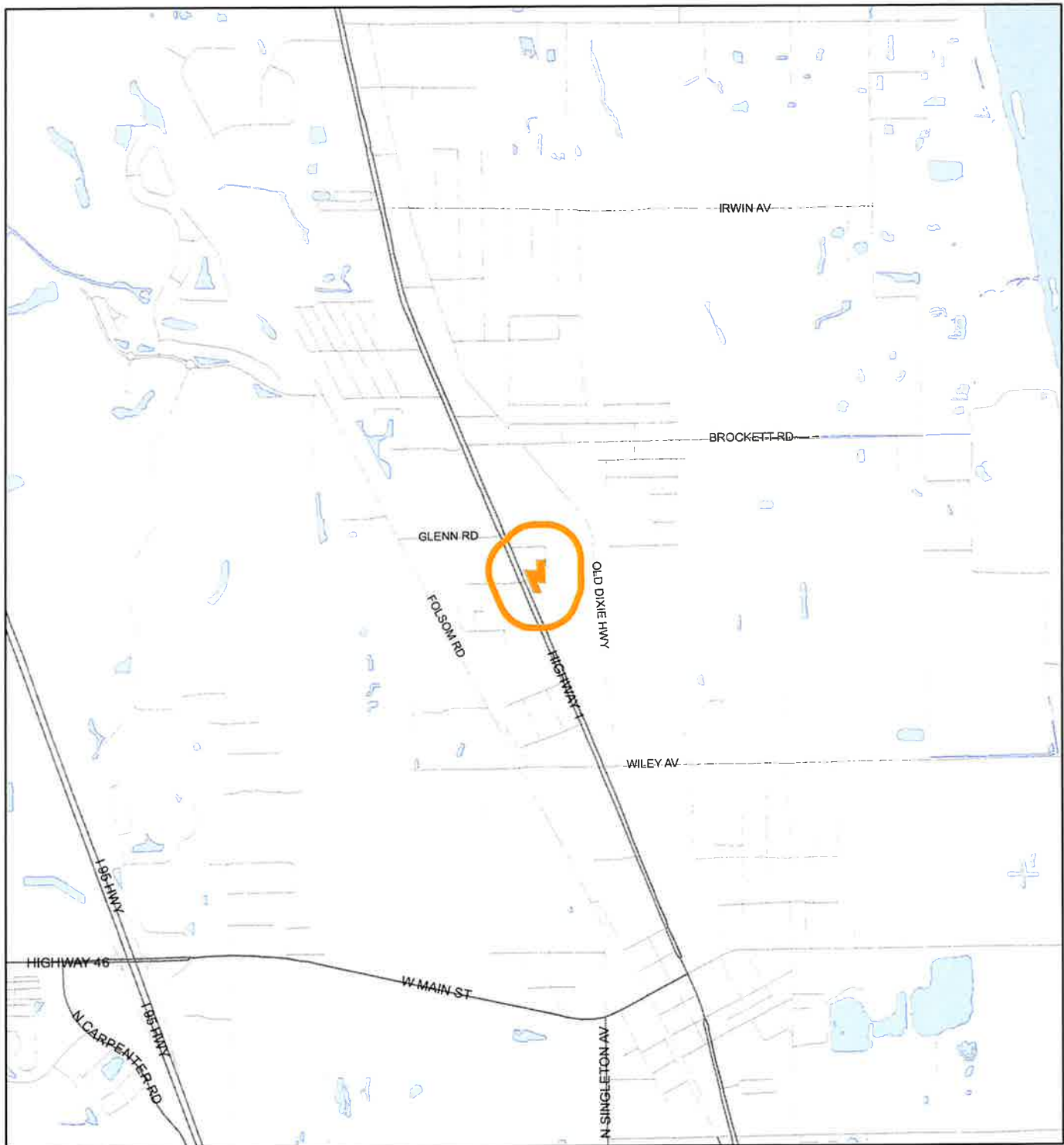
Produced by BoCC - GIS Date: 5/17/2024

— Subject Property  
□ Parcels



# LOCATION MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 4/16/2024

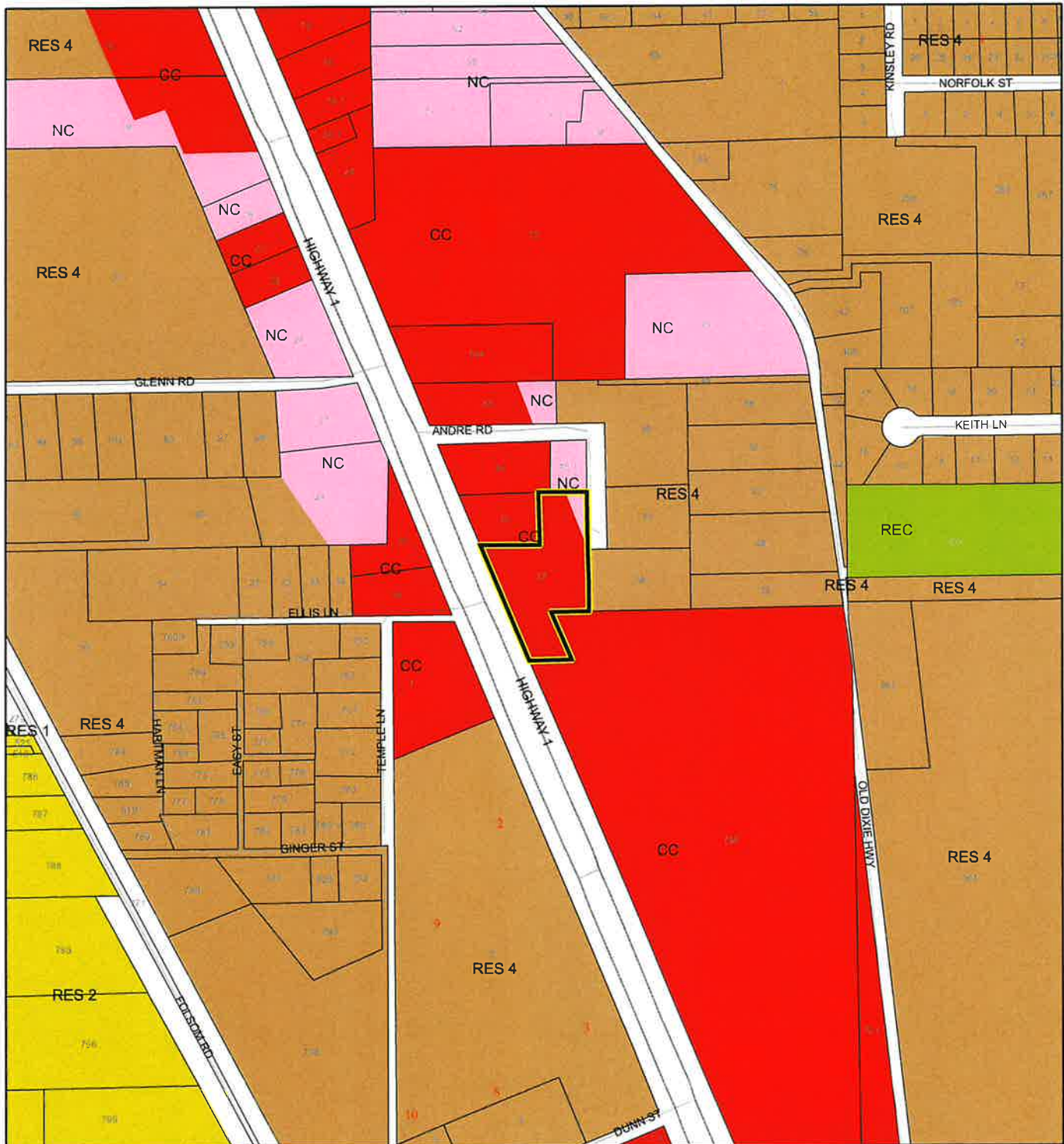
Buffer  
Subject Property



# FUTURE LAND USE MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



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.

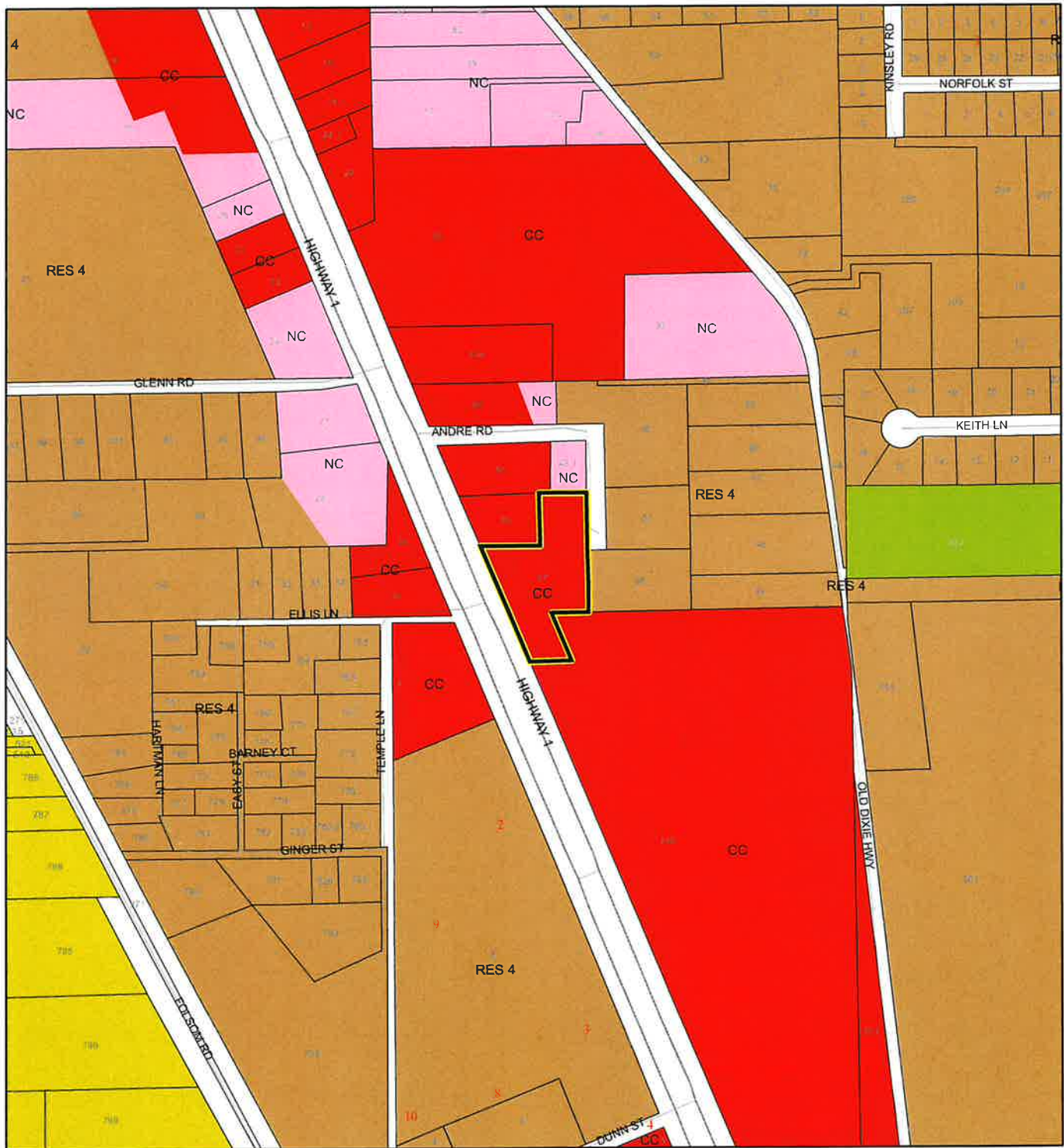
Produced by BoCC - GIS Date: 4/16/2024



# PROPOSED FUTURE LAND USE MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

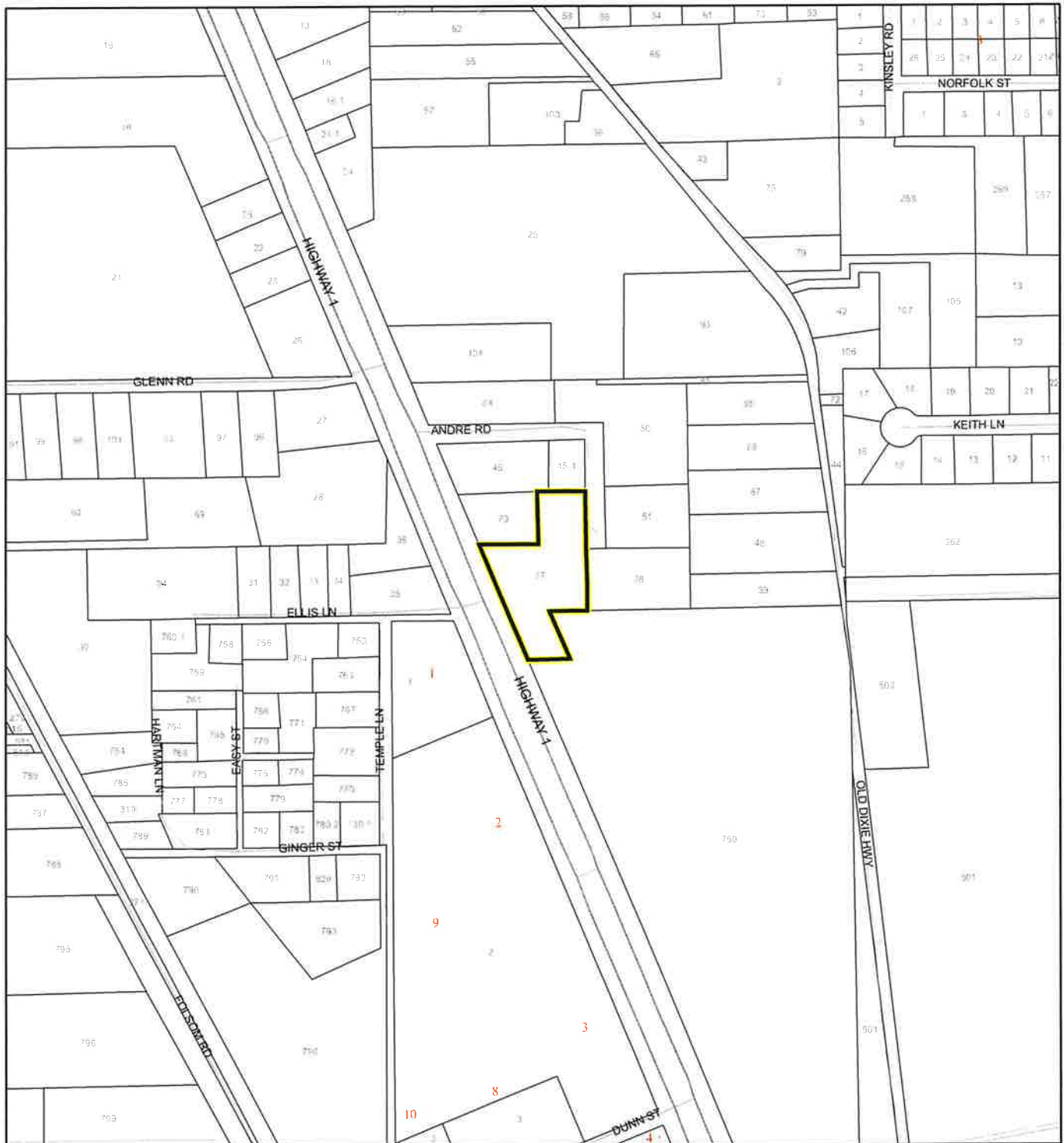
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/16/2024

# NWI WETLANDS MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 4/16/2024

## 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

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## 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

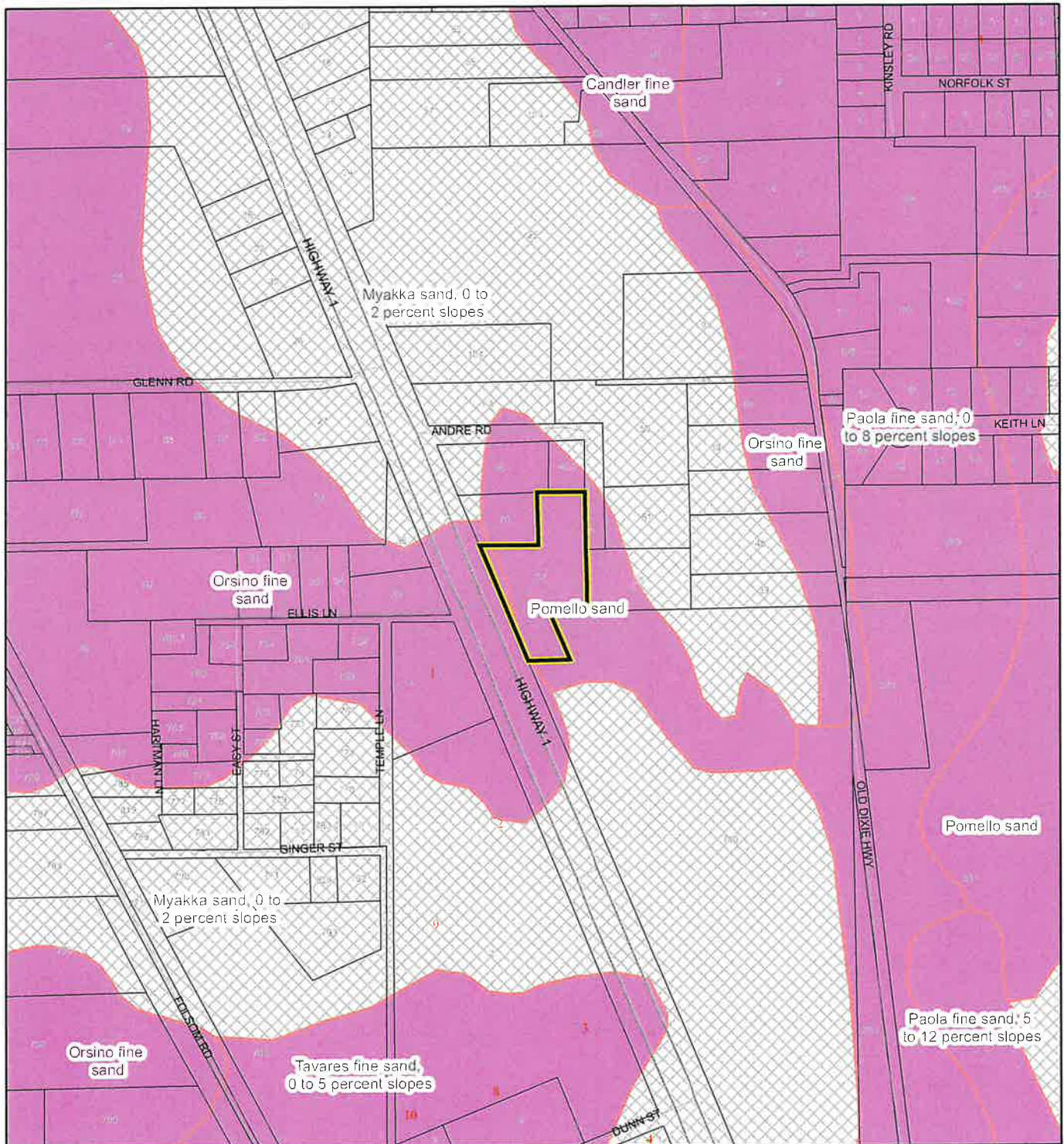
Parcels



# USDA SCSSS SOILS MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

# FEMA FLOOD ZONES MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

## FEMA Flood Zones

A	AO	x
AE	Open Water	
AH	VE	
Subject Property	Parcels	



# COASTAL HIGH HAZARD AREA MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

Subject Property

Parcels

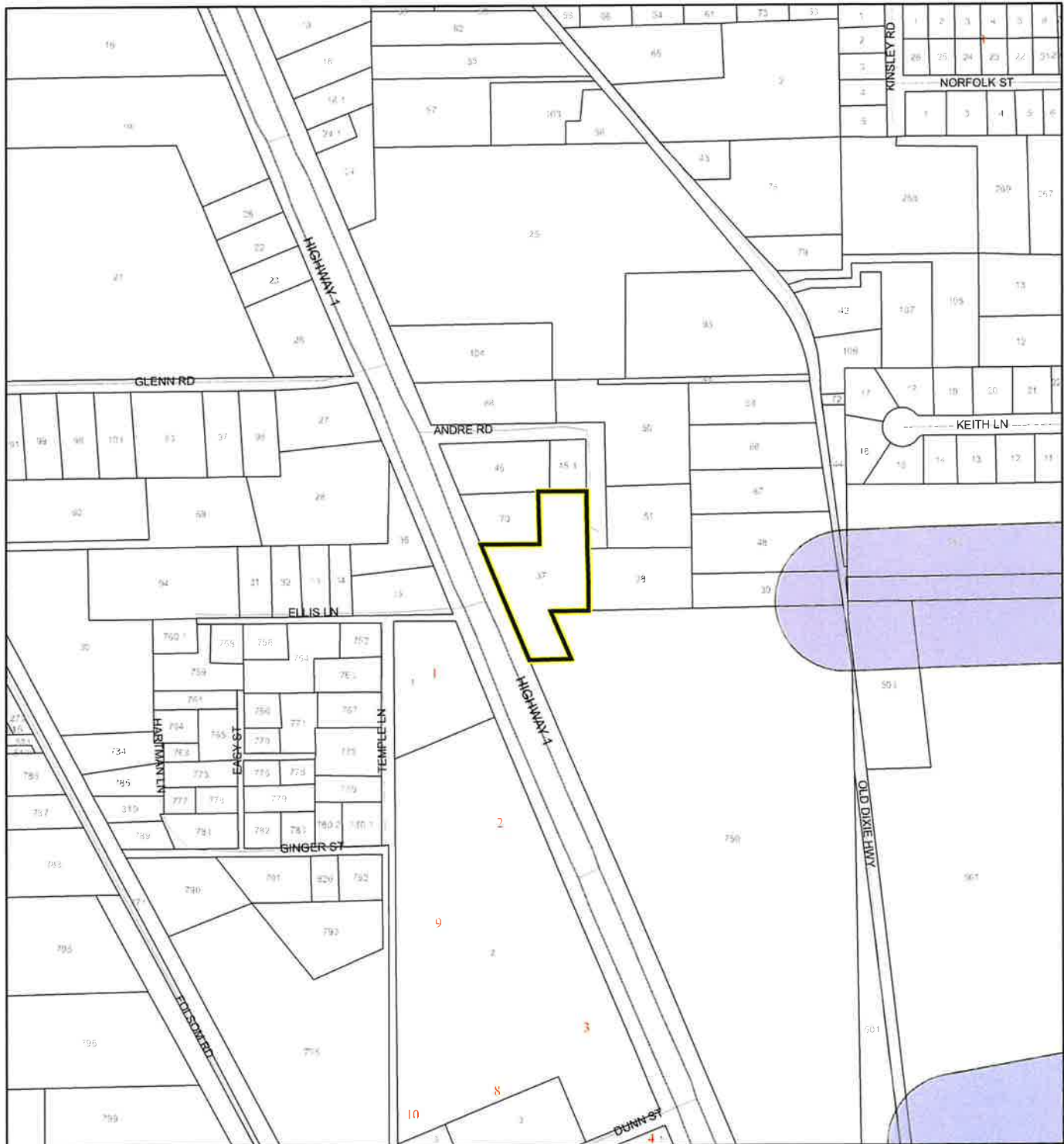
**Coastal High Hazard Area**

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

— Subject Property

□ Parcels

## Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/16/2024

 Subject Property

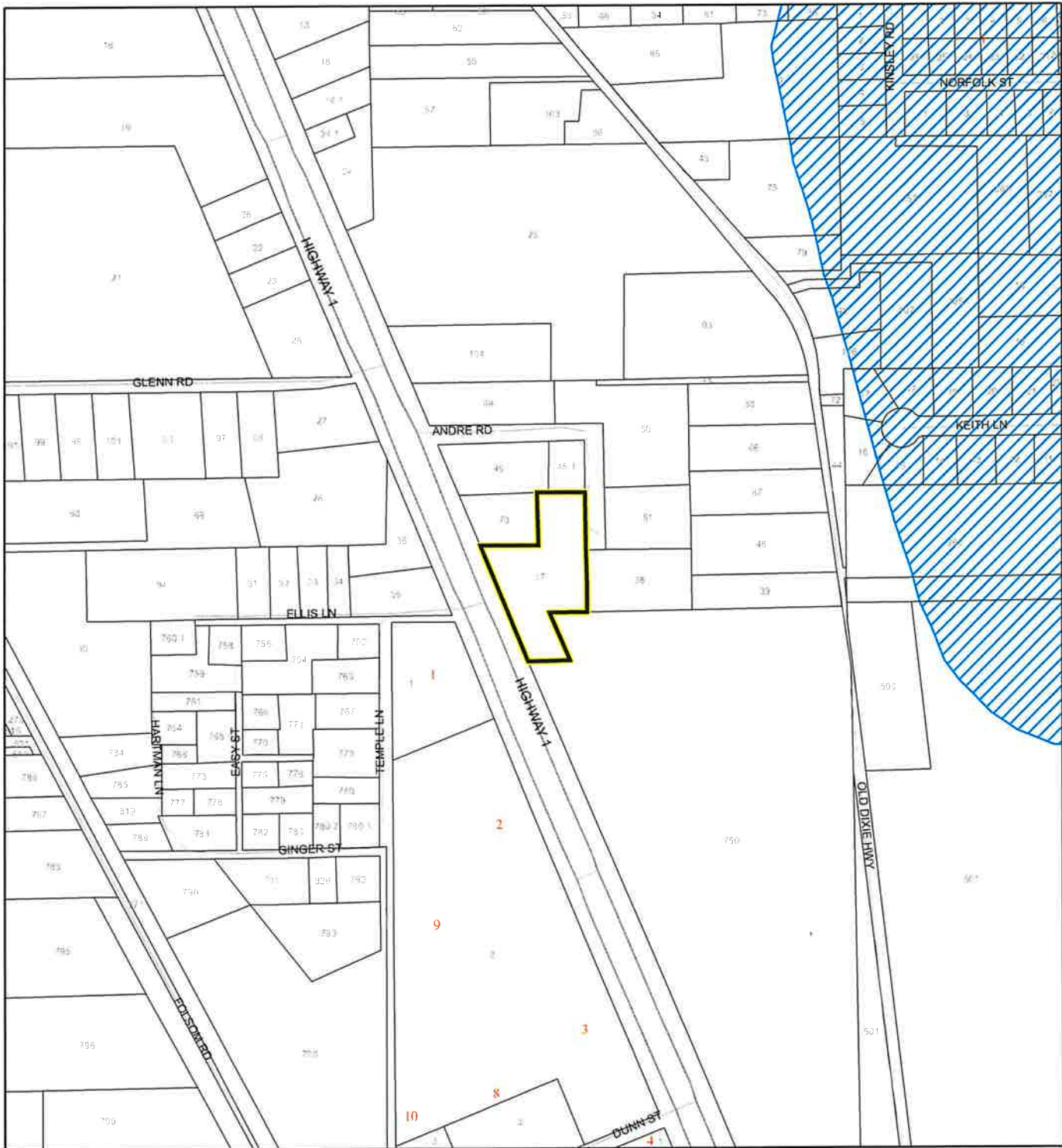
 Parcels

 Eagle Nests  
FWS



# SCRUB JAY OCCUPANCY MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 4/16/2024

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DeJesus, Alexis & Rosemary & Brandon

24SS00007



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 4/16/2024

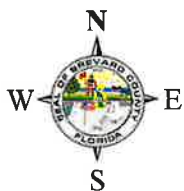
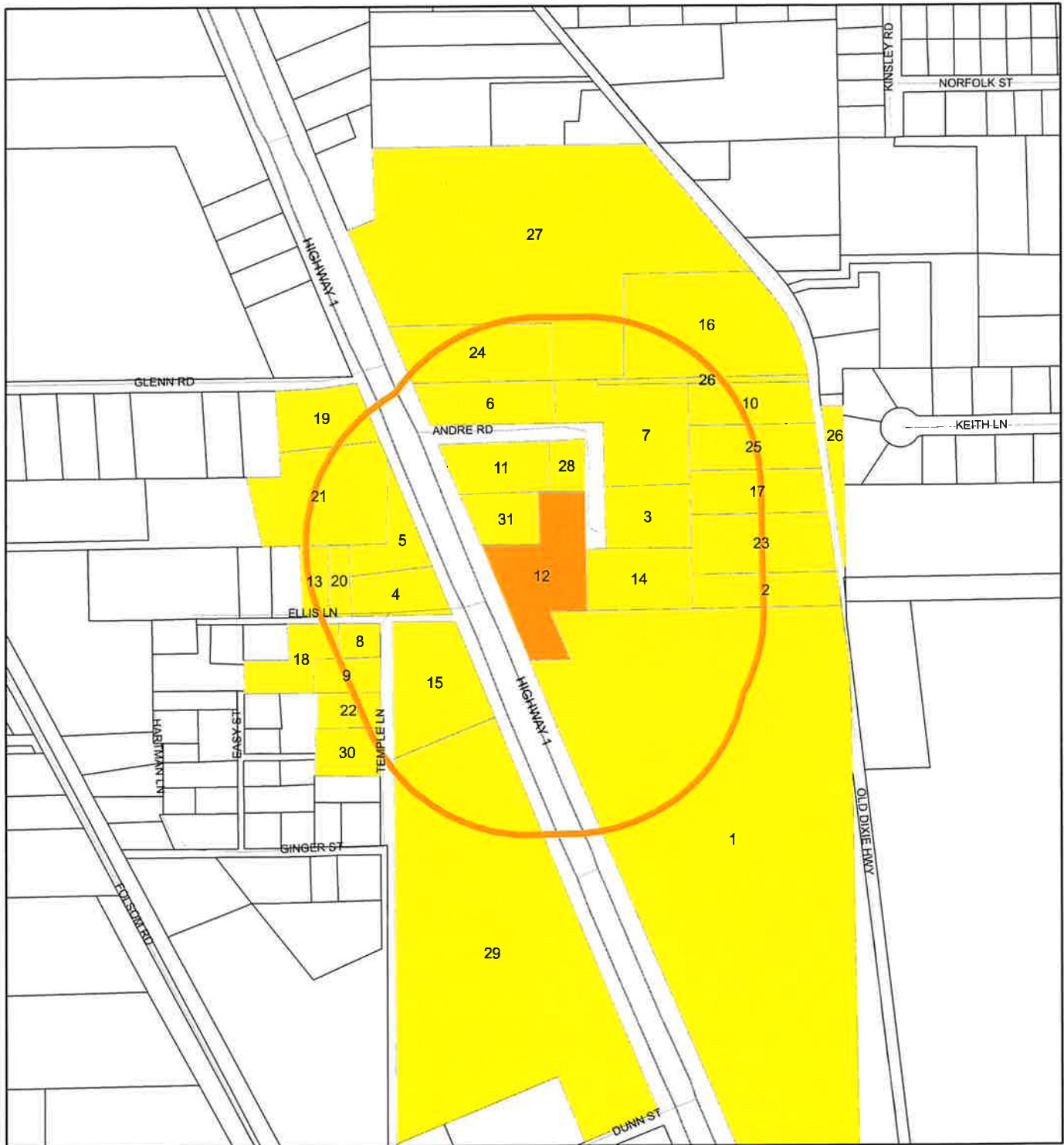
## SJRWMD FLUCCS Upland Forests

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

Subject Property  Parcels

# RADIUS MAP

DeJesus, Alexis & Rosemary & Brandon  
24SS00007



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 4/16/2024

- Buffer
- Subject Property
- Notify Property
- Parcels



**LEGAL DESCRIPTION:**

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 7, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA; THENCE RUN WEST ALONG THE SOUTH BOUNDARY LINE OF A TRACT OF LAND DESCRIBED IN DEED BOOK 299, PAGE 295, A DISTANCE OF 750 FEET, TO A POINT OF BEGINNING; THENCE RUN WEST AND CONTINUING ALONG THE SOUTH BOUNDARY LINE OF SAID TRACT DESCRIBED IN DEED BOOK 299, PAGE 295, TO THE EAST BOUNDARY LINE OF RIGHT-OF-WAY OF U.S. HIGHWAY 1; THENCE RUN NORTH ALONG SAID EAST BOUNDARY LINE OF U.S. HIGHWAY 1 RIGHT-OF-WAY, A DISTANCE OF 107 FEET; THENCE RUN EAST AND PARALLEL TO SAID SOUTH BOUNDARY LINE OF SAID TRACT DESCRIBED IN DEED BOOK 299, PAGE 295, TO A POINT DUE NORTH OF THE POINT OF BEGINNING; THENCE RUN SOUTH TO POINT OF BEGINNING. ALL LYING IN SECTION 7, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA.

JOB NUMBER: 2201-210

FIELD WORK DATE: 01/28/2022

**PROPERTY ADDRESS:**

3003 HIGHWAY 1, MIMS, FL 32754

**FLOOD INFORMATION:**

PANEL NUMBER: 12009C0115H

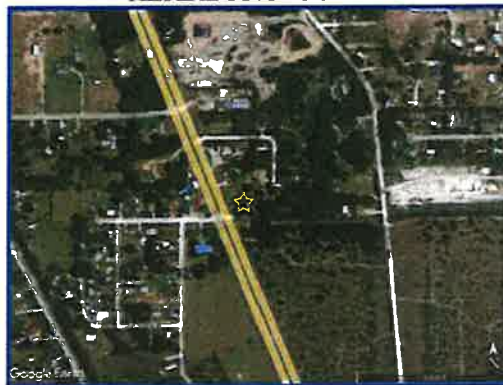
FIRM DATE: JANUARY 29, 2021

FLOOD ZONE: X

BASE FLOOD ELEVATION: NA

COMMUNITY NAME: BREVARD COUNTY

COMMUNITY NUMBER: 125092

**AERIAL PHOTOGRAPH****SURVEYOR'S LEGEND**

A/C = AIR CONDITIONING  
BB = BEARING BASIS  
BFP = BACKFLOW PREVENTER  
BLDG = BUILDING  
BLK = BLOCK  
BM = BENCHMARK  
C = CURVE  
CATV = CABLE T.V. RISER  
CB = CATCH BASIN  
CL = CENTERLINE  
CLF = CHAIN LINK FENCE  
CLP = CONCRETE LIGHT POLE  
CONC = CONCRETE  
CP = CONTROL POINT  
CPP = CONCRETE POWER POLE  
D = DEED  
DF = DRAINFIELD  
ELEV = ELEVATION  
EM = ELECTRIC METER  
EOW = EDGE OF WATER  
EP = EDGE OF PAVEMENT  
F = FIELD  
FCM = FOUND CONCRETE MONUMENT  
FDH = FOUND DRILL HOLE

FFE = FINISHED FLOOR ELEVATION  
FIP = FOUND IRON PIPE  
FIPC = FOUND IRON PIPE AND CAP  
FIR = FOUND IRON ROD  
FIRC = FOUND IRON ROD AND CAP  
FN = FOUND NAIL  
FN&D = FOUND NAIL AND DISC  
FND = FOUND  
FNP = FOUND PK NAIL  
FNP&D = FOUND PK NAIL AND DISC  
FRSPK = FOUND RAILROAD SPIKE  
GAR = GARAGE  
HYD = FIRE HYDRANT  
ID = IDENTIFICATION  
L = LENGTH  
LB = LICENSED BUSINESS  
LS = LICENSED SURVEYOR  
M = MEASURED  
MB = MAP BOOK  
MES = MITERED END SECTION  
MH = MANHOLE  
MLP = METAL LIGHT POLE  
OHW = OVERHEAD WIRES  
P = PLAT  
PB = PLAT BOOK  
PC = POINT OF CURVATURE

POC = POINT OF COMPOUND CURVATURE  
PCP = PERMANENT CONTROL POINT  
POB = POINT OF BEGINNING  
POC = POINT OF COMMENCEMENT  
PP = POOL PUMP  
PRC = POINT OF REVERSE CURVATURE  
PRM = PERMANENT REFERENCE MONUMENT  
PT = POINT OF TANGENCY  
R = RADIUS  
RNG = RANGE  
R/W = RIGHT OF WAY  
S = SEPTIC  
SEC = SECTION  
SIR = SET IRON ROD AND CAP  
SPKD = SET PK NAIL AND DISC  
SV = SEWER VALVE  
TBM = TEMPORARY BENCHMARK  
TOB = TOP OF BANK  
TWP = TOWNSHIP  
TR = TELEPHONE RISER  
TYP = TYPICAL  
WIT = WITNESS  
WLP = WOOD LIGHT POLE  
WM = WATER METER  
WPP = WOOD POWER POLE  
WV = WATER VALVE

**LINETYPES**

— = BOUNDARY LINE  
— = STRUCTURE LINE  
— = CENTERLINE  
— = EASEMENT LINE  
— = FENCE LINE  
— = OLD LOT LINE

**SYMBOLS**

⊙ = FIRE HYDRANT  
⊗ = WATER METER  
⊕ = POWER POLE  
⊖ = GAS SERVICE  
⊗ = LIGHT POLE  
⊕ = WELL  
⊖ = BENCHMARK  
⊗ = CATCH BASIN  
⊕ = SANITARY MANHOLE  
⊖ = CABLE T.V. SERVICE  
⊗ = ELECTRIC SERVICE  
⊕ = TELEPHONE SERVICE  
⊖ = DRAINAGE MANHOLE  
⊗ = SANITARY SERVICE

**SURVEYOR'S NOTES**

1. THIS SURVEY DOES NOT DETERMINE OR INDICATE LAND OWNERSHIP.
2. THE SURVEYOR DID NOT RESEARCH OR ABSTRACT THE LAND RECORDS FOR RIGHTS-OF-WAY, EASEMENTS, RESERVATIONS, DEED RESTRICTIONS, ZONING REGULATIONS, SETBACKS, LAND USE PLAN DESIGNATIONS, ADJOINING DEEDS, LIENS, MURPHY ACT RIGHTS-OF-WAY, AREAS OF LOCAL CONCERN, OR OTHER SIMILAR JURISDICTIONAL DETERMINATIONS. TO THE EXTENT THAT THIS TYPE OF INFORMATION IS SHOWN, IT IS SHOWN SOLELY ON THE BASIS OF INFORMATION PROVIDED BY THE CLIENT OR INFORMATION OTHERWISE KNOWN TO THE SURVEYOR AND MAY NOT BE COMPLETE.
3. UNDERGROUND UTILITIES, BUILDING FOUNDATIONS, AND OTHER UNDERGROUND FIXED IMPROVEMENTS WERE NOT LOCATED, UNLESS OTHERWISE INDICATED. TO THE EXTENT THAT THIS TYPE OF INFORMATION IS SHOWN, IT IS SHOWN SOLELY ON THE BASIS OF SURFACE INDICATIONS OBSERVED BY THE SURVEYOR AND MAY NOT BE COMPLETE.
4. JURISDICTIONAL WETLANDS AND ENDANGERED OR THREATENED SPECIES HABITAT, IF ANY, THAT MAY EXIST ON OR AROUND THE SURVEY SITE WERE NOT DETERMINED OR LOCATED.
5. THE SURVEY DATE IS THE FIELD DATE SHOWN IN THE TITLE BLOCK, NOT THE SIGNATURE DATE.
6. THIS SURVEY MAP OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ELECTRONIC OR ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. FENCES SHOWN ON SURVEY ARE FOR ILLUSTRATIVE PURPOSES ONLY. FENCE TIES SHOWN ARE RELATIVE TO THE CENTER OF SAID FENCE. THE SURVEYOR WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL AND/OR CHANGES TO ANY FENCES UNLESS THE SURVEY WAS PROVIDED SPECIFICALLY FOR FENCE LOCATION PURPOSES.
8. PROPERTY LINES AND OR IMPROVEMENTS SHOWN WERE PHYSICALLY LOCATED BY FIELD SURVEY.
9. MONUMENTS FOUND OR SET ARE SHOWN, CALCULATED LINES AND INFORMATION IS NOTED BY (C).
10. COMPUTATIONS OF LINES AND OR DATA NOT FOUND ARE SHOWN AS (C).
11. THIS SURVEY MEETS AND/OR EXCEEDS THE ACCURACY REQUIREMENTS PER FLORIDA ADMINISTRATIVE CODE, CHAPTER SJ-17.
12. PRIOR TO SURVEY INFORMATION OBTAINED WAS LEGAL DESCRIPTION FROM CLIENT OR FROM PUBLICLY PUBLISHED COUNTY TAX COLLECTOR SITE, RECORDED PLATS AND OR SECTION CORNER RECORDS IF APPLICABLE.
13. IF ONLY A DIGITAL SURVEY COPY IS REQUIRED A SURVEY REPORT WILL BE PLACED IN FILE. THE DIGITAL SURVEY IS NOT FULL AND COMPLETE WITHOUT THE SURVEY REPORT FILE.

**SURVEYOR'S SIGNATURE**

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR BELOW. THE SURVEYOR HEREBY CERTIFIES THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES SET FORTH IN CHAPTER SJ-17.063 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.025, FLORIDA STATUTES. THE SURVEYOR HEREBY CERTIFIES THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE FOR SURVEYS, SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER SJ-17.051 AND SJ-17.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

**BILL H. HYATT, JR.**  
No. 4636  
STATE OF FLORIDA  
SURVEYOR

2.1.22

DATE

**BILL HYATT, JR.**  
SURVEYOR AND MAPPER #4636  
STATE OF FLORIDA

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

**CERTIFIED TO:**

THOMAS N. HORTON  
TITLE SOLUTIONS OF FLORIDA, LLC  
ALLIANT NATIONAL TITLE INSURANCE COMPANY

**KNOW IT NOW, INC.**

PROFESSIONAL SURVEYING AND MAPPING

5220 US HIGHWAY 1, #104

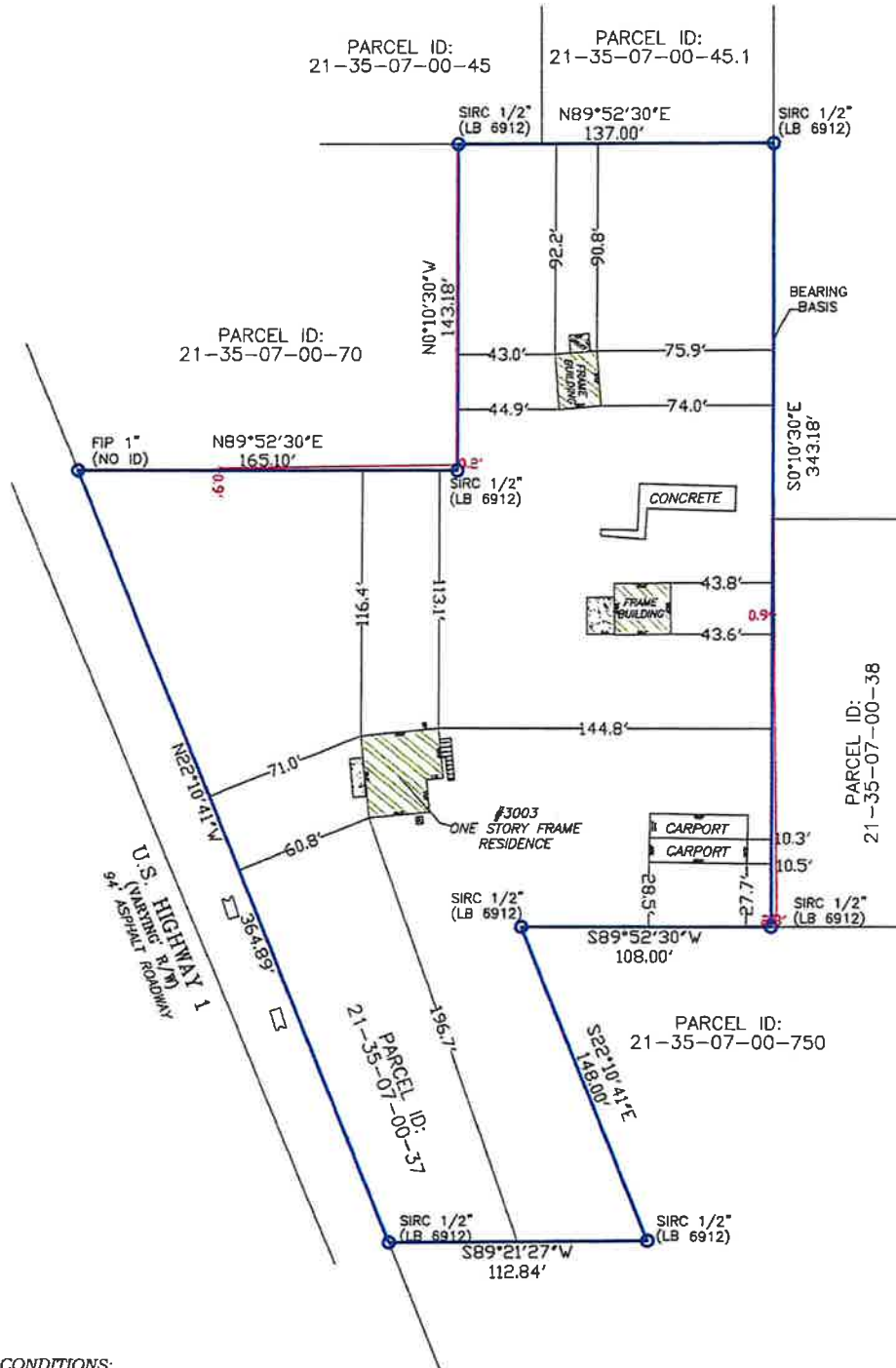
VERO BEACH, FL 32967

PHONE - (888) 396-7770

WWW.KINSURVEY.COM



SHEET 1 OF 2 (SURVEY SKETCH) ——— SURVEY NOT COMPLETE WITHOUT ALL SHEETS  
 MAP OF BOUNDARY SURVEY PREPARED FOR THOMAS N. HORTON



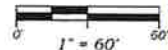
NOTABLE CONDITIONS:

NOTES:

ALL BEARINGS AND DISTANCES SHOWN ARE RECORD AND MEASURED, UNLESS OTHERWISE SHOWN.  
 BEARINGS ARE BASED UPON THE RECORD BEARING FOR THE EAST LOT LINE.



NORTH ARROW &  
 GRAPHIC SCALE



JOB # - 2201-210

REVISION -

FIELD DATE - 01/28/2022

REVISION -

DRAWN BY - D.B.

REVISION -

REVISION -

REVISION -

REVISION -

REVISION -

REVISION -

REVISION -

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

**KNOW IT NOW, INC.**

PROFESSIONAL SURVEYING AND MAPPING

5220 US HIGHWAY 1, # 104

VERO BEACH, FL 32967

PHONE - (888) 396-7770

WWW.KINSURVEY.COM





BOARD OF COUNTY COMMISSIONERS

**Planning & Development Department**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

July 12, 2024

Ms. Donna Harris, Plan Processing Administrator  
Florida Department of Commerce  
Bureau of Community Planning  
107 East Madison Street MSC 160  
Tallahassee, FL 32399-4120

Re: Small Scale Comprehensive Plan Amendment 24S.07 Adoption Package

Dear Ms. Harris:

Please find enclosed the Comprehensive Plan Amendment Adoption Package for Small Scale Plan Amendment 24S.07 adopted by Ordinance 24-\_\_.

In accordance with Section 163.3187 of Florida Statutes, "*Process for adoption of small-scale comprehensive plan amendment*," the following statements are provided to ensure compliance:

- The Local Planning Agency held a public hearing for these matters on June 10, 2024. The Brevard County Board of Commissioners adopted the Small Scale Amendment during public hearing on July 11, 2024.
- Acreage of Small Scale Amendment 2.00 acres
- Cumulative Acreage for Year 9.04 acres
- The Small Scale Amendment does not involve a text change.
- The Small Scale Amendment is not within an area of critical state concern.
- Brevard County is not a rural area of opportunity as defined under Section 288.0656 (d).
- The Small Scale Amendment Adoption Package includes the following required documents:
  1. Maps depicting the existing and proposed Future Land Use, the property boundaries, and surrounding transportation network.
  2. Copy of the executed ordinance adopting the amendment signed by the Chairman of the Brevard County Commission.
  3. Copy of the public hearing notice.
- One copy has been transmitted to the East Central Florida Regional Planning Council.

The contact person for the Small Scale Amendment is Steve Swanke, Senior Planner, Brevard County Planning and Development Department, located at 2725 Judge Fran Jamieson Way, Viera, Florida, 32940.

E-mail: [Steve.Swanke@brevardfl.gov](mailto:Steve.Swanke@brevardfl.gov); Tel : (321) 350-8298; Fax: (321) 633-2087

If you have any questions regarding the enclosed materials, please contact Steve Swanke at the above address.

Sincerely,

Tad Calkins  
Director, Planning & Development Department

Enclosure

cc: Executive Director, East Central Florida Regional Planning Council (w/enclosure)

**EXHIBIT A**  
**24S.07 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

- 1. Copy of Ordinance**

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

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 10, 2024**, 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: Henry Minneboo (D1); Ron Bartcher (D1); Ian Golden (D1 Alternate); Robert Sullivan (D2); Brian Hodggers (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Planning and Development Director; Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Trina Gilliam, Senior Planner; and Kristen Champion, Special Projects Coordinator.

### **Excerpt of complete agenda.**

**Alexis DeJesus, Rosemary DeJesus, & Brandon DeJesus** request a Small-Scale Comprehensive Plan Amendment (24S.07), to change the Future Land Use Designation from CC (Community Commercial) and NC (Neighborhood Commercial) to all CC (Community Commercial), on property described as Tax Parcel 37. The property is 2.02 acres, located on the east side of Hwy US 1, approx. 400 ft. south of Andre Rd. (24SS00007) (3003 Hwy. 1, Mims) (Tax Account 2102561) (District 1)

**Alexis DeJesus, Rosemary DeJesus, & Brandon DeJesus** request a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-2 (Retail, Warehousing and Wholesale Commercial), on property described as Tax Parcel 37. The property is 2.02 acres, located on the east side of Hwy US 1, approx. 400 ft. south of Andre Rd. (24Z00021) (3003 Hwy. 1, Mims) (Tax Account 2102561) (District 1)

Trina Gilliam read the companion applications into the record.

Alexis DeJesus, 1900 Corbett Rd., Orlando, FL, stated that the property is currently BU-1, which allows everything but mobile home sales. They're currently renting it to a gentleman who does mobile home sales and he would like to do it there but he's not currently permitted to under is current zoning allowances.

Ron Bartcher asked if he was going to be doing used car sales and Mr. DeJesus replied that's allowed under the BU-1 it has. Ron Bartcher asked him to clarify what his plan is and Mr. DeJesus stated that they want to continue to rent it, but allow RV and mobile home sales.

Ron Bartcher asked if he knows what manufacturer he's going to be using for sales? Mr. DeJesus replied that his renter obtained a contract with Disney to sell the campers that Disney has at their campground and there's currently about 360 units.

Ron Bartcher asked if he was who the article in the paper was about in reference to Fort Wilderness and Mr. DeJesus replied yes.

His renter got a contract to remove those recreational vehicles. They're on wheels, they're not stationary.



Ron Bartcher asked if he would be willing to have a Binding Development Plan to restrict the BU-2 uses to only automobile and mobile home sales.

Alexis DeJesus asked what are the other allowances for BU-2? That's the only thing that's missing from the article, which is to sell RVs, trailers, and mobile homes.

Ron Bartcher stated that some of the things you can put in a BU-2 are dry-cleaning plants, ice plants, painting/body shops. These are things that I don't think I'd like to see in that neighborhood.

Mr. DeJesus stated that in Mims, there's nothing. It's a ghost town, it needs everything. It needs us to get in there and bring it forward.

Ron Bartcher stated that he lives in Mims and Mr. DeJesus replied "oh, so you're familiar that there's nothing around."

Ron Bartcher stated that nonetheless, I would like to not see those kinds of things. What you're proposing, I don't have a problem with, but what I would like is that if you decide you want to sell the property to someone else and they decide they'd like to put in an ice plant or a dry-cleaning plant then they can. That's why I'd like to have BDP that says you can only have these certain BU-2 uses, like mobile home sales or used car sales.

Mr. DeJesus stated that he's fine with that. We're fine with just having the mobile home sales and no dry cleaning or anything.

Ron Bartcher asked if staff can work with the applicant to come up with the BDP and Jeffrey Ball replied with yes, absolutely. Just for clarification, you want to do a BDP to limit the BU-1 uses and BU-2 uses, automobile and mobile home sales?

Mr. Bartcher replied that is correct and Mr. Ball stated that they will work with the applicant to explain the process and what the next steps are.

Bruce Moia asked if any of the four BU-2 properties shown on the map, do any of those have a BDP?

Jeffrey Ball replied not that he's aware of.

John Hopengarten asked the applicant about repairs.

Alexis DeJesus stated no, no repairs.

John Hopengarten stated for clarification that they're just going to bring them over from Disney and Mr. DeJesus said that's correct.

John Hopengarten asked the Board if they want to allow repairs.

Mr. DeJesus said that he thinks they should add that amendment for repairs in case they need it. Maybe later on we should add a building to spruce up the property because it's lacking a little out there.

I own two properties in Mims on US1, so I'm very familiar and I know that Mims needs everything. There's no school, there's nothing there.

They did acknowledge that a new school is supposed to be coming.

**Public Comment:**

Karen Rowe, 3427 Andre Rd., Mims, stated that her property is right behind the applicants, and it's been a trainwreck since he moved in these cabins.

These cabins have come in, he's cleared it. Every morning I wake up I look at 7 dump truck loads of dirt. There's debris. Debris has been buried. It's It hasn't been a pleasant experience. It's always been residential over there until the (previous) people passed away and now it's been turned into commercial. There's no fence. His property buffers/adjoins residential areas where there's children.

There's been fences damaged and still no repairs. It's just been sitting there, so yes, I do oppose this.

Katie Delaney stated she's not too familiar with the specific project but just from hearing that conversation that's just happened, she wanted to say something. I would feel very uncomfortable with just an open BU-2 change. I think there needs to be clear boundaries to that if that's done. Or I don't know if it's possible, to keep it BU-1 but then add in the mobile home sales allowance. I just had to say some things about Mims, and I know the people who live in Mims love it the way it is.

Mark Wadsworth brought it back to the Board.

Henry Minneboo stated to Ron Bartcher that he lives fairly close to the site doesn't he, and Ron Bartcher replied yes, he drives by there every day.

Henry Minneboo asked if he was satisfied with all the information he's heard on this development plan. Mr. Bartcher replied yes, I don't think there's a problem unless he's doing something he shouldn't be doing and then I believe that's a Code Enforcement issue.

Henry Minneboo replied that he didn't want to approve a combat zone either.

Ron Bartcher said that he believes that having the BDP to restrict it to just the sales and repairs of these particular items is necessary.

Henry Minneboo asked Jeffrey Ball if they've left anything out of that BDP in light of this information.

Jeffrey Ball informed the Board, just so they're aware, there is a code enforcement case against the property owner for the removal of vegetation without a permit and that's going through the Code Enforcement process.

What I would tell you is some of the uses for BU-2. It allows for it allows for major automotive repair, it allows for warehousing and outdoor storage. Those are the big things in a zoning official's things to be concerned with. As far as the BDP to limit those uses, just be aware that BU-1 allows for minor automotive repairs and that would be a use that is already allowed on the property. Anything that's listed in the BU-1 would also be allowed.

John Hopengarten asked the applicant if there's currently a fence around his property.

Mr. DeJesus replied no, there's currently not a fence but I have applied for the permit and Mr. Hopengarten clarified that he is going to be installing a fence? Mr. DeJesus said yes.

John Hopengarten asked staff if there are any buffer requirements.

Jeffrey Ball responded that during the site plan process, they'll have to provide the appropriate buffering between commercial and residential. Between commercial and commercial, there are no buffer requirements.

John Hopengarten asked Mr. DeJesus if they can make this a user-friendly development and Mr. DeJesus replied yes.

Bruce Moia stated that they have commercial against residential which is to a portion of the North, all of the East, and all of the South, but also on the East you have that unimproved right-of-way, that little dirt road, Andre Rd., that comes down. He would be required to put a wall where he abuts residential, correct?

Jeffrey Ball said yes, the code requires that if it's adjacent to residential, but if it's right-of-way then I believe there's a separate code for that.

Bruce Moia said that what he thinks would be appropriate is, obviously he's not going to access that dirt road unless he paves the whole thing, so he's got to put the wall and then that wall should continue along that right-of-way. Add into the BDP that he cannot access that road and that we'd have to put a wall there.

Alexis DeJesus stated that there's no entrance adjacent to that road.

Bruce Moia added that he understands but someone could come in there and pave it and access it and I don't think we want to bring trailers back through there and I think it would make sense to have a complete wall to completely separate them from the residential area.

Alexis DeJesus said they're going to be putting a fence all the way around.

Jeffrey Ball stated for clarification for writing up the report for the BDP, it's to limit the use of BU-1 and within the BU-2 zoning automobile and mobile home sales and require a 15-foot buffer along the rear of the property.

Bruce Moia stated no, he has to put the required 6-foot wall along the entire east boundary, including the right-of-way, and anywhere it abuts residential.

Ron Bartcher added that he's good with that.

Alexis DeJesus asked what does the buffer require and Bruce Moia responded that the buffer is whatever the code says the buffer has to be, but there would be a hole in the wall when you abut the road, and I don't think that's appropriate.

Karen Rowe said she's unclear about the wall and Bruce Moia explained that it'll be anywhere that abuts a residential use. Which is all to the East, all to the South, and that little bit of the northernmost piece.

Karen Rowe stated that she's to the east, so that wall is going to face her property and Bruce Moia said yes ma'am and Ms. Rowe asked how tall is the wall going to be and Bruce Moia told her 6 ft., so that way you're not looking into the back of his building.

Motion to approve small-scale comprehensive plan amendment from CC to NC with a BDP by Ron Bartcher, seconded by Robert Sullivan. The vote was unanimous.

Joh Hopengarten stated that was for item G.9. and Bruce Moia clarified that the BDP should go with the rezoning, not the land use, correct?

Jeffrey Ball stated yes, that's correct. That would've been for item G.10.

Mark Wadsworth asked what we needed to do, and Bruce Moia added on to that with, do we need to redo the first motion?

Staff said yes that they needed to redo the first motion.

Motion to approve small-scale comprehensive plan amendment (as requested) from CC to NC by Bruce Moia, seconded by Debbie Thomas. The vote was unanimous.

Motion to approve rezoning from BU-1 and AU to all BU-2 with a BDP by Ron Bartcher, seconded by Robert Sullivan. The vote was unanimous.