



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

22-23

H.10.

8/4/2022

### Subject:

Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer (John Rosenthal) request a Small Scale Comprehensive Plan Amendment from RES 4, NC, and CC, to all CC. (22SS00003) (Tax Accounts 2312189, 2312249, 2312191, 2312201, 2312205, 2312203, 2312233, 2312234, 2312213, & 2312214) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial), to all CC.

### Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on 17.70 acres of land from CC, NC, and RES 4, to all CC in order to develop a Florida Power and Light hardened Service Center. A companion rezoning application (22Z00020) for a change from GU (General Use) and BU-1-A (Restricted Neighborhood Commercial), to BU-2 (Retail, Warehousing, and Wholesale Commercial) accompanies this request.

This segment of Port St. John Parkway from Highway I-95 east to Grissom Parkway is a commercial corridor where the majority of Future Land Use designations are CC. Along this corridor there are intermittent parcels of land with a Future Land Use designation of RES 4 and PUB-CONS (Public Conservation).

To the north of the subject property are vacant lots that are not platted and have no recorded rights-of-way to gain access from Grissom Parkway, and scattered State-owned lands protecting existing wetlands. Directly to the east, along Port St. John Parkway, is County-owned land for stormwater retention and drainage. To the south, across Port St. John Parkway, is Parrish Medical Center and vacant residential land. To the west is vacant, unplatted residential land and vacant commercial land.

The Board should also consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

On July 18, 2022, the 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.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

August 8, 2022

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

Attention: Deborah Thomas

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. 22-23, which was filed in this office on August 5, 2022.

Sincerely,

Anya Owens  
Program Administrator

ACO/wlh



August 5, 2022

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

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

**RE:** Item H.10., Eleventh Small Scale Comprehensive Plan Amendment (22S.06) to change the Future land use Designation from Residential 4, Neighborhood Commercial (NC), and Community Commercial (CC) to all CC (22SS00003)

The Board of County Commissioners, in regular session on August 4, 2022, conducted the public hearing and adopted Ordinance No. 22-23, setting forth the eleventh Small Scale Comprehensive Plan Amendment of 2022, (22S.08), changing the Future Land Use designation from Residential 4, NC, and CC to all CC. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name.

Kimberly Powell, Clerk to the Board

/ns

Encl. (1)



ORDINANCE NO. 22- 23

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE ELEVENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.06, 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 2022 as Plan Amendment 22S.06; 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 22S.06; 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 AUGUST 5, 2022.

WHEREAS, on July 18, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.06, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 4, 2022, 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 22S.06; and

WHEREAS, Plan Amendment 22S.06 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.06 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 22S.06 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 22S.06, 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 4 day of August, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
Rachel M. Sadoff, Clerk

  
By: Kristine Zonka, Chair

As approved by the Board on Aug., 4, 2022.

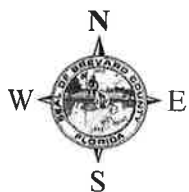
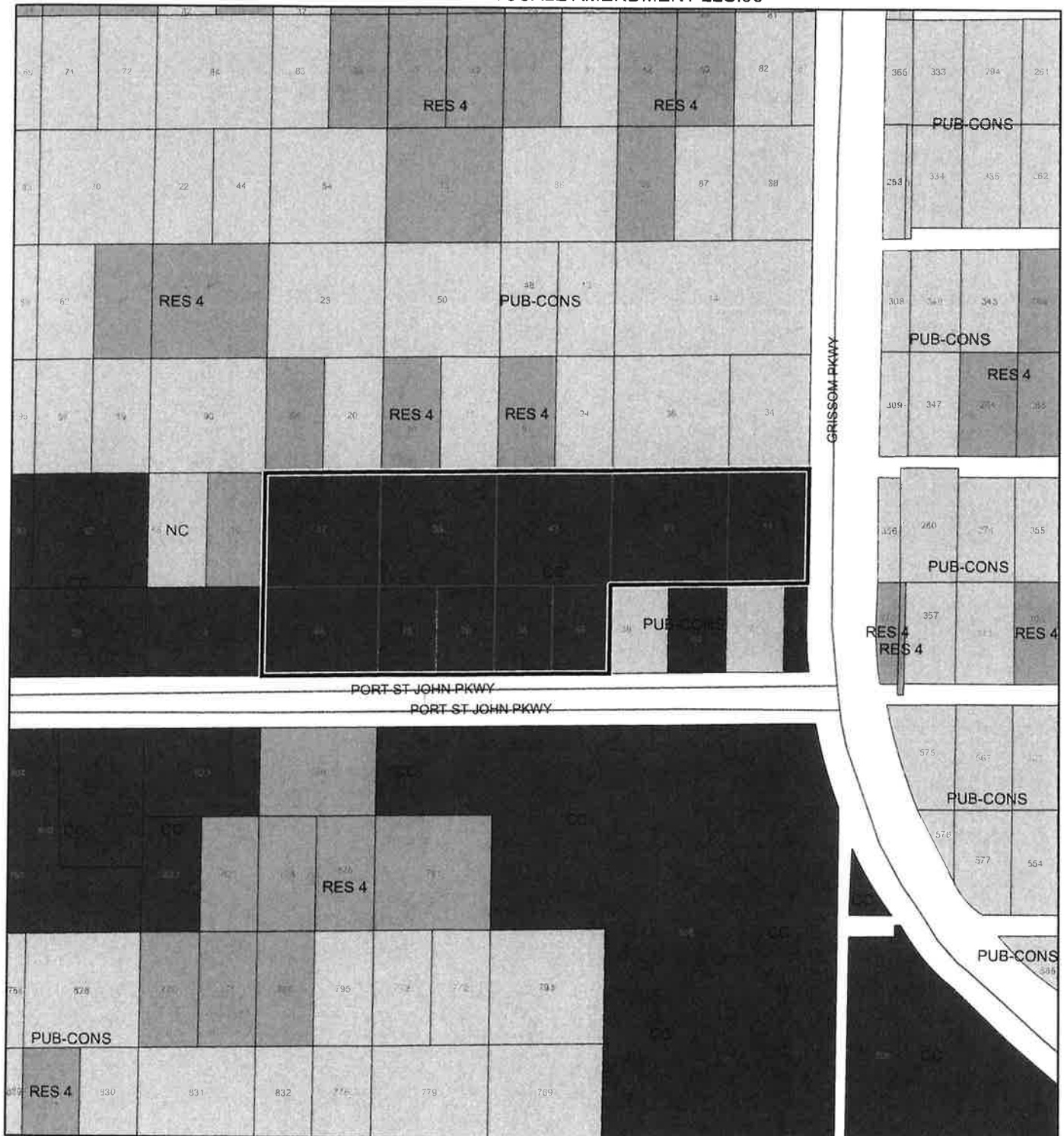
**EXHIBIT A**  
**22S.06 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



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: 4/19/2022

## **EXHIBIT B**

### **Contents**

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

# florida today

## Public Notice

Originally published at floridatoday.com on 06/30/2022

Ad#5316864 06/30/2022 PUBLIC HEARING NOTICE NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, JULY 18, 2022, and THURSDAY, AUGUST 4, 2022. DISTRICT 1 1. (22Z00017) DANIEL P. AND AMBER N. ALLEN request a CUP (Conditional Use Permit) for Farm Animals and Fowl (2 pot-bellied pigs) for Medical Hardship, in a RR-1 (Rural Residential) zoning classification, on property described as Lot 19, The Ranch Unit 3, according to the map or plat thereof, as recorded in Plat Book 24, Page(s) 50, of the Public Records of Brevard County, Florida. Section 15, Township 24, Range 35. (1.03 acres) Located on the west side of Wagon Rd., approx. 360 ft. north of Ranchwood Dr. (2625 Wagon Rd., Cocoa) DISTRICT 2 2. (22Z00024) EVAN BALES AND KELSEY GODFREY (Charlene Morgan) request a CUP (Conditional Use Permit) for a Guesthouse in an RU-1-11 (Single-Family Residential) zoning classification, on property described as Lot 7.15, Block CX, Banana River Drive Subdivision, as recorded in ORB 9338, Pages 911 - 913, of the Public Records of Brevard County, Florida. Section 06, Township 25, Range 37. (0.69 acres) Located on the north side of Mili Ave., approx. 150 ft. east of Newfound Harbor Dr. (1770 Mili Ave., Merritt Island) DISTRICT 1 3. (22Z00018) WILLIAM AND JEANETTE GONEDRIDGE request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Tax Parcel 519, as recorded in ORB 9382, Pages 2057 - 2058, of the Public Records of Brevard County, Florida. Section 31, Township 20, Range 35. (3.33 acres) Located on the north side of Lionel Rd., approx. 0.1 mile east of U.S. Highway 1. (3660 Lionel Rd., Mims) DISTRICT 2 4. (22SS00004) ANDREA BEDARD AND NICHOLAS BOARDMAN (Ronald Treharne) request a Small Scale Comprehensive Plan Amendment (22S.07), to change the Future Land Use designation from RES 4 (Residential 4) and NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Tax Parcel 506, as recorded in ORB 8745, Page 2243, of the Public Records of Brevard County, Florida. Section 23, Township 25, Range 36. (1.02 acres) Located on the north side of Coquina Rd., approx. 214 ft. east of U.S. Highway 1. (23 Coquina Rd., Rockledge) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.07: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and amending which require amendment

a severability clause; and providing an effective date. 5. (22Z00015) ANDREA BEDARD AND NICHOLAS BOARDMAN (Ronald Treharne) request a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial), on property described as Tax Parcel 506, as recorded in ORB 8745, Page 2243, of the Public Records of Brevard County, Florida. Section 23, Township 25, Range 36. (1.02 acres) Located on the north side of Coquina Rd., approx. 214 ft. east of U.S. Highway 1. (23 Coquina Rd., Rockledge) DISTRICT 1 6. (22SS00005) JAMES A. AND VIKKI P. DEAN request a Small Scale Comprehensive Plan Amendment (22S.08), to change the Future Land Use designation from RES 1:2.5 (Residential 1:2.5) to RES 1 (Residential 1), on property described as Tax Parcel 250.2, as recorded in ORB 3310, Pages 60 - 61, of the Public Records of Brevard County, Florida. Section 02, Township 24, Range 35. (2.50 acres) Located on the southwest corner of Canton St. and Alan Shepard Ave., Cocoa. (3525 Canton St., Cocoa) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.08: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 7. (22Z00019) JAMES A. AND VIKKI P. DEAN request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Tax Parcel 250.2, as recorded in ORB 3310, Pages 60 - 61, of the Public Records of Brevard County, Florida. Section 02, Township 24, Range 35. (2.50 acres) Located on the southwest corner of Canton St. and Alan Shepard Ave., Cocoa. (3525 Canton St., Cocoa) DISTRICT 2 8. (22Z00022) DEROSA HOLDINGS, LLC (Kim Rezanka) requests an amendment to an existing BDP (Binding Development Plan), in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 2.01, Block H, Bruners Re-Subdivision of Burchfield & Bruners Addition to Crescent Beach, as recorded in ORB 9166, Pages 1239 - 1240, of the Public Records of Brevard County, Florida. Section 26, Township 25, Range 37. (0.24 acres) Located on the west side of S. Atlantic Ave., approx. 83 ft. south of 20th St. (2050 S. Atlantic Ave., Cocoa Beach) 9. (22Z00023) ISLAND BLUFF, LLC (Kim Rezanka) requests a change of zoning classification from BU-1 (General Retail Commercial) and IN(L) (Institutional Use, Low-Intensity), with an existing BDP (Binding Development Plan), to SR (Suburban Residential), removing the existing BDP, and adding a new BDP, property described as Lot 10, Sunnyside Terrace, as recorded in ORB 5869, Pages 9307 - 9309, of the public records of Brevard County, Florida, together with Lots 11, 12, 13, & 14, as recorded in ORB 7957, Pages 2228 - 2229, of the Public Records of Brevard County, Florida, LESS AND EXCEPT land described in ORB 7957, Pages 2230 - 2231, of the Public Records of Brevard County, Florida. Section 35, Township 24, Range 36. (2.12 acres) Located on the west side of N. Tropical Trail, approx. 362 ft. south of Merritt Ave. (495 W. Merritt Ave., Merritt Island) DISTRICT 1 10. (22SS00003) SUNSHINE PETRO, INC.; JACOB



designation from RES 4 (Residential 4), NC (Neighborhood Commercial) and CC (Community Commercial) to all CC, on property described as follows: Tax Parcel 31, as recorded in ORB 5963, Pages 2896 - 2897, of the Public Records of Brevard County, Florida; Tax Parcel 91, as recorded in ORB 3116, Pages 4917 - 4923, of the Public Records of Brevard County, Florida; Tax Parcels 33 & 43, as recorded in ORB 3450, Pages 4286 - 4289, of the Public Records of Brevard County, Florida; Tax Parcel 47, as recorded in ORB 5484, Pages 2372, of the Public Records of Brevard County, Florida; Tax Parcel 45, as recorded in ORB 3043, Page 425, of the Public Records of Brevard County, Florida; Tax Parcel 75, as recorded in ORB 3025, Page 29, of the Public Records of Brevard County, Florida; Tax Parcel 76, as recorded in ORB 3025, Page 32, of the Public Records of Brevard County, Florida; Tax Parcels 55 & 56, as recorded in ORB 3116, Pages 4915 - 4916, of the Public Records of Brevard County, Florida. Section 27, Township 23, Range 35. (17.70 +/- acres) Located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.06: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 11. (22Z00020) SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; AND ALICE ELAINE TISTHAMMER (John Rosenthal) requests a change of zoning classification from GU (General Use), BU-1-A (Restricted Neighborhood Commercial), and BU-1 (General Retail Commercial), with existing BDPs (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of existing BDP's (Binding Development Plan), on property described as follows: Tax Parcel 31, as recorded in ORB 5963, Pages 2896 - 2897, of the Public Records of Brevard County, Florida; Tax Parcel 91, as recorded in ORB 3116, Pages 4917 - 4923, of the Public Records of Brevard County, Florida; Tax Parcels 33 & 43, as recorded in ORB 3450, Pages 4286 - 4289, of the Public Records of Brevard County, Florida; Tax Parcel 47, as recorded in ORB 5484, Pages 2372, of the Public Records of Brevard County, Florida; Tax Parcel 45, as recorded in ORB 3043, Page 425, of the Public Records of Brevard County, Florida; Tax Parcel 75, as recorded in ORB 3025, Page 29, of the Public Records of Brevard County, Florida; Tax Parcel 76, as recorded in ORB 3025, Page 32, of the Public Records of Brevard County, Florida; Tax Parcels 55 & 56, as recorded in ORB 3116, Pages 4915 - 4916, of the Public Records of Brevard County, Florida. Section 27, Township 23, Range 35. (17.70 +/- acres) Located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) 12. (22SS00006) JACOB AARON CORPORATION; GIGI II, LLC; THE BDM FINANCIAL CORPORATION; AND MICHAEL P. AND LORI L. MELZER (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (22S.09) to change the Future Land Use designation from NC (Neighborhood

the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida, except ORB 4013, Page 1957; Parcel 2: Tract 97E: The east 1/2 of the following described tract: The NE 1/4 of the SW 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 3: Tract 96W: The west 1/2 of the NW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 4: Tract 96E: The east 1/2 of the following described tract: The NW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 5: Tract 95W: The west 1/2 of the following described tract: The NE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 6: Tract 110E: The east 1/2 of SE 1/4 of SE 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 7: Tract 95E: The east 1/2 of the NE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 8: Tract 110W: The west 1/2 of the following tract of land, to wit: The SE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 9: Tract 109W: The west 1/2 of the SW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 10: Tract 108E: The east 1/2 of the following described tract: The SE 1/4 of SW 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 11: Tract 109E: The east 1/2 of the following described tract: The SW 1/4 of SE 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 12: Tract 108W: The west 1/2 of the SE 1/4 of the SW 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida, except ORB 4013, Page 1957; Parcel 13: Tract 94W: The west 1/2 of the following described tract: The NW 1/4 of SW 1/4 of SW 1/4 of NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 14: Tract 94E: The east 1/2 of the following described tract: The NW 1/4 of the SW 1/4 of the SW 1/4 of NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 15: Tract 93: The NE 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 16: Tract 111: A parcel of land lying in Section 27, Township 23S, Range 35E, Brevard County, Florida, being more fully described as follows: The SW 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of said Section 27; together with Tract 112: The SE 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of said Section 27; less and except therefrom: the south 75 ft., as measured by right angle measurement; Parcel 17: Tract 113: The SW 1/4 of the SE 1/4 of the SW 1/4 of the NE 1/4, Section 27, Township 23S, Range 35E, Brevard County, Florida. (20.88 acres) Located on the north side of Port St. John Parkway, approx. .30 mile west of Grissom Parkway. (No assigned address. In the Port St. John area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.09: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land

a severability clause; and providing an effective date. 13. (22Z00027) JACOB AARON CORPORATION; GIGI II, LLC; THE BDM FINANCIAL CORPORATION; AND MICHAEL P. AND LORI L. MELZER (Kim Rezanka) request change of zoning classification from GU (General Use), BU-1 (General Retail Commercial), and TU-2 (Transient Tourist Commercial), with an existing BDP (Binding Development Plan), to RU-2-15 (Medium Density Multi-Family Residential), and removal of the existing BDP, on property described as follows: Parcel 1: Tract 97W: The west 1/2 of the NE 1/4 of the SW 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida, except ORB 4013, Page 1957; Parcel 2: Tract 97E: The east 1/2 of the following described tract: The NE 1/4 of the SW 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 3: Tract 96W: The west 1/2 of the NW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 4: Tract 96E: The east 1/2 of the following described tract: The NW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 5: Tract 95W: The west 1/2 of the following described tract: The NE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 6: Tract 110E: The east 1/2 of SE 1/4 of SE 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 7: Tract 95E: The east 1/2 of the NE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 8: Tract 110W: The west 1/2 of the following tract of land, to wit: The SE 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 9: Tract 109W: The west 1/2 of the SW 1/4 of the SE 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 10: Tract 108E: The east 1/2 of the following described tract: The SE 1/4 of SW 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 11: Tract 109E: The east 1/2 of the following described tract: The SW 1/4 of SE 1/4 of SE 1/4 of NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 12: Tract 108W: The west 1/2 of the SE 1/4 of the SW 1/4 of the SE 1/4 of the NW 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida, except ORB 4013, Page 1957; Parcel 13: Tract 94W: The west 1/2 of the following described tract: The NW 1/4 of SW 1/4 of SW 1/4 of NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 14: Tract 94E: The east 1/2 of the following described tract: The NW 1/4 of the SW 1/4 of the SW 1/4 of NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 15: Tract 93: The NE 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of Section 27, Township 23S, Range 35E, Brevard County, Florida; Parcel 16: Tract 111: A parcel of land lying in Section 27, Township 23S, Range 35E, Brevard County, Florida, being more fully described as follows: The SW 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of said Section 27; together with Tract 112: The SE 1/4 of the SW 1/4 of the SW 1/4 of the NE 1/4 of said Section 27; less and except therefrom: the south 75 ft., as measured by right angle measurement; Parcel 17: Tract 113: The SW 1/4 of the SE 1/4

west of Grissom Parkway. (No assigned address. In the Port St. John area.) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JULY 18, 2022, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, AUGUST 4, 2022, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

# Space Coast Service Center

Port St. John Parkway

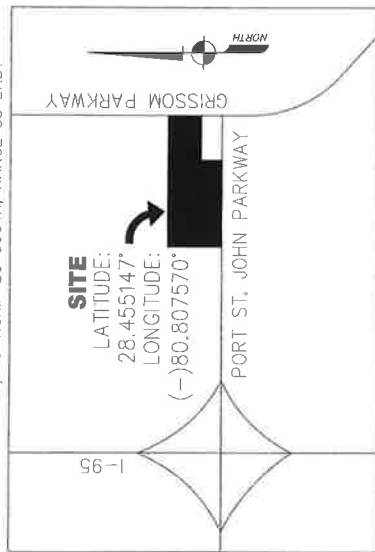
Brevard County, Florida

## Survey

22SS00003

Jacob Aaron et al.

## SECTION 27, TOWNSHIP 23 SOUTH, RANGE 35 EAST



NOTE: LATITUDE AND LONGITUDE SHOWN ARE BASED ON THE 1990 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83/90).

[illegible]

**LAND DESCRIPTION:**

PARCEL 1:  
The Northwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 23 South, Range 15 East, Brevard County, Florida. Subject to the North and West 30 feet for road, utility and drainage right of way.

ARCEL 2:  
The Northeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 27, Township 23 South, Range 35 East, Brevard County, Florida. Subject to the North 30 feet for road, utility and drainage right of way.

PARCEL 3  
The Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 27, Township 23 South, Range 28 East, Brevard County, Florida. Subject to the South and East 30 feet for road, utility and drainage right of way.

ness and except that portion conveyed to Brevard County, Florida by Warranty Deed recorded October 2, 1998 in Official Records Book 3905, Page 410.

PARCEL 4.

the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 23 North, Range 35 East, Brevard County, Florida. Subject to the South 30 feet for road, utility and drainage right of way.

Book 3105, Page 410.

South, Range 35 East, Brevard County, Florida. Subject to the South 30 feet for road, utility and drainage right of way. Less and except that portion conveyed to Brevard County, Florida by Warranty Deed recorded October 2, 1998 in Official Records Book 3905, Page 410.

the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 33 S., Range 35 E., Broward County, Florida. Subject to the South and West 30 feet for road, utility and drainage right of way.

cess and except Unit portion conveyed to Brevard County, Florida by Warranty Deed recorded October 2, 1998 in Official Records Book 3905, Page 410.

the East 1/2 of the Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 27, Township 23 South, Range 15 East, Brevard County, Florida. Subject to the South and West 30 feet for road, utility and drainage right of way.

Block 3805, Page 410.

ARCEL 9:  
The Northeast 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 27, Township 23 South, Range 35  
East, Brevard County, Florida. Subject to the North 20 feet far road, utility and drainage right of way.

east, Brevard County, Florida. Subject to the North and East 30 feet for road, utility and drainage right of way, less and except that portion conveyed to Brevard County Board of County Commissioners by Full Quam Deed recorded August 11, 1983 in Official Records Book 301, Page 3718 and that portion conveyed to Brevard County of the State of Florida by Right of Way Deed recorded August 11, 1983 in Official Records Book 301, Page 3720.

PARCEL 10: The Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 27, Township 23 South, Range 35 East, Brevard County, Florida. Subject to the North and East 30 feet for road, utility and drainage right of way.

PARCELS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 ALSO DESCRIBED AS:  
portion of the northeast quarter of Section 27, Township 23 South, Range 35 East, Brevard County, Florida, and described as

COMMENCE at the east quarter corner of said Section 27, thence N00°34'52"E, along the east line of said Section 27, a distance of 128.39 feet; thence N89°25'08"W, perpendicular to said east line of Section 27, a distance of 100 feet to the POINT OF BEGINNING; thence S81°41'33"W, 86.24 feet; thence S00°33'08"W, 255.81 feet to a line 75 feet north of an parallel with the north-south-east quarter section line of said Section 27; thence S69°13'57"W, along said parallel line, 936.21 feet; thence N00°30'35"E, 100 feet to the POINT OF BEGINNING.

156.59 feet; thence N89°15'10"E, 156.04 feet to a line 100 feet west of an parallel with said east line of Section 27; thence S60°34'52"W, along said parallel line, 330.72 feet to the POINT OF BEGINNING.

410045 9 4000014700 1410

**AVIROM & ASSOCIATES, INC.**  
SURVEYING & MAPPING  
2506 SE WILLOUGHBY BOULEVARD  
ST. LOUIS, MISSOURI 63104

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Year	Number of cases	Percentage of cases
1990	10	10.0
1991	15	15.0
1992	20	20.0
1993	25	25.0
1994	30	30.0
1995	35	35.0
1996	40	40.0
1997	45	45.0
1998	50	50.0
1999	55	55.0
2000	60	60.0
2001	65	65.0
2002	70	70.0
2003	75	75.0
2004	80	80.0
2005	85	85.0
2006	90	90.0
2007	95	95.0
2008	100	100.0
2009	105	105.0
2010	110	110.0
2011	115	115.0
2012	120	120.0
2013	125	125.0
2014	130	130.0
2015	135	135.0
2016	140	140.0
2017	145	145.0
2018	150	150.0
2019	155	155.0
2020	160	160.0
2021	165	165.0
2022	170	170.0
2023	175	175.0
2024	180	180.0
2025	185	185.0
2026	190	190.0
2027	195	195.0
2028	200	200.0
2029	205	205.0
2030	210	210.0
2031	215	215.0
2032	220	220.0
2033	225	225.0
2034	230	230.0
2035	235	235.0
2036	240	240.0
2037	245	245.0
2038	250	250.0
2039	255	255.0
2040	260	260.0
2041	265	265.0
2042	270	270.0
2043	275	275.0
2044	280	280.0
2045	285	285.0
2046	290	290.0
2047	295	295.0
2048	300	300.0
2049	305	305.0
2050	310	310.0
2051	315	315.0
2052	320	320.0
2053	325	325.0
2054	330	330.0
2055	335	335.0
2056	340	340.0
2057	345	345.0
2058	350	350.0
2059	355	355.0
2060	360	360.0
2061	365	365.0
2062	370	370.0
2063	375	375.0
2064	380	380.0
2065	385	385.0
2066	390	390.0
2067	395	395.0
2068	400	400.0
2069	405	405.0
2070	410	410.0
2071	415	415.0
2072	420	420.0
2073	425	425.0
2074	430	430.0
2075	435	435.0
2076	440	440.0
2077	445	445.0
2078	450	450.0
2079	455	455.0
2080	460	460.0
2081	465	465.0
2082	470	470.0
2083	475	475.0
2084	480	480.0
2085	485	485.0
2086	490	490.0
2087	495	495.0
2088	500	500.0
2089	505	505.0
2090	510	510.0
2091	515	515.0
2092	520	520.0
2093	525	525.0
2094	530	530.0
2095	535	535.0
2096	540	540.0
2097	545	545.0
2098	550	550.0
2099	555	555.0
2100		

**AVIROM & ASSOCIATES, INC.**  
SURVEYING & MAPPING  
22506 SE WILLOUGHBY BOULEVARD  
STUART, FLORIDA 34994  
(772) 781-6266 / [www.AVIROMSURVEY.com](http://www.AVIROMSURVEY.com)

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**BOUNDARY SURVEY**  
**F.P.L. SPACE COAST SERVICE CENTER**  
PORTION OF SECTION 27,  
TOWNSHIP 23 SOUTH, RANGE 35 EAST  
COCOA  
BREVARD COUNTY  
FLORIDA

JOB #	11956-2
SCALE	N/A
DATE	03/29/2022
BY	JAS
CHECKED	DAH
F.A. S&S-88 PG	71-775-15
SHEET	1 OF 2

**CERTIFICATION:** Certify to: Florida Power & Light Company, a Florida corporation; DPW Law Firm, and Fidelity National Title Insurance Company. I HEREBY CERTIFY that the attached Boundary and Topographic Survey of the herein Subdivided Property is true and correct to the best of my knowledge and belief, and was prepared by me or under my direct supervision and control. I am a duly Licensed Professional Land Surveyor and am duly sworn to the truth and accuracy of the foregoing. My Commission Expires on 12/31/2007. My Florida License No. 10000. I FURTHER CERTIFY that this Boundary and Topographic Survey was prepared in accordance with the Standards and Practices set forth in Chapter 354-17, Florida Administrative Code, pertinent to Chapter 354 Florida Statutes.

MICHAEL D. AVROM, P.E.  
 Varico Regulation No. 3268  
 VIROM & ASSOCIATES, INC.  
 B. No. 3360

Date 3/4/2022





## **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 22S.06 (22SS00003)  
Township 23, Range 35, Section 27*

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**Property Information**

**Owner / Applicant:** Sunshine Petro Inc., Jacob Aaron Corp. and Alice Elaine Tisthammer (FP&L)

**Adopted Future Land Use Map Designation:** Community Commercial (CC),  
Neighborhood Commercial (NC) & Residential 4 (RES 4)

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

**Acreage:** 17.70 acres

**Tax Account #:** 2312205, 2312189, 2312249, 2312191, 2312201, 2312203, 2312233,  
2312234, 23122131 and 2312214

**Site Location:** On the north side of Port St. John Parkway approximately 570 feet west  
of Grissom Parkway

**Commission District:** 1

**Current Zoning:** General Use (GU), Restricted Neighborhood Retail Commercial  
(BU-1-A) and General Retail Commercial (BU-1)

**Requested Zoning:** Retail, Warehousing and Wholesale Commercial (BU-2)

**Background & Purpose**

The applicant is seeking to amend the Future Land Use designation on 17.70 acres of land from Community Commercial (CC), Neighborhood Commercial (NC) and Residential 4 (RES 4) to all CC in order to develop a Florida Power and Light hardened Service Center.

This segment of Port St. John Parkway from Highway I-95 east to Grissom Parkway is a commercial corridor where the majority of Future Land Use designations are CC. Along this corridor there are intermittent parcels of land with a Future Land Use designation of RES 4 and Public Conservation (PUB-CONS).

In 2001, the Future Land Use designations were changed from Mixed Use (MIX) to NC and CC along this segment of Port St. John Parkway when Brevard County updated the Comprehensive Plan and the Future Land Use Map. Currently, the subject parcel has CC, NC and RES 4 Future Land Use designations.

There is a companion Zoning change request to change the zoning from General Use (GU), Restricted Neighborhood Retail Commercial (BU-1-A) and General Retail Commercial (BU-1) to Retail, Warehousing & Wholesale Commercial (BU-2) (22Z00020).

### **Surrounding Land Use Analysis**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant	RU-1-11 & GU	PUB-CONS & RES 4
<b>South</b>	Vacant & Hospital	GU & BU-1	RES 4 & CC
<b>East</b>	Vacant	GU	PUB-CONS & RES 4
<b>West</b>	Vacant	RU-1-11 & BU-1	RES 4 & CC

To the north of the subject property are vacant lots that are not platted and have no recorded rights-of-way in order to gain access from Grissom Parkway, with a RES 4 Future Land Use designation and scattered State owned lands protecting existing wetlands, with a Public Conservation (PUB-CONS) Future Land Use designation. Directly to the east, along Port St. John Parkway, is County owned land for stormwater retention and drainage with a Future Land Use designation of PUB-CONS. To the south, across Port St. John Parkway, is Parrish Medical Center with a Future Land Use designation of CC and vacant residential land with a Future Land Use designation of RES 4. To the west is vacant, unplatted residential land and vacant commercial land with a RES 4 and NC Future Land Use designation respectively.

### **Comprehensive Plan Policies/Comprehensive Plan Analysis**

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

**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.



### **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;

***The applicant has stated a specific commercial use of a hardened Florida Power & Light Service Station. The proposed use has the potential to impact multiple properties to the north with a residential future land use designation and zoning.***

- 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;

***Port St. John Parkway is an Urban Minor Arterial Corridor providing commercial uses from I-95 to the east to Grissom Parkway and to neighborhoods to the north and south.***

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

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

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

***There have not been any development approvals within the past three (3) years.***

### **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.

***The proposed use of a hardened Florida Power & Light Service Center is not located closely to an established residential neighborhood. There are subdivided residential parcels to the north that have not been platted and have no access to surrounding roadways. If the parcels to the north of the subject site get developed, there could be potential impacts to these residential parcels.***

- 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.

***The area to the subject site has no clearly distinct established residential boundaries.***

#### **Role of the Comprehensive Plan in the Designation of Commercial Lands 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 17.70 acre site has frontage on Port St. John Parkway and Grissom Parkway.***

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

***A CC Future Land Use designation is compatible to the west of the subject site and inter-connectivity could potentially be provided between the adjacent uses however; Florida Power & Light may propose a wall as a barrier to access the Service Center for security purposes.***

***Inter-connectivity will be addressed during the site plan review process.***

- C. Existing commercial development trend in the area;

***There is not an existing historical trend of commercial development along this corridor at present but has been planned for future commercial development. All but a few properties are vacant.***

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

***There are no fundamental changes in character within this area prompted by County infrastructure improvements.***

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

***The parcel is serviced by the City of Cocoa sanitary sewer and potable water. Based upon Floor Area Ratio (FAR) used for traffic analysis when considering Future Land Use changes, U.S. Highway 1 would be operating below the Acceptable Level of Service (LOS) of D. Specific concurrency issues will be addressed at the time of Site Plan review.***

- F. Spacing from other commercial activities;

***The subject site is located on a commercial corridor that runs from I-95 east to Grissom Parkway. There are no other commercial corridors within the surrounding area.***

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

***The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary on pages 8 and 9).***

- I. Integration of open space; and

***Open space will be evaluated during the site plan review process.***

- J. Impacts upon strip commercial development.

***This is an existing commercial corridor.***

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

### **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;

***With a Future Land Use designation of CC some of the properties would be considered an intensification of allowable uses. The subject parcel would not be extending strip commercial along this segment of Port St. John Parkway from I-95 east to Grissom Parkway.***

## **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.

***The subject site is not located within a commercial cluster but, rather along an existing commercial corridor.***

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

***The subject site is not located at an intersection and will not exceed 40 acres.***

- 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 subject site is located along an existing commercial corridor and is not clustered at an intersection.***

- 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.

***The gross floor area is regulated through the land development regulations and reviewed at the time of site plan review.***

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

***The overall subject site has the potential for a seven hundred seventy-one thousand four hundred forty-seven square foot (771,447 s.f.) building. The Floor Area Ratio (FAR) of up to 1.00 is permitted for CC designated sites. The FAR is regulated through the land development regulations at the time of site plan review.***

### **Concurrency**

*The preliminary concurrency analysis did indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site has potential for the City of Cocoa's service area for potable water with availability located on the south side of Port St John Parkway. The subject parcel is located within the City of Cocoa's centralized sewer system.*

### **Environmental Resources**

*Mapped resources include Hydric Soils/Wetlands, Aquifer Recharge Soils, Specimen Trees and Protected Species.*

*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 should also consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Future Land Use (FLU) Review & Summary  
Item #22SS00003**

**Applicant:** Rosenthal, FPL

**FLU Request:** NC, CC & RES-4 to CC

**Note:** Applicant wants multipurpose FPL facility.

**P&Z Hearing Date:** 07/18/22; **BCC Hearing Date:** 08/04/22

**Tax ID Nos:** 2312205, 2312189, 2312249, 2312191, 2312201, 2312203, 2312233, 2312234, 2312213 & 2312214

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

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

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

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:**

**Wetlands/Hydric Soils**

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils (Anclote sand & St. Johns sand), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A Natural Resource Assessment report prepared by Kimley Horn in March 2021, found no wetlands on site. The wetland assessment shall be verified at time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Port St. John Parkway and Grissom Parkway are MQRs at this location.

Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

#### **Aquifer Recharge Soils**

St. Johns sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

#### **Protected Species**

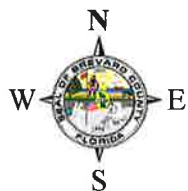
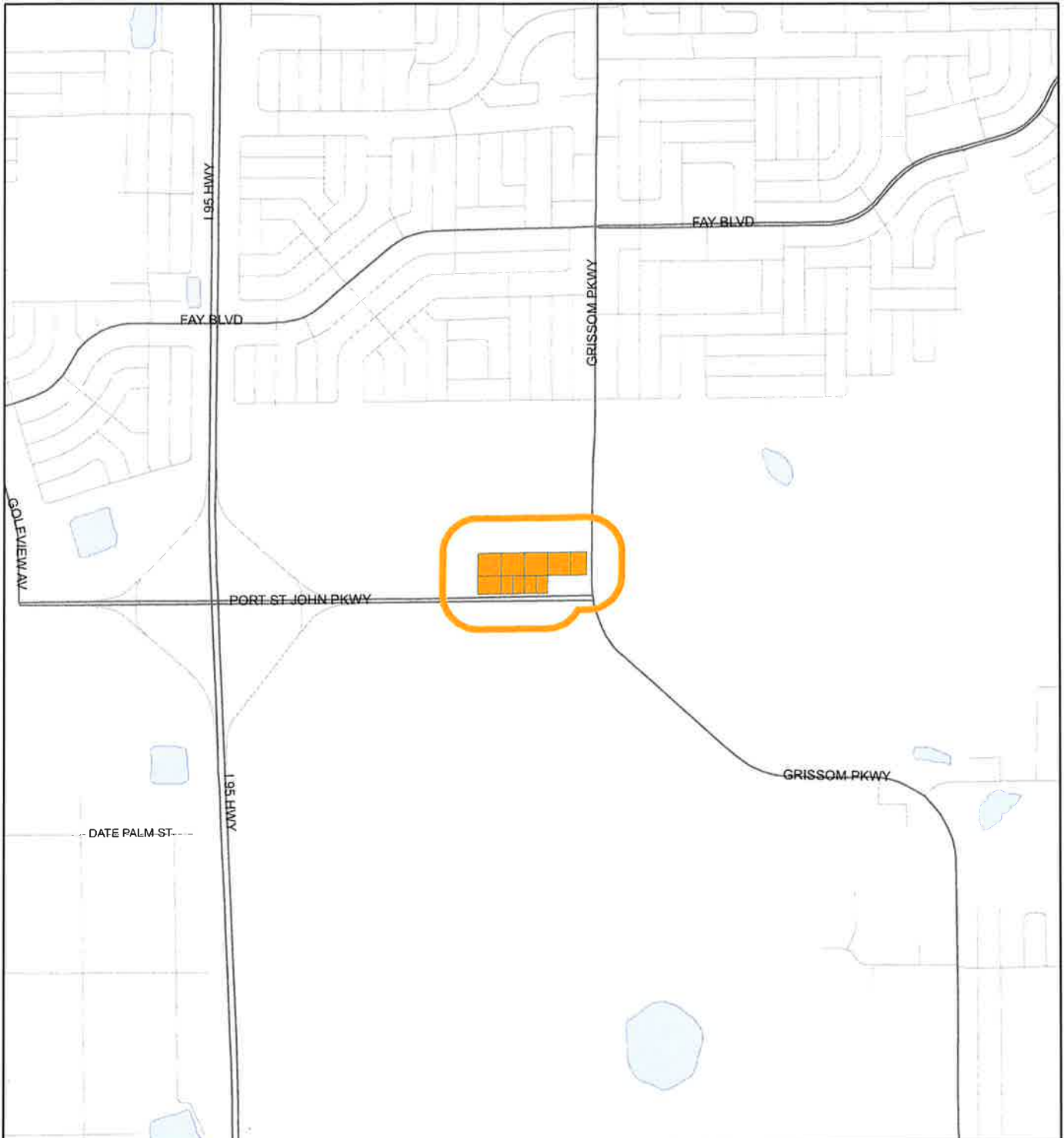
Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay habitat adjacent to the property, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

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

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

# LOCATION MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



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: 4/19/2022

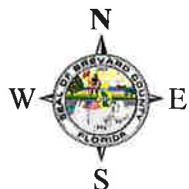
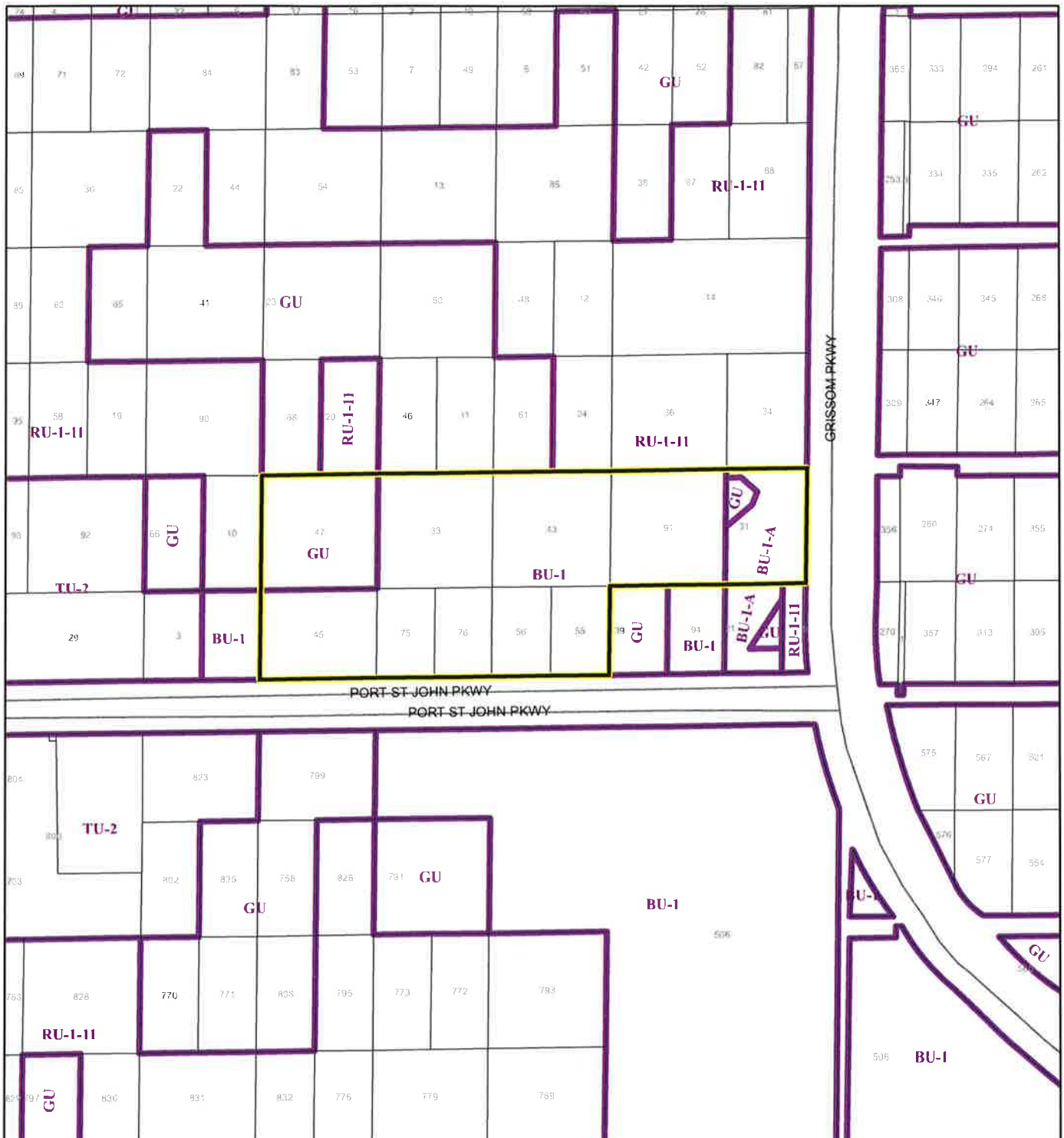
Buffer  
Subject Property



# ZONING MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

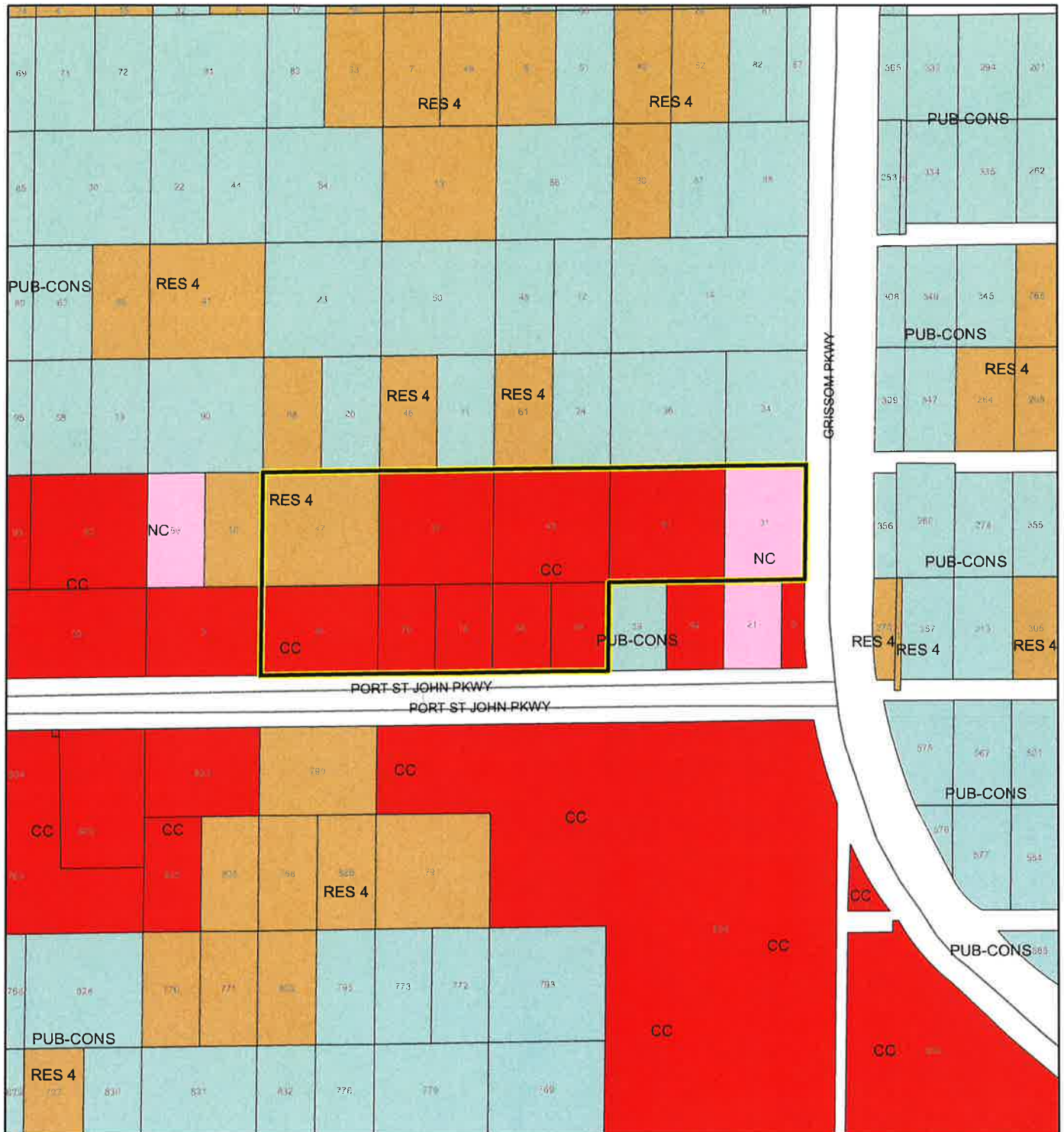
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Produced by BoCC - GIS Date: 4/19/2022

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

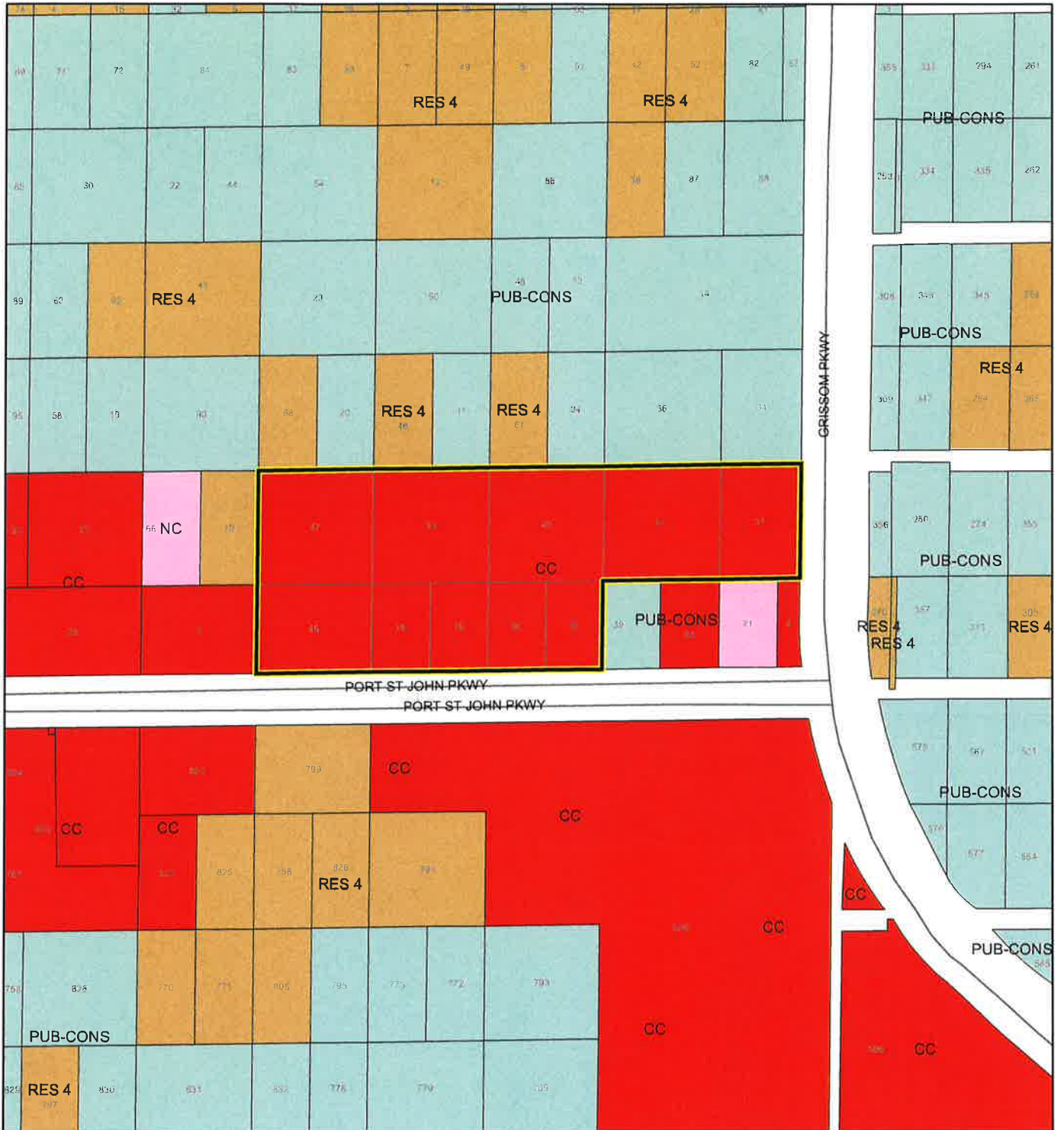
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# PROPOSED FUTURE LAND USE MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

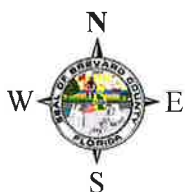
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# AERIAL MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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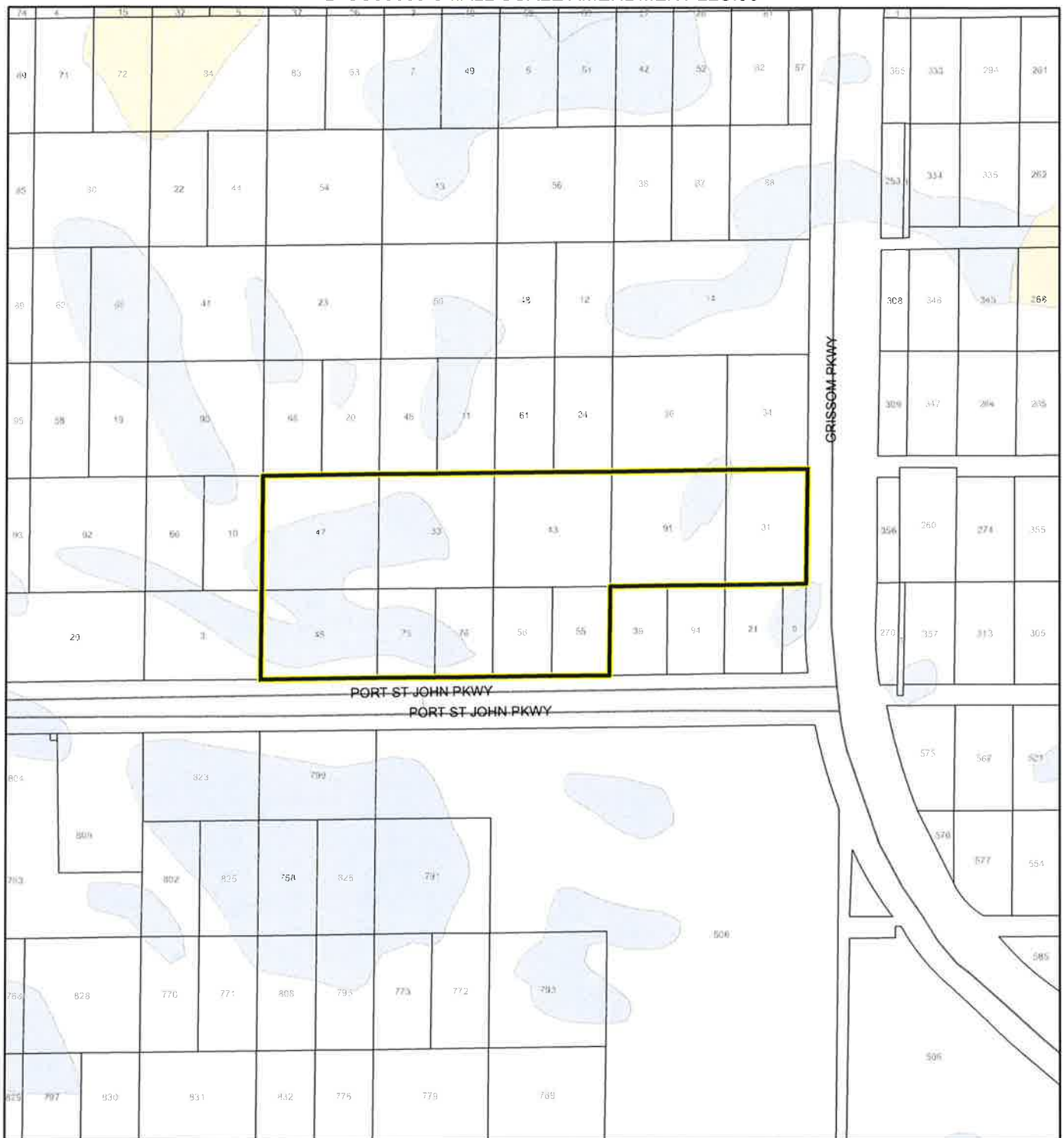
 Subject Property

 Parcels



# NWI WETLANDS MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/19/2022

## 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

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/19/2022

## SJRWMD FLUCCS WETLANDS

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

Subject Property

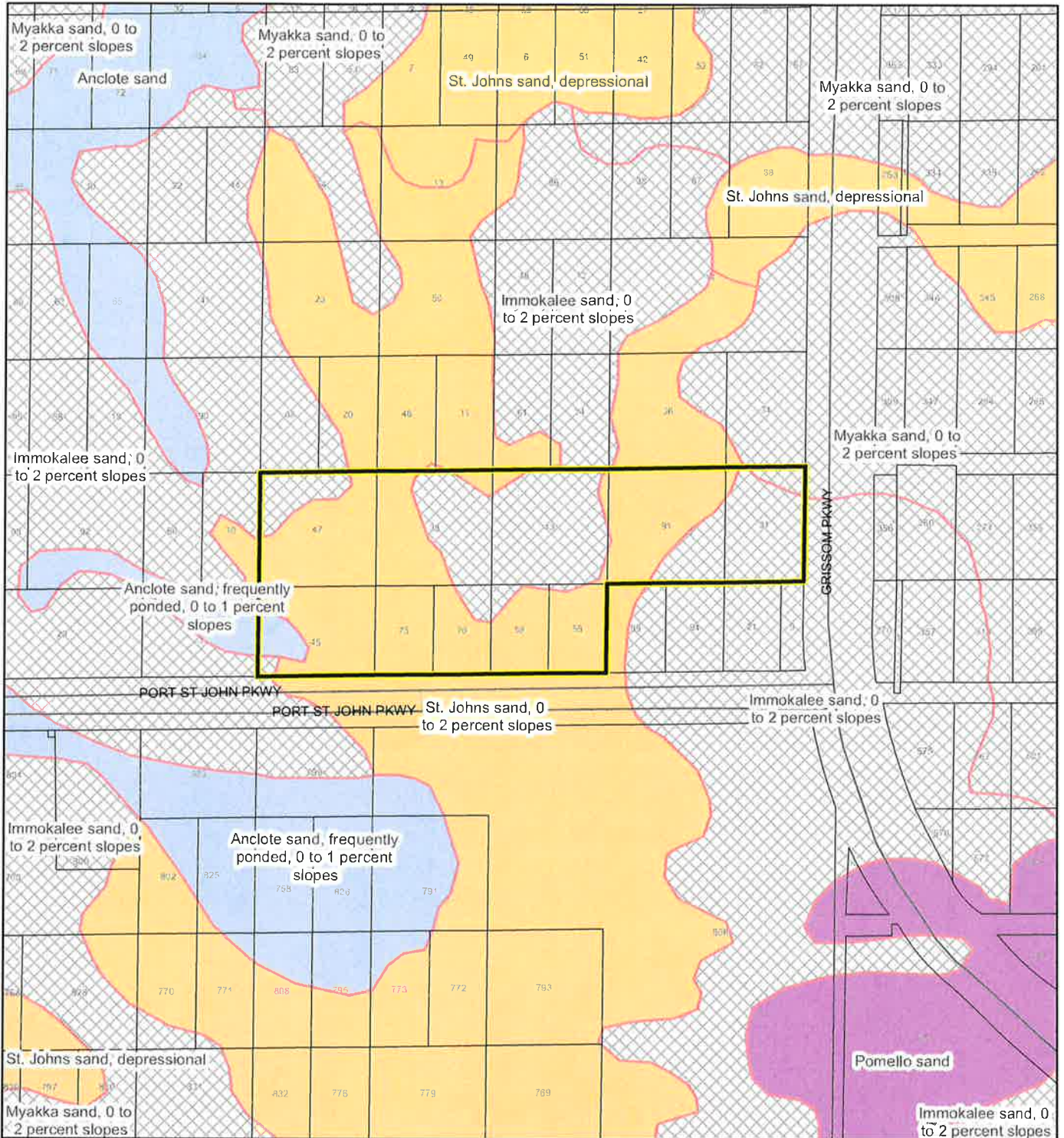
Parcels



# USDA SCSSS SOILS MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/19/2022

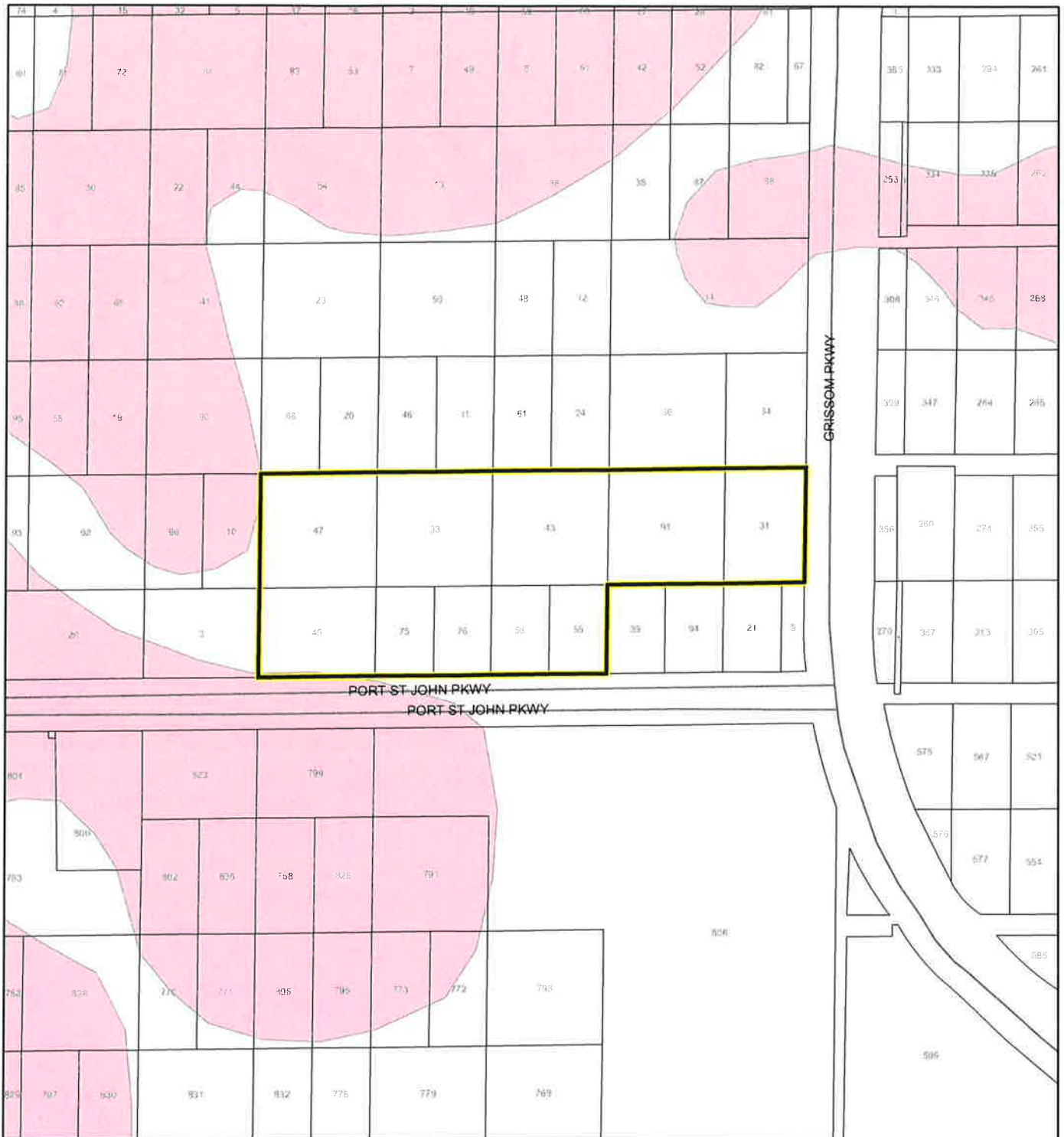
## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

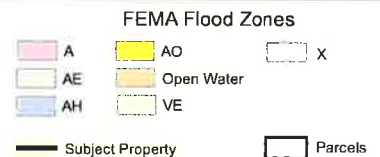
SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



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.

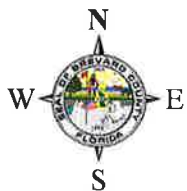
Produced by BoCC - GIS Date: 4/19/2022





# COASTAL HIGH HAZARD AREA MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06



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: 4/19/2022

— Subject Property

□ Parcels

**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



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: 4/19/2022

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

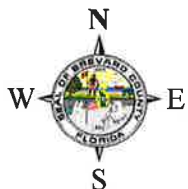
 60 Meters

 All Distances

# EAGLE NESTS MAP

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER

22SS00003 SMALL SCALE AMENDMENT 22S.06



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: 4/19/2022

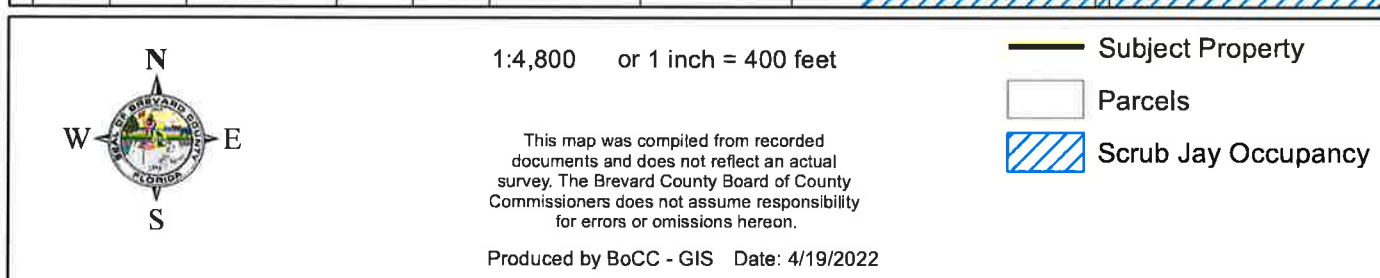
Subject Property

Parcels



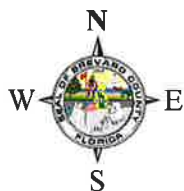
Eagle Nests  
FWS 2010

SUNSHINE PETRO, INC.; JACOB AARON CORPORATION; ALICE ELAINE TISTHAMMER  
22SS00003 SMALL SCALE AMENDMENT 22S.06







## 22SS00003 SMALL SCALE AMENDMENT 22S.06



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.

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

— Subject Property      ☐ Parcels



## ***Natural Resource Assessment***

# **Space Coast Service Center Brevard County, Florida**

***Prepared for:***  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408

144196067  
March 2021  
© Kimley-Horn & Associates, Inc. 2021  
1920 Wekiva Way, Suite 200  
West Palm Beach, FL 33411  
561-845-0665

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APPENDIX C – SPECIES SPECIFIC SURVEY PROTOCOLS  
APPENDIX D – SHPO FLORIDA MASTER SITE FILE REPORT



**Natural Resource Assessment  
Technical Memorandum**

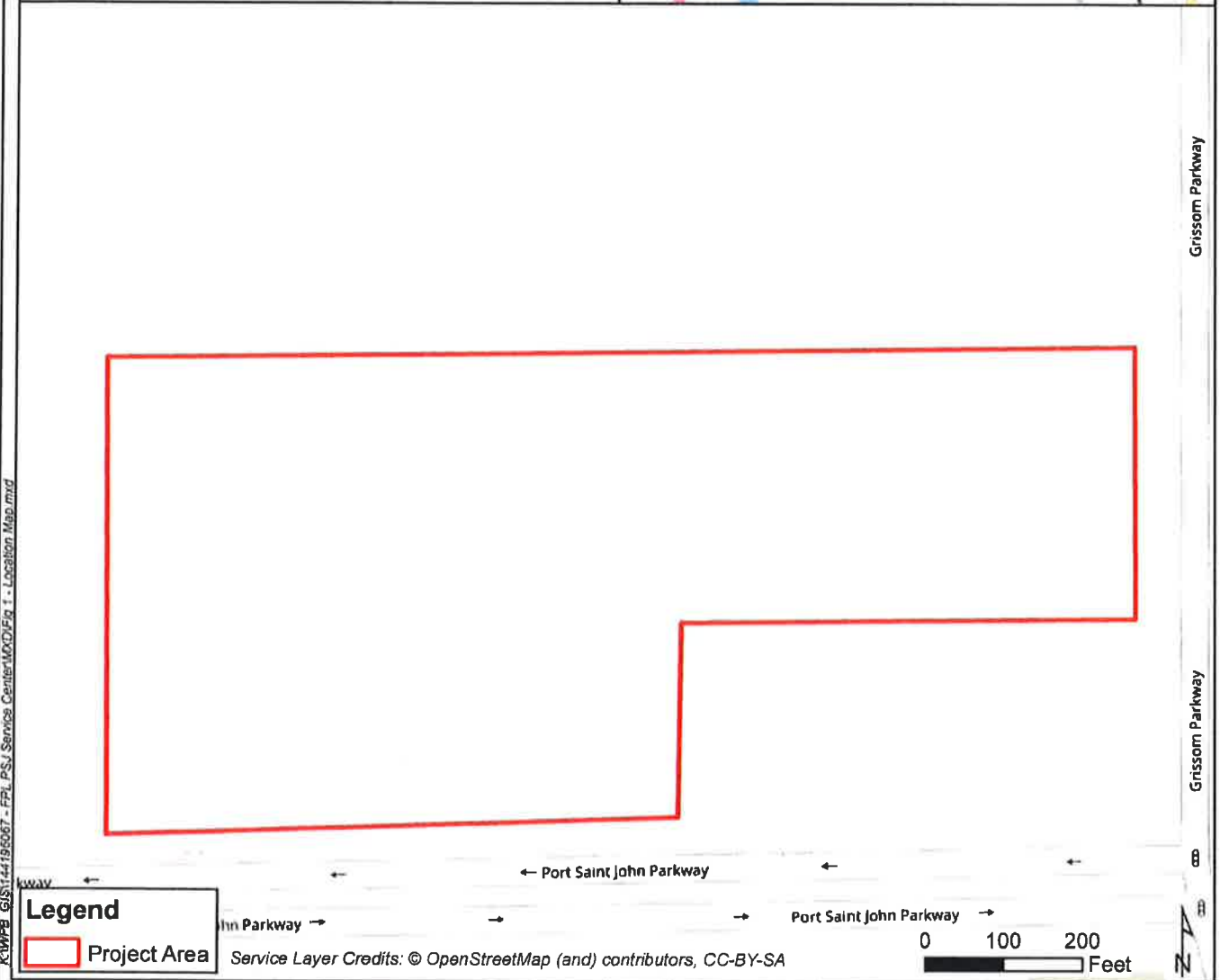
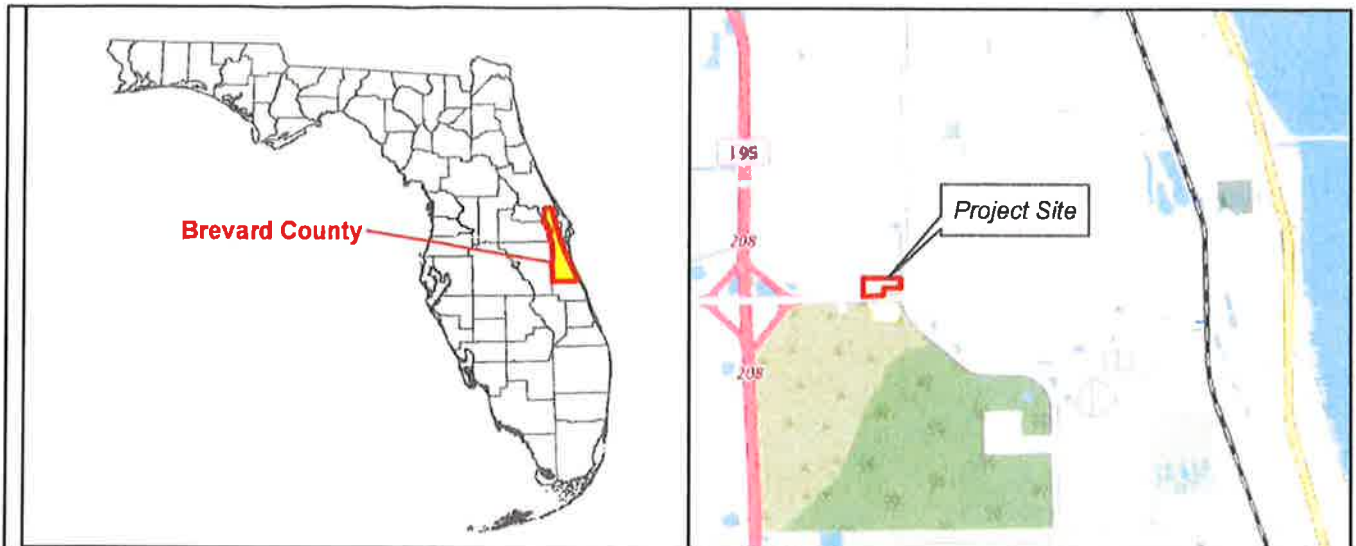
**Space Coast Service Center  
Brevard County, Florida**

**1.0 INTRODUCTION**

The following technical memorandum summarizes a review of readily available documentation and the results of field reconnaissance conducted at the study area. The purpose of this Natural Resource Assessment was to characterize the existing conditions of the property relative to threatened and endangered species and their habitat, ecological communities, land cover and vegetation, wetlands, soils, hydrology, archaeological and historical resources, and floodplains.

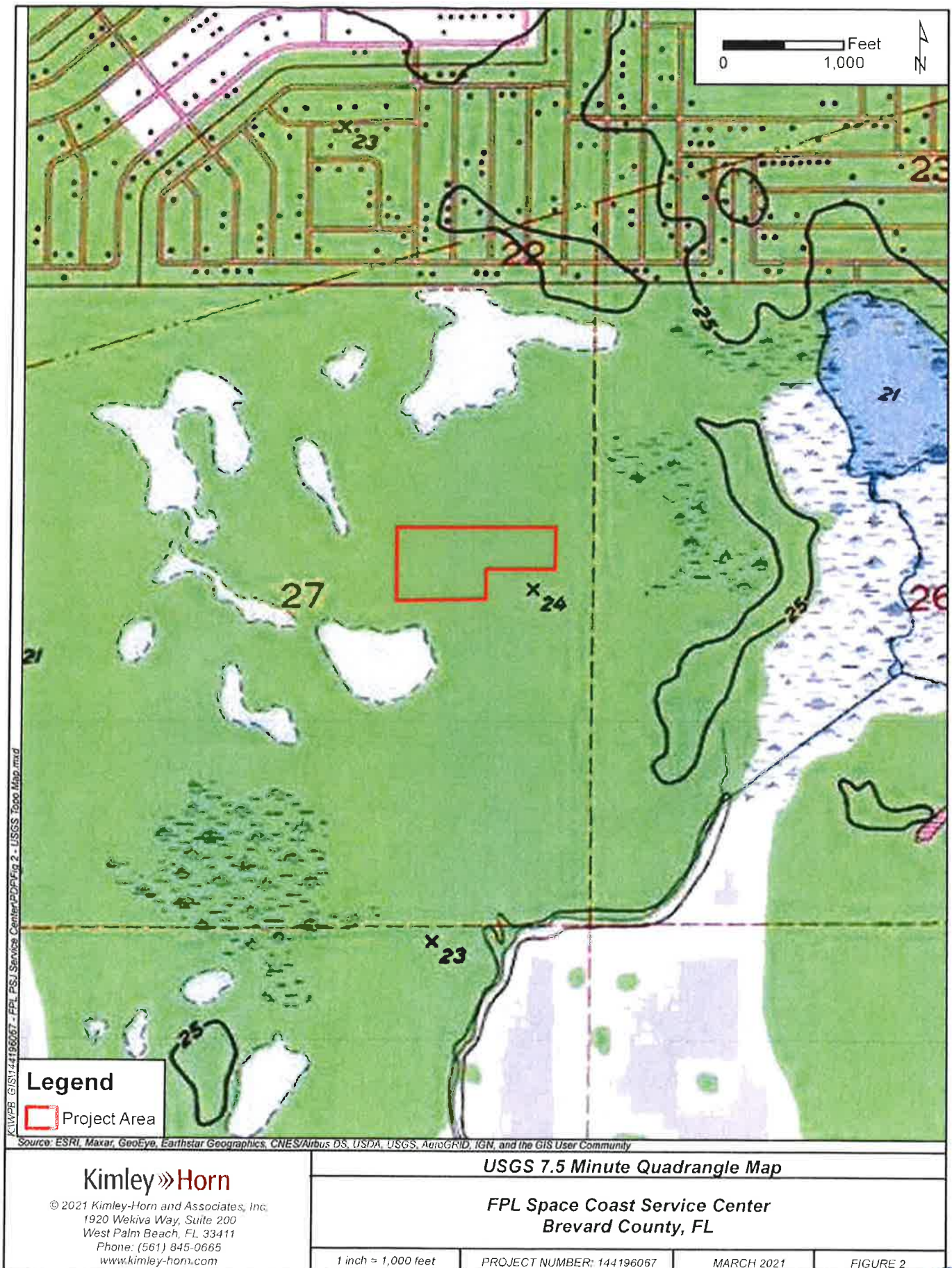
The scope of this assessment included field reconnaissance to determine habitat present and to determine environmental constraints for this study area.

The project site is approximately 14.5 acres and is located at the northwest corner of Grissom Parkway and Port Saint John Parkway (28° 27' 15.10" N, 80° 48' 24.31" W) in Section 27, Township 23 South Range 35 East in unincorporated Brevard County, Florida. A location map is attached as **Figure 1**. A portion of the U.S. Geological Service (USGS) 7.5-Minute Providence, Florida quadrangle map depicting the location of the project site is attached as **Figure 2**. Based on review of the USGS quadrangle map, elevations on the project site range from approximately 25 to 30 feet.



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	<b>FPL Space Coast Service Center Brevard County, FL</b>			
	1 inch = 200 feet	PROJECT NUMBER: 144196067	MARCH 2021	FIGURE 1

60



## 2.0 METHODOLOGY

The methodology for this assessment included a review of the following resources:

- Florida Natural Areas Inventory (FNAI) Biodiversity Matrix (<http://www.fnai.org/biointro.cfm>)
- Various Geographic Information System (GIS) data layers from the U.S. Fish and Wildlife Service (USFWS), U.S. Geological Survey (USGS), Florida Fish and Wildlife Conservation Commission (FWC) (<https://myfwc.com/wildlifehabitats/wildlife/bba/>)
- USFWS IPaC data [<https://ecos.fws.gov/ipac/>]
- U.S. Department of Agriculture (USDA) / Natural Resources Conservation Service (NRCS) Soil Survey of Brevard County, Florida (<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>)
- State Historic Preservation Officer (SHPO), Florida Master Site File (<http://www.flheritage.com/>)
- USFWS National Wetlands Inventory (NWI) Maps (Web-based maps available from <http://www.fws.gov/wetlands/Data/mapper.html>)
- Federal Emergency Management Agency (FEMA) Digital Flood Insurance Rate Maps (FIRM; Web-based maps available from <http://msc.fema.gov/>)
- United States Geological Survey (USGS) Quadrangle Maps, Land Boundary Information System (LABINS; <http://www.labins.org>)
- St. Johns River Water Management District Interactive GIS Map
- Florida Department of Environmental Protection (FDEP) MapDirect GIS
- Brevard County Code of Ordinances
- Chapter 62-340, Florida Administrative Code (FAC)

On March 10, 2021 a field review of the project limits was conducted by environmental scientists to document the existing habitat conditions and determine potential wildlife utilization. The field review also included a 15% gopher tortoise survey.

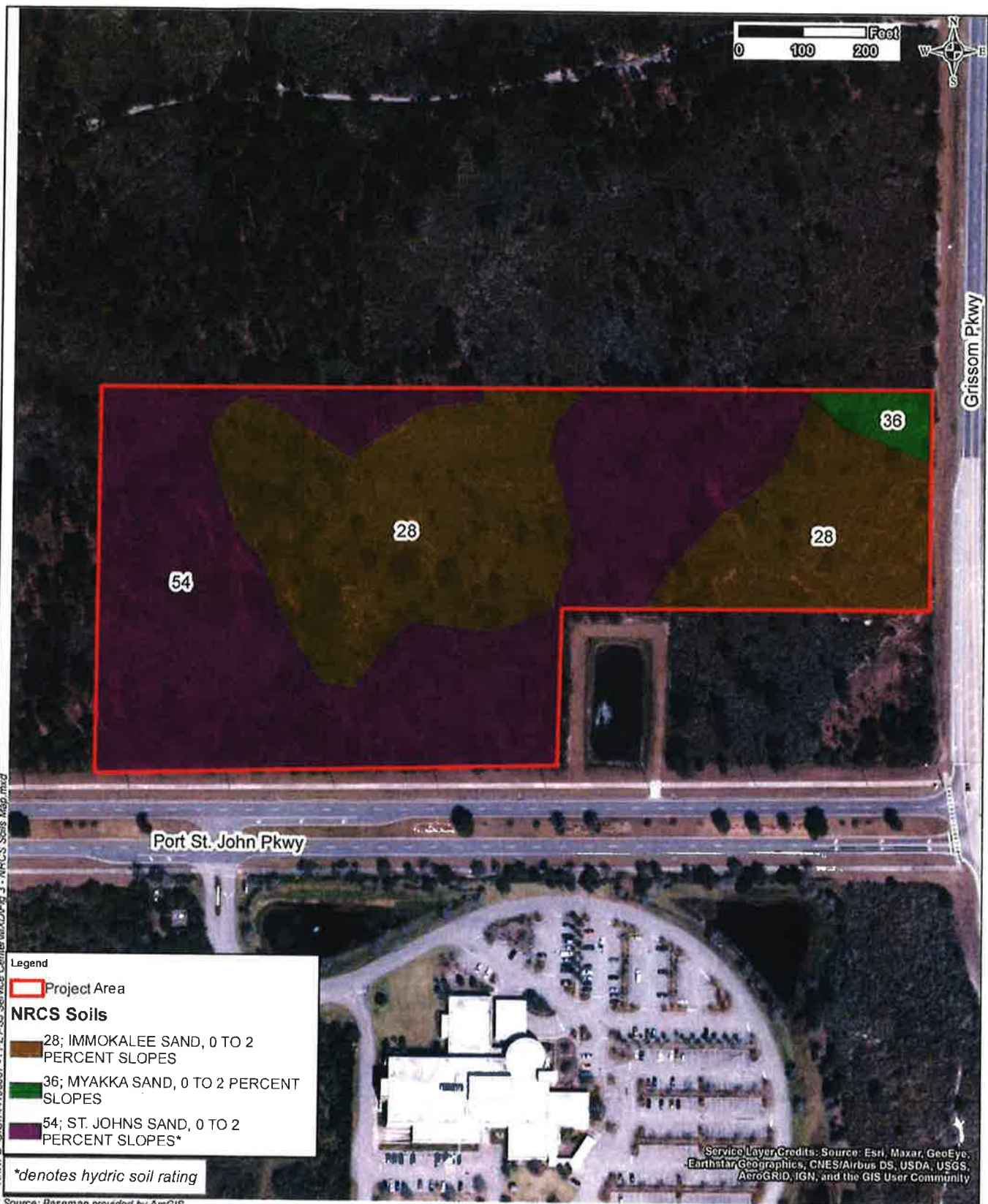


### 3.0 EXISTING CONDITIONS

#### 3.1 SOILS

The USDA / NRCS *Soil Survey of Brevard County, Florida*, maps the following soil on the property: (28) Immokalee Sand, (36) Myakka Sand, and (54) St. Johns Sand. A copy of the digital USDA/NRCS soils mapping data is illustrated in **Figure 3** and details regarding each soil are provided in **Table 1**.

Table 1 NRCS Soils Identified Within Study Area						
Soil ID Number <sup>1</sup>	Soil Name	Occurrence <sup>2</sup>	Characteristics	Drainage Class	Groundwater Depth	Hydric, Hydric Inclusions, or Non-hydric
28	Immokalee Sand	Flatwoods	Moderate permeability	Poorly Drained	6-18 inches	Non-hydric
36	Myakka Sand	Broad flats	Rapid permeability	Poorly Drained	6-18 inches	Non-hydric
54	St. Johns Sand	Broad flats and sloughs	Very slow permeability	Poorly drained	0-6 inches	Hydric
<sup>1</sup> Reference: <a href="https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/FL009/0/Brevard.pdf">https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/FL009/0/Brevard.pdf</a>						
<sup>2</sup> Reference: <a href="https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx">https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx</a>						



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**NRCS Soils Map**

**FPL Space Coast Service Center  
 Brevard County, FL**

1 inch = 200 feet

PROJECT NUMBER: 144196067

MARCH 2021

FIGURE 3

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### 3.2 LAND COVER AND NATURAL COMMUNITIES

Vegetative communities within the study area were identified through pedestrian transects and aerial photograph interpretation. Vegetative communities were classified using the *Florida Land Use, Cover, and Forms Classification System* (FLUCFCS, Florida Department of Transportation, 1999). A FLUCFCS map of the study area is attached as **Figure 4**. A description of the upland land cover included below, characterizes dominant vegetation observed along random pedestrian transects, and does not represent an all-inclusive vegetative inventory. The acreage provided for each land cover is approximate, based on aerial mapping. A photo log of the site can be found in **Appendix A**.

#### **FLUCFCS 411 – PINE FLATWOODS (3.5± ACRES)**

This land cover makes up approximately 3.5 acres of the project site. Canopy vegetation includes primarily slash pine (*Pinus elliottii*) with occasional cabbage palm (*Sabal palmetto*). Understory vegetation includes dominant saw palmetto (*Serenoa repens*) with myrtle oak (*Quercus myrtifolia*), Chapman's oak (*Quercus chapmanii*), wax myrtle (*Myrica cerifera*), and gallberry (*Ilex glabra*).

#### **FLUCFCS 419 – OTHER PINES (1± ACRES)**

This land cover makes up approximately 1 acre of the project site and is dominated by slash pine with minimal understory.

#### **FLUCFCS 421 – XERIC OAK (10± ACRES)**

This land cover is the largest habitat within the project area and makes up approximately 10 acres of the project site. There is minimal canopy vegetation, however when it is present, the canopy is primarily comprised of slash pine with occasional cabbage palm. Dominant understory vegetation includes myrtle oak, Chapman's oak, and scrub oak (*Quercus inopina*) with fewer occurrences of saw palmetto, wax myrtle, gallberry, shining fetterbush (*Lyonia lucida*), rusty lyonia (*Lyonia ferruginea*), gopher apple (*Licania michauxii*), winged sumac (*Rhus copallinum*), wire grass (*Eleusine indica*), and shiny blueberry (*Vaccinium myrsinites*).





K:\WPB\_GIS\144196067 - FPL PSJ Service Center\MXD\Fig 4 - FLUCFCS Map.mxd

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	<b>FPL Space Coast Service Center Brevard County, FL</b>		
	1 inch = 200 feet	PROJECT NUMBER: 144196067	MARCH 2021

FIGURE 4

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### **3.3 WETLANDS, TIDAL WATERS AND OTHER SURFACE WATERS**

The presence of wetlands was evaluated based on the Florida unified wetland delineation methodologies in accordance with Chapter 62-340, Florida Administrative Code (FAC) and Chapter 62-331 FAC under the State 404 Program. These methods consider prevalence of wetland vegetation, hydric soil indicators, and wetland hydrology. Surface waters include both natural and manmade bodies of water, such as streams, lakes, ponds, canals, and ditches. Based on an informal assessment of the vegetative communities, hydrologic conditions, and soils observed during on-site reconnaissance, no wetlands or surface waters exist within the project area.

### **3.4 WILDLIFE UTILIZATION**

Wildlife, or evidence of wildlife, seen during field reconnaissance included black vulture (*Coragyps atratus*), cattle egret (*Bubulcus ibis*), northern cardinal (*Cardinalis cardinalis*), brown anole (*Anolis sagrei*), and armadillo (*Dasypus novemcinctus*).

### **3.5 ENDANGERED, THREATENED, AND SPECIES OF SPECIAL CONCERN**

A list of protected species potentially occurring within the project vicinity was generated using the databases described in Section 2.0 Methodology. Information regarding previously documented occurrences, on-site observations conducted as part of this assessment, and likelihood of occurrence is summarized below.

FNAI – The FNAI report includes data from FNAI Matrix Unit 58476 (**Appendix B**). Based on the FNAI report, there are no documented listed species within the vicinity of the site. FNAI lists wood storks (*Mycteria Americana*) as likely to occur within the matrix unit. Wood stork habitat does not exist on-site, and this species is discussed further below.

FWC – There are no known bald eagle (*Haliaeetus leucocephalus*) nests or wading bird colonies on or within one mile of the study area. Additionally, no bald eagles or their nests were observed within the study area during field reconnaissance. There are two documented observations of the Florida scrub-jay (*Aphelocoma coerulescens*) within one mile of the study area. No additional coordination regarding the bald eagle or wading birds is anticipated. Further discussion of the scrub-jay can be found below.

USFWS Consultation Areas – The study area is in the following USFWS Consultation Areas:

- Audubon's crested caracara (*Polyborus plancus audubonii*)
- Everglade's snail kite (*Rostrhamus sociabilis plumbeus*)
- Florida scrub-jay (*Aphelocoma coerulescens*)

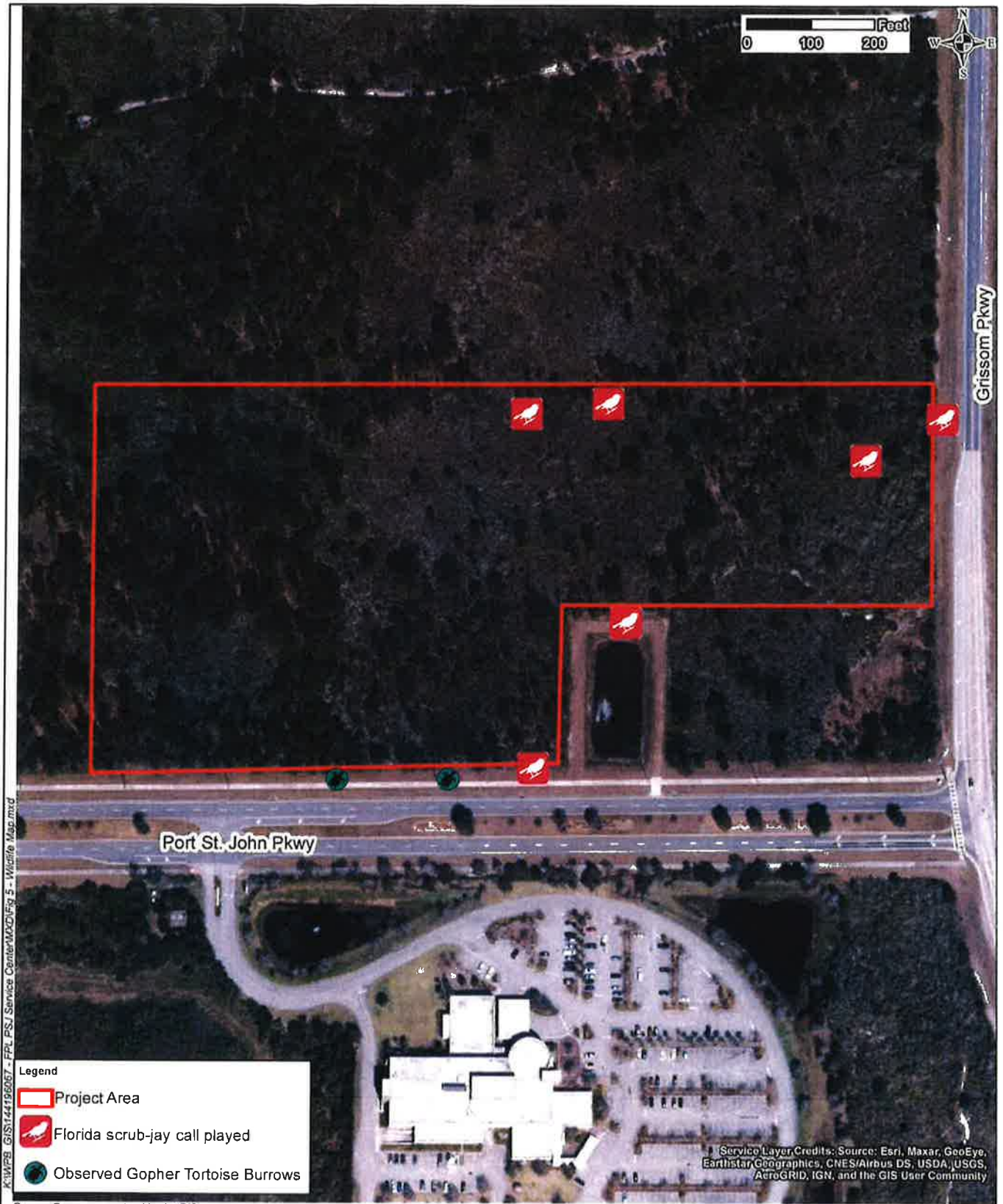
Habitat for the Audubon's crested caracara and everglade snail kite does not occur on-site, thus, no further coordination regarding these species is anticipated. Suitable habitat for the Florida scrub-jay is present on-site, and the species is discussed further below.

USFWS Wood Stork Colonies – The project site is within the core foraging area (CFA) of two known wood stork colonies: Lake Poinsett and Brevard County Maintenance Shop. The CFA for an active wood stork colony is defined as a circular area within a 15-mile radius from the wood stork colony. No wood storks, or potential wood stork foraging habitat, occurs within the project site, and no further coordination regarding wood stork is anticipated.

USFWS IPaC Data – The IPaC Trust Resources includes historical data in their reporting, which results in some species findings that do not reflect current on-site conditions. The following species are listed in the data and have suitable or marginal habitat within the study area: Florida scrub-jay and gopher tortoise. Species listed in the data that do not have suitable habitat on-site include: Audubon's crested caracara, eastern black rail, Everglade snail kite, wood stork, eastern indigo snake, green sea turtle, hawksbill sea turtle, leatherback sea turtle, and loggerhead sea turtle. This dataset confirmed that the project site is not within any USFWS designated Critical Habitat (**Appendix B**).

Based on field reconnaissance and database reviews, a listing of the state and federally listed species potentially occurring within the immediate vicinity of the study area has been compiled. **Table 2** lists species that may occur and their likelihood of occurrence. Likelihood of occurrence is based on actual observation of the species, signs of the species (burrows, tracks, scat, etc.), observance of suitable habitat, or documented occurrences of the species within various databases. A copy of the map depicting observed species on-site is attached as **Figure 5**.

Table 2						
Potential Listed Species Occurrence						
Common Name		Scientific Name	Federal Status	State Status	Comments	Likelihood of Occurrence
Birds	Florida scrub-jay	<i>Aphelocoma coerulescens</i>	T	FT	Observed On-site: No Observed in Proximity: No Habitat Present: Yes Habitat Type: Nesting/Foraging	High
Reptiles	Gopher Tortoise	<i>Gopherus polyphemus</i>	C	ST	Observed On-site: No Observed in Proximity: Yes Habitat Present: Marginal Habitat Type: Burrowing/foraging	Moderate
Federal Status: E = Endangered; T = Threatened; T(S/A) = Threatened due to Similarity of Appearance; C = Candidate Species; NL = Not Listed. State Status: FE- Federally Endangered; FT – Federally Threatened; FT(S/A) – Federally Threatened due to Similarity of Appearance; ST- State Threatened; SSC = Species of Special Concern. Note: Coordination is not required with FWC for Federally listed species.						



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	<b>FPL Space Coast Service Center Brevard County, FL</b>		
	1 inch = 200 feet	PROJECT NUMBER: 144196067	MARCH 2021

FIGURE 5

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Based on the database review and field reconnaissance, the following species have the potential to occur on-site and/or require additional evaluation, survey or permitting.

#### ***Florida Scrub-Jay***

The Florida scrub-jay is listed as threatened by both the USFWS and FWC. The scrub-jay inhabits fire-dominated, low-growing, oak scrub habitat found on well-drained sandy soils. The project site falls within the USFWS consultation area for the species and there are documented observations of the scrub-jay within one mile of the project site. A scrub-jay survey will be required prior to development utilizing the methods outlined in the Florida Scrub-Jay General Survey Guidelines and Protocols (2007) (**Appendix C**) to determine the presence of scrub-jays.

#### ***Gopher Tortoise***

Gopher tortoises are considered a keystone species in certain ecosystems because many different animal species utilize their extensive burrows for shelter. The gopher tortoise is listed as Threatened by the FWC and is a candidate for listing by the USFWS and prefers dry upland habitats such as pine flatwoods, xeric oak hammocks, open sandy pastures, and disturbed areas. Per FWC guidelines, Kimley-Horn conducted a 15% gopher tortoise survey (March 10, 2021) and no burrows were observed on-site, however two burrows were observed directly adjacent to the project area. In addition, potential habitat for the gopher tortoise does occur on-site. Thus, a 100% gopher tortoise survey will need to be completed no more than 90 days prior to construction. Impacts to or within 25 feet of gopher tortoise burrows require a relocation permit from FWC. This permit authorizes gopher tortoises to be relocated by an authorized agent to a protected certified recipient area.

#### ***Listed Plant Species***

The Florida Department of Agriculture and Consumer Service's *Notes on Florida's Threatened and Endangered Plants*, and Richard Wunderlin's *Guide to Vascular Plants of Florida*, were consulted to assess habitat requirements for listed plant species. Although 15 state-listed plants were noted by FNAI as possibly occurring in this area, none were observed during field reconnaissance. No further action is anticipated regarding listed plant species.

### **3.6 HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Kimley-Horn requested an inquiry from the Department of State, State Historic Preservation Officer (SHPO) Division of Historical Resources Florida Master Site File (FMSF) regarding the presence of known historical or archaeological findings on the study area or in the immediate vicinity (**Appendix D**). The FMSF lists no previously recorded cultural resources and no resources that are eligible for the National Register of Historic Places within a 0.25-mile radius of the project area.

### **3.7 FLOODPLAIN INFORMATION**

FEMA indicates that the entirety of the study area is located within Flood Zone X - areas determined to be outside of the special flood hazard area. A FEMA flood zone map is attached as **Figure 6**. No required floodplain compensation is anticipated.





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**FEMA Map**

**FPL Space Coast Service Center  
Brevard County, FL**

1 inch = 200 feet

PROJECT NUMBER: 144196067

MARCH 2021

FIGURE 6

## **4.0 REGULATORY REQUIREMENTS**

### **4.1 LOCAL ENVIRONMENTAL ORDINANCES**

Per the Brevard County Code of Ordinances, a permit shall be required prior to any land clearing activities (Article XIII, Sec. 62-4337). A survey of all protected trees and canopy coverage shall be prepared by a professional land surveyor registered in the State of Florida. Protected trees include hardwood trees having DBH of ten inches or greater or a softwood tree, such as a pine, having a DBH of 14 inches or greater. Protected trees were observed on-site, and a tree survey will be required before site development.

Article X, Division 4 addresses development in or adjacent to wetlands. Any wetlands addressed by an FDEP or SJRWMD permit will be exempt from the county's mitigation standards provided that the FDEP or SJRWMD permit conditions are consistent with Brevard County's requirements. As there are no wetlands on-site, no further coordination regarding wetland impacts are anticipated.

### **4.2 STATE REGULATORY REQUIREMENTS**

#### **Environmental Resource Permit**

The ERP evaluates the project impacts to wetlands, surface waters, and stormwater management design including floodplain impacts. An ERP may be required from the SJRWMD if any stormwater improvements are proposed as part of this project. Drainage design and stormwater management is not discussed further in this report as the scope was limited to natural resources. As there are no wetlands on-site, a non-jurisdictional determination is recommended, however an ERP addressing wetland impacts is not required.

It should be noted that the FDEP has assumed administration of the Clean Water Act (CWA) Section 404 program. Effective December 22, 2020, FDEP will process Section 404 permits within State-assumed Waters of the US (WOTUS) rather than the US Army Corps of Engineers (USACE). Based on a preliminary review, there do not appear to be Waters of the US (WOTUS) present on site, and therefore, authorization under Section 404 will not be required.





### **Listed Species Permitting**

Species specific permitting may be required for potential effects to listed species or their habitats including the gopher tortoise. Per FWC regulations, Kimley-Horn conducted a 15% gopher tortoise survey (March 10, 2021) and no burrows were observed on-site, however two potential burrows were observed directly adjacent to the project area. In addition, potential habitat for the gopher tortoise does occur on-site. Thus, a 100% gopher tortoise survey will need to be completed no more than 90 days prior to construction. Impacts to or within 25 feet of gopher tortoise burrows require a relocation permit from FWC. This permit authorizes gopher tortoises to be relocated by an authorized agent to a protected certified recipient area.

### **4.3 FEDERAL REGULATORY REQUIREMENTS**

#### **Section 404 Dredge and Fill Permitting**

Please refer to State Regulatory Requirements above. The Corps of Engineers has suspended processing of 404 permits in state-assumed waters, and the state permit provides the necessary authorization under Section 404. Based on a preliminary review, there do not appear to be Waters of the US (WOTUS) present on site, and therefore, authorization under Section 404 will not be required.

#### **Federal Listed Species**

Federal and State listed species and protected habitats present on-site may require mitigation for potential impacts. Since the project does not appear to have any federal jurisdictional wetlands, there is not a federal nexus for addressing potential species impacts with the USFWS. If, after project design and additional species-specific surveys, it is determined that impacts to federally protected species will occur, consultation through Section 10 of the Endangered Species Act may be required. This section provides an estimate of anticipated species survey, permitting, and mitigation requirements associated with site development.

#### **Florida Scrub-Jay**

The Florida scrub-jay is listed as threatened by both the USFWS and FWC. The scrub jay inhabits fire-dominated, low-growing, oak scrub habitat found on well-drained sandy soils. This site falls within a USFWS consultation area for the species and there are documented

sightings within one mile of the site. Additionally, there is suitable scrub-jay habitat on-site; thus, coordination with the USFWS and a scrub jay survey will be required. Surveys can be conducted from March-October with March, July, and October being the best times to survey. Surveys are conducted with the assistance of a scrub jay vocalization which is broadcast along transects throughout suitable habitat. If scrub jays are present and occupied habitat will be impacted, a permit may be required from the USFWS.

## 5.0 SUMMARY AND RECOMMENDATIONS

- A tree survey and permit will be required from Brevard County before any land clearing activities.
- No wetlands were observed on-site, however an ERP will be required if any stormwater improvements are proposed as part of this project.
- The site does not appear to contain federal jurisdictional Waters of the US, so authorization under Section 404 will not be required.
- The following state and federally listed species were observed or potentially occur on-site: gopher tortoise and Florida scrub-jay as described in Section 4.2 and 4.3. A 100% survey will be required no more than 90 days prior to construction for the gopher tortoise. If any gopher tortoises or their burrows are found, any impacts to or within 25 feet of gopher tortoise burrows will require a relocation permit from FWC. Coordination with the USFWS and a formal survey will be required for the scrub-jay.
- Based on the FMSF, there were no historic or archaeological resources within the study area. Currently, no further action is required. The SHPO will review and comment on the ERP and determine if additional analysis is warranted.
- The study area is not within a FEMA designated floodplain. No further action is required.

**APPENDIX A**  
**SITE PHOTO LOG**



**Photo 1: View looking south from northeast corner of site.**



**Photo 2: View looking north from southeast corner of site.**

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**PHOTOGRAPHIC LOG**

**Space Coast Service Center  
Brevard County, FL**

SCALE: NTS

PROJECT NO 144196067

DATE March 2021

PAGE 1



**Photo 3: View looking east from southwest corner of site.**



**Photo 4: View looking west from southeast corner of site.**

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## PHOTOGRAPHIC LOG

**Space Coast Service Center  
Brevard County, FL**

SCALE: NTS

PROJECT NO 144196067

DATE March 2021

PAGE 2





**Photo 5: View looking north at stormwater pond adjacent to site.**

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West Palm Beach, FL 33411  
(561) 845-0665 TEL  
www.kimley-horn.com

**PHOTOGRAPHIC LOG**

**Space Coast Service Center  
Brevard County, FL**

SCALE: NTS

PROJECT NO 144196067

DATE March 2021

PAGE 3





**Photo 6**



**Photo 7**

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Photo 8



Photo 9

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Photo 10



Photo 11

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**PHOTOGRAPHIC LOG**

**Space Coast Service Center  
Brevard County, FL**

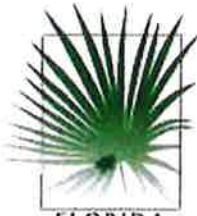
SCALE: NTS

PROJECT NO 144196067

DATE March 2021

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**APPENDIX B**  
**FNAI BIODIVERSITY MATRIX AND USFWS IPAC DATA**



FLORIDA  
**Natural Areas**  
INVENTORY

1018 Thomasville Road  
Suite 200-C  
Tallahassee, FL 32303  
850-224-8207  
850-681-9364 fax  
www.fnai.org

## Florida Natural Areas Inventory

### Biodiversity Matrix Query Results

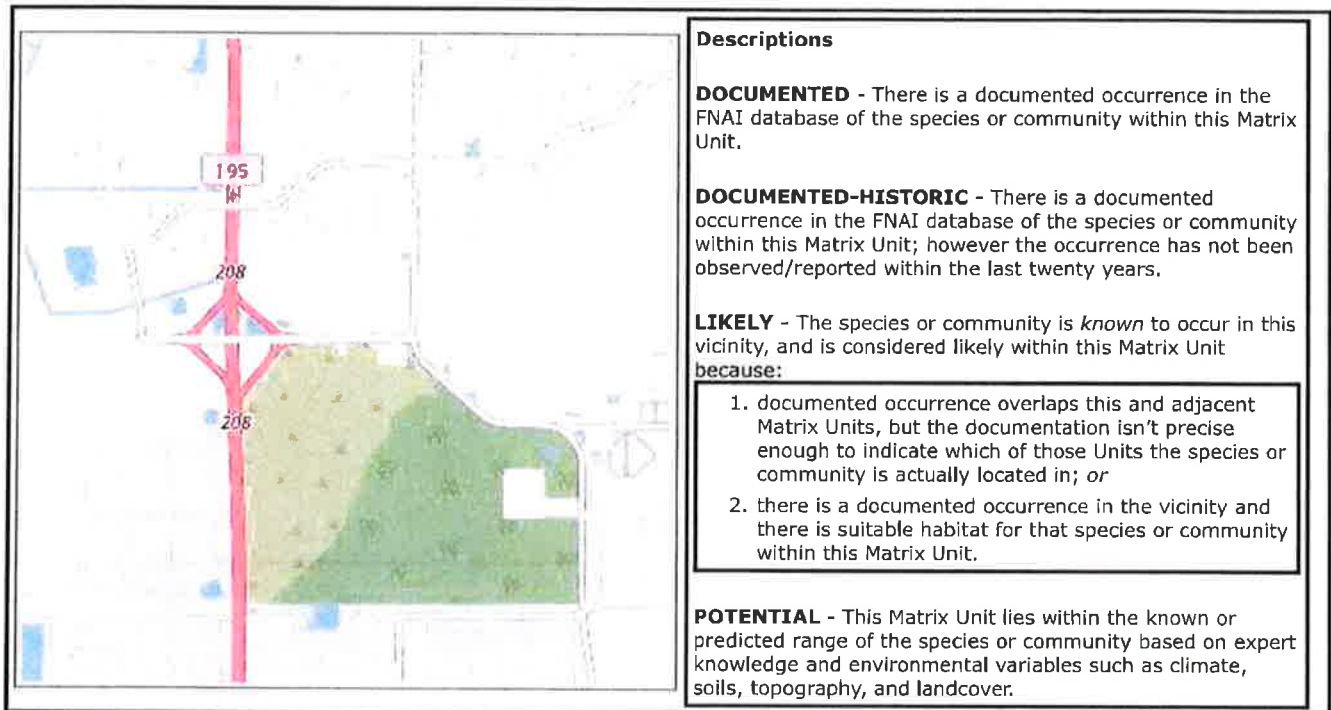
#### UNOFFICIAL REPORT

Created 3/23/2021

(Contact the FNAI Data Services Coordinator at 850.224.8207 or  
kbrinegar@fnai.fsu.edu for information on an official Standard Data Report)

NOTE: The Biodiversity Matrix includes only rare species and natural communities tracked by FNAI.

#### Report for 1 Matrix Unit: 58476



#### Matrix Unit ID: 58476

0 **Documented** Elements Found

0 **Documented-Historic** Elements Found

4 **Likely** Elements Found

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<u><i>Apelocoma coerulescens</i></u> Florida Scrub-Jay	G2	S2	LT	FT
<i>Mesic flatwoods</i>	G4	S4	N	N
<u><i>Mycteria americana</i></u> Wood Stork	G4	S2	LT	FT
<i>Scrub</i>	G2	S2	N	N



**Matrix Unit ID: 58476**26 **Potential** Elements for Matrix Unit 58476

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<u><i>Athene cunicularia floridana</i></u> Florida Burrowing Owl	G4T3	S3	N	SSC
<u><i>Calopogon multiflorus</i></u> Many-flowered Grass-pink	G2G3	S2S3	N	T
<u><i>Centrosema arenicola</i></u> Sand Butterfly Pea	G2Q	S2	N	E
<i>Chamaesyce cumulicola</i> Sand-dune Spurge	G2	S2	N	E
<i>Conradina brevifolia</i> Short-leaved Rosemary	G2Q	S2	LE	E
<i>Conradina grandiflora</i> Large-flowered Rosemary	G3	S3	N	T
<u><i>Deeringothamnus pulchellus</i></u> Beautiful Pawpaw	G1	S1	LE	E
<i>Dicerandra thimicola</i> Titusville Balm	G1Q	S1	N	E
<u><i>Drymarchon couperi</i></u> Eastern Indigo Snake	G3	S3	LT	FT
<u><i>Gopherus polyphemus</i></u> Gopher Tortoise	G3	S3	C	ST
<u><i>Grus canadensis pratensis</i></u> Florida Sandhill Crane	G5T2T3	S2S3	N	ST
<i>Gymnopogon chapmanianus</i> Chapman's Skeletongrass	G3	S3	N	N
<i>Lechea cernua</i> Nodding Pinweed	G3	S3	N	T
<u><i>Lechea divaricata</i></u> Pine Pinweed	G2	S2	N	E
<u><i>Linum carteri</i> var. <i>smallii</i></u> Small's Flax	G2T2	S2	N	E
<u><i>Lithobates capito</i></u> Gopher Frog	G3	S3	N	SSC
<i>Mustela frenata peninsulae</i> Florida Long-tailed Weasel	G5T3	S3	N	N
<u><i>Nemastylis floridana</i></u> Celestial Lily	G2	S2	N	E
<i>Nolina atopocarpa</i> Florida Beargrass	G3	S3	N	T
<i>Panicum abscissum</i> Cutthroat Grass	G3	S3	N	E
<i>Peucaea aestivalis</i> Bachman's Sparrow	G3	S3	N	N
<u><i>Picoides borealis</i></u> Red-cockaded Woodpecker	G3	S2	LE	FE
<u><i>Podomys floridanus</i></u> Florida Mouse	G3	S3	N	SSC
<u><i>Sceloporus woodi</i></u> Florida Scrub Lizard	G2G3	S2S3	N	N
<u><i>Sciurus niger shermani</i></u> Sherman's Fox Squirrel	G5T3	S3	N	SSC
<u><i>Warea carteri</i></u> Carter's Warea	G3	S3	LE	E

**Disclaimer**

The data maintained by the Florida Natural Areas Inventory represent the single most comprehensive source of information available on the locations of rare species and other significant ecological resources statewide. However, the data are not always based on comprehensive or site-specific field surveys. Therefore, this information should not be regarded as a final statement on the biological resources of the site being considered, nor should it be substituted for on-site surveys. FNAI shall not be held liable for the accuracy and completeness of these data, or opinions or conclusions drawn from these data. FNAI is not inviting reliance

on these data. Inventory data are designed for the purposes of conservation planning and scientific research and are not intended for use as the primary criteria for regulatory decisions.

**Unofficial Report**

These results are considered unofficial. FNAI offers a Standard Data Request option for those needing certifiable data.



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
North Florida Ecological Services Field Office  
7915 Baymeadows Way, Suite 200  
Jacksonville, FL 32256-7517  
Phone: (904) 731-3336 Fax: (904) 731-3045



In Reply Refer To:  
Consultation Code: 04EF1000-2021-SLI-0645  
Event Code: 04EF1000-2021-E-01094  
Project Name: PSJ Service Center

March 08, 2021

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))





(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>;

<http://www.towerkill.com>; and

[www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html](http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html).

<http://>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- Migratory Birds

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**North Florida Ecological Services Field Office**

7915 Baymeadows Way, Suite 200

Jacksonville, FL 32256-7517

(904) 731-3336



## Project Summary

Consultation Code: 04EF1000-2021-SLI-0645

Event Code: 04EF1000-2021-E-01094

Project Name: PSJ Service Center

Project Type: \*\* OTHER \*\*

Project Description: NRA

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@28.4549549,-80.80670798285777,14z>



Counties: Brevard County, Florida

## Endangered Species Act Species

There is a total of 13 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### Birds

NAME	STATUS
<b>Audubon's Crested Caracara</b> <i>Polyborus plancus audubonii</i> Population: FL pop. No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/8250">https://ecos.fws.gov/ecp/species/8250</a>	Threatened
<b>Eastern Black Rail</b> <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a>	Threatened
<b>Everglade Snail Kite</b> <i>Rostrhamus sociabilis plumbeus</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/7713">https://ecos.fws.gov/ecp/species/7713</a>	Endangered
<b>Florida Scrub-jay</b> <i>Aphelocoma coerulescens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/6174">https://ecos.fws.gov/ecp/species/6174</a>	Threatened
<b>Wood Stork</b> <i>Mycteria americana</i> Population: AL, FL, GA, MS, NC, SC No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/8477">https://ecos.fws.gov/ecp/species/8477</a>	Threatened

## Reptiles

NAME	STATUS
Eastern Indigo Snake <i>Drymarchon corais couperi</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/646">https://ecos.fws.gov/ecp/species/646</a>	Threatened
Gopher Tortoise <i>Gopherus polyphemus</i> Population: eastern No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/6994">https://ecos.fws.gov/ecp/species/6994</a>	Candidate
Green Sea Turtle <i>Chelonia mydas</i> Population: North Atlantic DPS There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/6199">https://ecos.fws.gov/ecp/species/6199</a>	Threatened
Hawksbill Sea Turtle <i>Eretmochelys imbricata</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/3656">https://ecos.fws.gov/ecp/species/3656</a>	Endangered
Leatherback Sea Turtle <i>Dermochelys coriacea</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/1493">https://ecos.fws.gov/ecp/species/1493</a>	Endangered
Loggerhead Sea Turtle <i>Caretta caretta</i> Population: Northwest Atlantic Ocean DPS There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/1110">https://ecos.fws.gov/ecp/species/1110</a>	Threatened

## Flowering Plants

NAME	STATUS
Carter's Mustard <i>Warea carteri</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5583">https://ecos.fws.gov/ecp/species/5583</a>	Endangered
Lewton's Polygala <i>Polygala lewtonii</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/6688">https://ecos.fws.gov/ecp/species/6688</a>	Endangered

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

## Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

- 
1. The [Migratory Birds Treaty Act](#) of 1918.
  2. The [Bald and Golden Eagle Protection Act](#) of 1940.
  3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
American Kestrel <i>Falco sparverius paulus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Apr 1 to Aug 31
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Sep 1 to Jul 31

NAME	BREEDING SEASON
Common Ground-dove <i>Columbina passerina exigua</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Feb 1 to Dec 31
Dunlin <i>Calidris alpina arctica</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds elsewhere
Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9679">https://ecos.fws.gov/ecp/species/9679</a>	Breeds elsewhere
Limpkin <i>Aramus guarauna</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Jan 15 to Aug 31
Magnificent Frigatebird <i>Fregata magnificens</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Oct 1 to Apr 30
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Semipalmated Sandpiper <i>Calidris pusilla</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere
Swallow-tailed Kite <i>Elanoides forficatus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/8938">https://ecos.fws.gov/ecp/species/8938</a>	Breeds Mar 10 to Jun 30

## Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.



How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

#### Breeding Season (☀)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

#### Survey Effort (|)

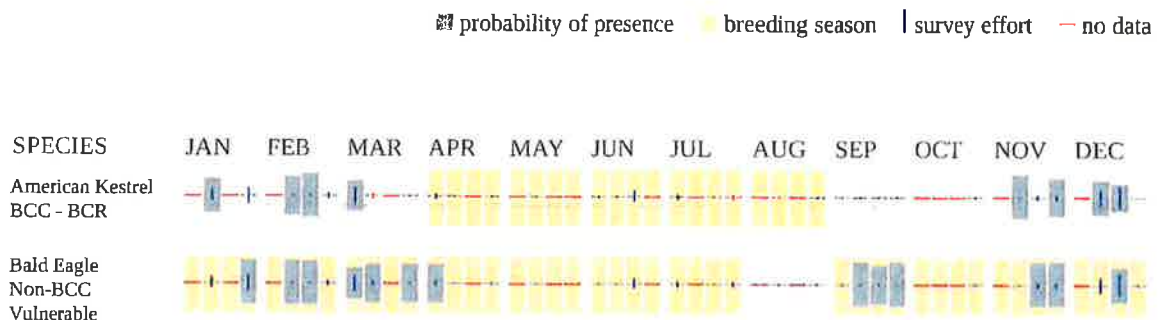
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

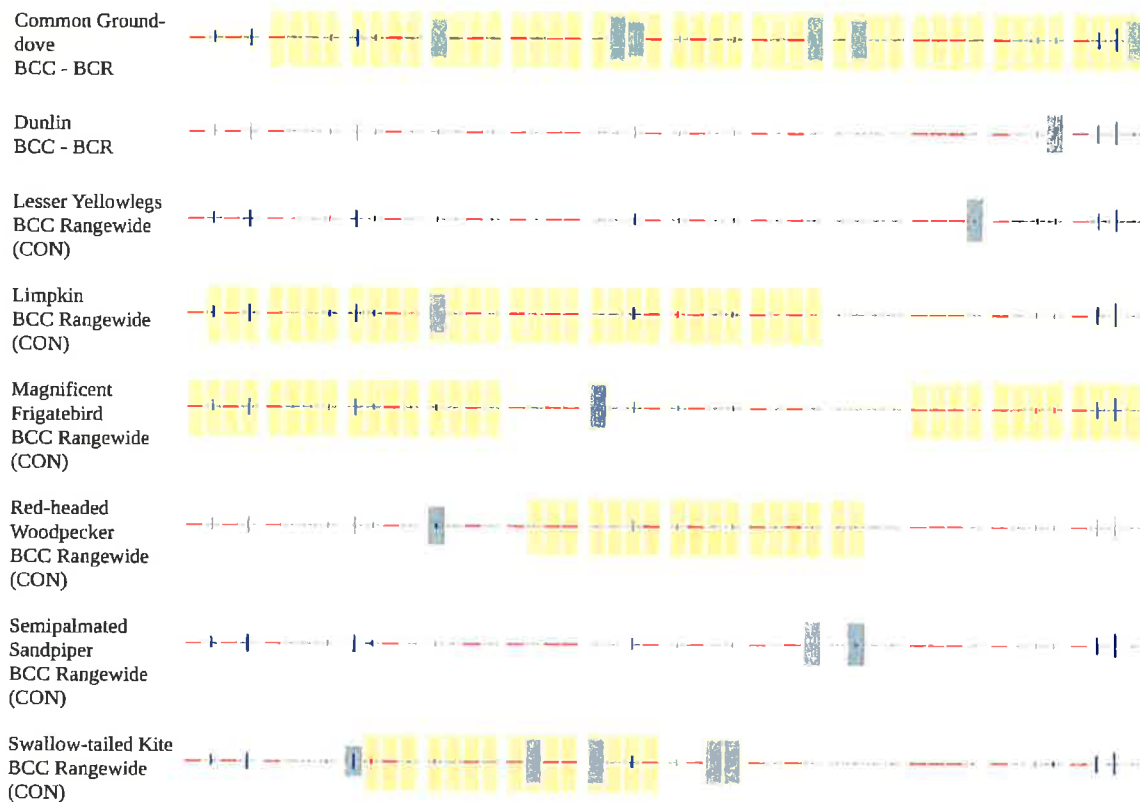
#### No Data (—)

A week is marked as having no data if there were no survey events for that week.

#### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

## Migratory Birds FAQ

**Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.**

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#)

may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

**What does IPaC use to generate the migratory birds potentially occurring in my specified location?**

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

**What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

**How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

**What are the levels of concern for migratory birds?**

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern \(BCC\)](#) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);

2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

#### **Details about birds that are potentially affected by offshore projects**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

#### **What if I have eagles on my list?**

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

#### **Proper Interpretation and Use of Your Migratory Bird Report**

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities,

should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

**APPENDIX C**  
**SPECIES SPECIFIC SURVEY PROTOCOLS**



# Scrub-Jay Survey Guidelines

(Updated 08/24/2007)

Adapted from: J.W. Fitzpatrick, G.E. Woolfenden and M.T. Kopeny. 1991. *Ecology and development-related habitat requirements of the Florida scrub-jay (Aphelocoma coerulescens)*. Florida Game and Fresh Water Fish Commission, Nongame Wildlife Program Technical Report No. 8. Tallahassee, FL. 49pp.

The most effective method for surveying a site for Florida scrub-jays is to traverse the area systematically, using a high quality tape recording of Florida scrub-jay territorial scolding in an attempt to attract the jays. The recording should include clear examples of all typical territorial scolds, including the female "hiccup" call. Vocalizations are available by contacting:

Macaulay Library  
Cornell Lab of Ornithology  
159 Sapsucker Rd.  
Ithaca, NY 14850  
Email: [macaulaylibrary@cornell.edu](mailto:macaulaylibrary@cornell.edu)  
<http://birds.cornell.edu>

Map plant communities either on a 7.5 foot U.S. Geological Survey (USGS) topographic map or an aerial photograph at a scale of no more than 400 feet per inch. The vegetation map must show all forms of existing development. On the vegetation map, establish parallel line transects with playback stations along each transect. Space the transects and playback stations so that all different scrub types will be sampled for jays (i.e., so that the taped calls will be effectively broadcast across areas of concern). These scrub types should include not only the more "classic" xeric oak scrub, scrubby pine flatwoods, scrubby coastal strand, and sand pine scrub, but should also include:

- pine-mesic oak
- xeric oak
- sand live oak
- improved, unimproved, and woodland pastures;
- citrus groves;
- rangeland;
- pine flat woods;
- longleaf pine xeric oak;
- sand pine;
- sand pine plantations;
- forest regeneration areas;
- sand other than beaches;
- disturbed rural land in transition without positive indicators of intended activity; and disturbed burned areas.

The presence of scrub oaks, no matter how sparsely distributed, is the key indicator of "scrub" habitat.

Distances between transects, and between stations along transects, depend on many factors, including power of the speaker used for broadcasting the calls, topography of the site, and the density of the surrounding vegetation. Adequate spacing between transects can be estimated roughly as the distance at which a person listening to the tape directly in front of the speaker perceives the "bird" to be no more than about 100 meters away. A distance of 100 to 200 meters between transects and between stations is generally adequate when using a good-quality, hand-held cassette player broadcasting at full volume.

Surveys should be carried out on calm, clear days about one hour after sunrise, and should terminate before midday heat or wind. Surveys should not be conducted in winds stronger than a moderate breeze (5-8 mph), in mist or fog, or in precipitation exceeding a light, intermittent drizzle. Heat and especially wind lowers the tendency for jays to respond to distant territorial scolds, and wind reduces the distance over which recordings can be heard. Jays are also reluctant to fly on windy days regardless of hour or season. Surveys also should NOT be conducted if accipiters or other scrub-jay predators are present in the area; in the event this is the case, the surveyor should either wait until the predator is gone or come back on another day.

Surveys may be conducted anytime between March 1 through October 31. However, ideal survey periods include: 1) spring (especially March), 2) fall (September and October), when territorial displays are most frequent and vigorous, and 3) midsummer (July) when young of the year are independent but still distinguishable by plumage. The poorest times of the year to survey are late winter, when jays are most likely to fly far for food, and late spring when the young are quiet and the adults are occupied with molt and feeding fledglings.

Transects may be driven or walked. If driven, step out or stand atop the vehicle at each playback station. Broadcast the calls at each station for at least 1 minute in all four directions around the playback station, emphasizing any direction in which low-growing oak scrub is the predominant vegetation. On the vegetation map, plot the locations and indicate group size of all Florida scrub-jays where they are first seen or heard. Distinguish adult-plumaged jays from juvenile-plumaged jays whenever possible.

At localities with car trails, large areas of scrub can be surveyed with a vehicle in one day. On foot, the process is more laborious because of the relatively large size of territories (often 10 to 40 acres). Once a group is located, stop broadcasting at that station. Remaining at this station briefly should result in the assembly of the entire group. This allows one to estimate group size and, if done during the midsummer, to distinguish young of the year from adults.

Sometimes two or more groups will be attracted to one station, usually from different directions. Observers should be careful, therefore, to plot each group where it was first spotted or heard, not at the site to which the jays were attracted. In rare circumstances, especially at sites where numerous groups congregate at artificial food or water sources, it may be difficult to differentiate groups. This is especially true where jays have become habituated and tame to human approach. Again, in such cases careful observation is extremely important. Studies of such congregations using color-marked jays have confirmed that almost always they consist of members of different family groups. Often they may have crossed several territory boundaries to reach the neutral feeding or drinking areas. The result gives a false impression of extremely high jay density.

It is essential that the subject area be surveyed as often as necessary (for a minimum of 5 days) to establish an accurate count of jay groups and territorial boundaries. If more than 8 to 10 jays are encountered at a single playback station during a fall or spring survey period, the jays at this site should be monitored carefully over several visits and different times of day. Numbers will shift as groups arrive and depart. Often it is possible to watch where the jays come from or return to as a means of determining how many groups are represented. For determining territorial boundaries, it is essential that the surveyor be familiar with different types of behavior exhibited by scrub-jays. Territorial boundaries may be most accurately predicted through a combination of observing scrub-jays and listening for territorial behavior (in the case where several families of scrub-jays exist in contiguous habitat) or by including habitat suitable for occupation by scrub-jays within a territorial boundary (in the case where a family of scrub-jays is somewhat isolated from other groups). If a question exists as to how many groups of scrub-jays are onsite, or where to draw territorial boundaries, it is strongly recommended that the U.S. Fish and Wildlife Service receive permission from the land owner to conduct an independent survey onsite.

The key end products of this procedure are: (1) a complete count of all jay groups onsite and (2) an approximate territory map or home range center for each group. Provide the U.S. Fish and Wildlife Service with a final report that includes the following, as applicable:

- A. An information sheet including:
- Dates and starting and ending times of all surveys conducted.
  - Weather conditions during all surveys, including average temperature, wind speed and direction, visibility, and precipitation.
  - Total number of jay groups found, number of jays in each group and number of juvenile-plumaged jays in each of these groups.
- B. An aerial photograph or vegetation map depicting:
- The entire area of interest.
  - Transect lines and playback stations.
  - Locations of all jays seen or heard while conducting the survey or at any other time, including flight direction.
  - Approximate suspected territory boundaries between jay groups or suspected home range centers for each group.

Mail Scrub-jay survey reports to:

**North Florida Counties**

Scrub-Jay Survey  
U.S. Fish and Wildlife Service  
7915 Baymeadows Way, Suite 200  
Jacksonville, FL 32256-7517

**South Florida Counties**

Scrub-Jay Survey  
U.S. Fish and Wildlife Service  
1339 20<sup>th</sup> St.  
Vero Beach, FL 32960-3559

# Florida Power & Light Company Space Coast Service Center

Brevard County Planning and Zoning Board / Local Planning Agency

Monday, July 18, 2022 @ 3:00 P.M.

# Project Team

## **Development Team:**

### **Florida Power & Light Company (FPL)**

Jon Rosenthal, Project Director, Construction & Project Management  
Jack McGowan, PMP, Senior Project Manager

### **Kimley-Horn and Associates, Inc.**

Kelley Klepper, AICP (Planning)  
Chris Hollen, P.E. (Engineering)  
Alyssa Monaghan, CNU-A (Planning)



# Requests

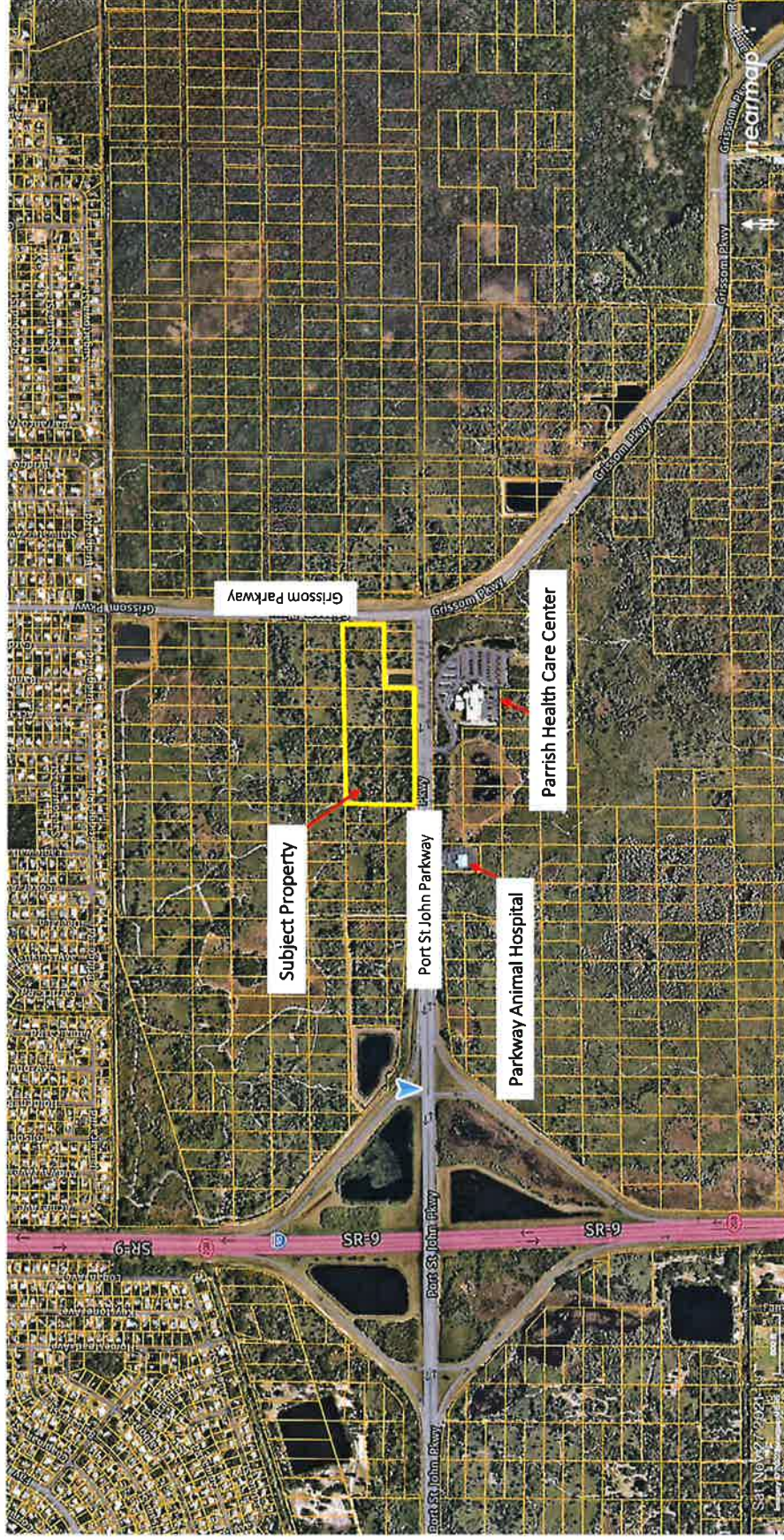
## Future Land Use Map Amendment

- Two (2) parcels from Residential 4 (Res-4) and Neighborhood Commercial (NC) to Community Commercial (CC)

## Rezone

- 10 individual parcels (17 +/- acre project area) from General Retail Commercial (BU-1), General Use (GU) and Restricted Neighborhood Retail Commercial (BU-1-A) to Retail, Warehousing and Wholesale Commercial (BU-2)

# Aerial





# Existing Future Land Use

Two (2) parcels from Residential  
4 (Res-4) and Neighborhood  
Commercial (NC) to Community  
Commercial (CC)



# Proposed Future Land Use

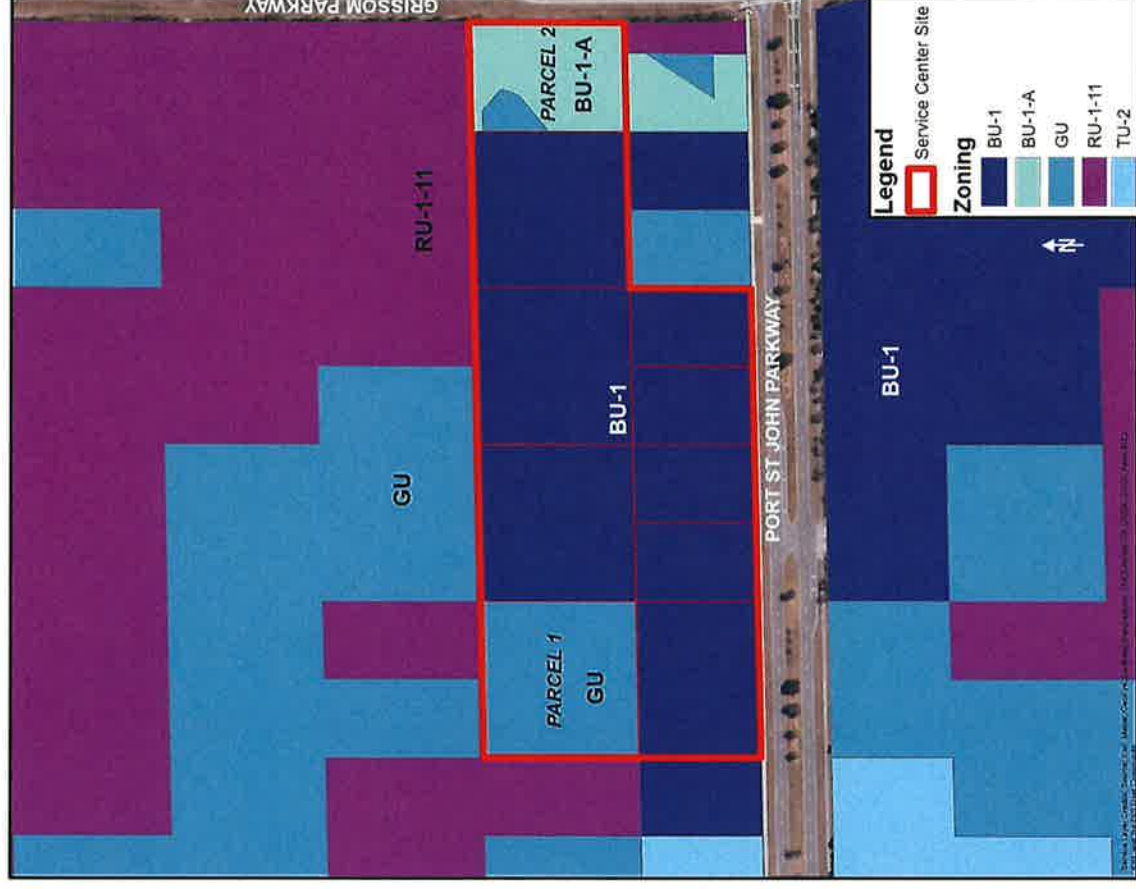
The proposed amendment is found to be consistent with, but not limited to, the following Brevard County Comprehensive Plan Policies:

- FLU Administrative Policy 3
- FLU Administrative Policy 4
- FLU Policy 2.1
- FLU Policy 2.7
- FLU Policy 2.8



# Existing Zoning

10 individual parcels (17 +/- acre project area) from General Retail Commercial (BU-1), General Use (GU) and Restricted Neighborhood Retail Commercial (BU-1-A) to Retail, Warehousing and Wholesale Commercial (BU-2)

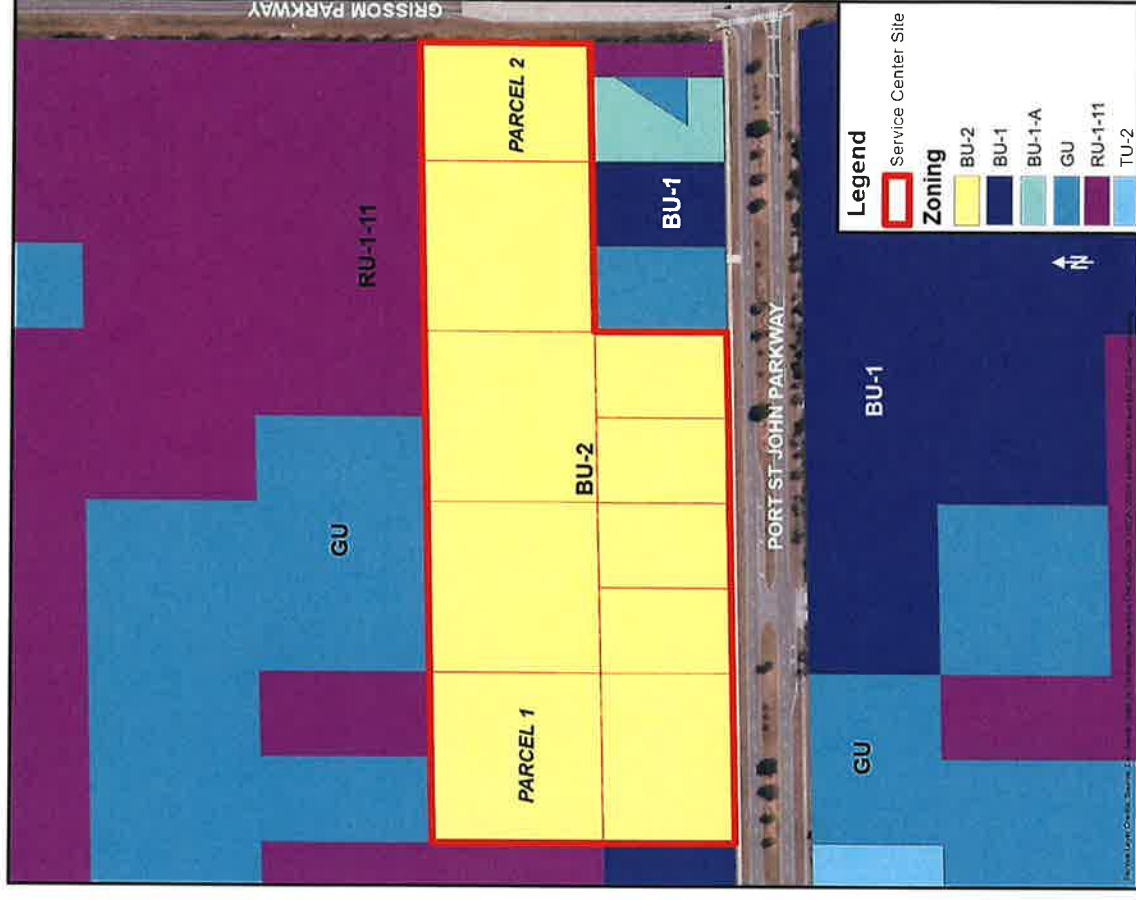




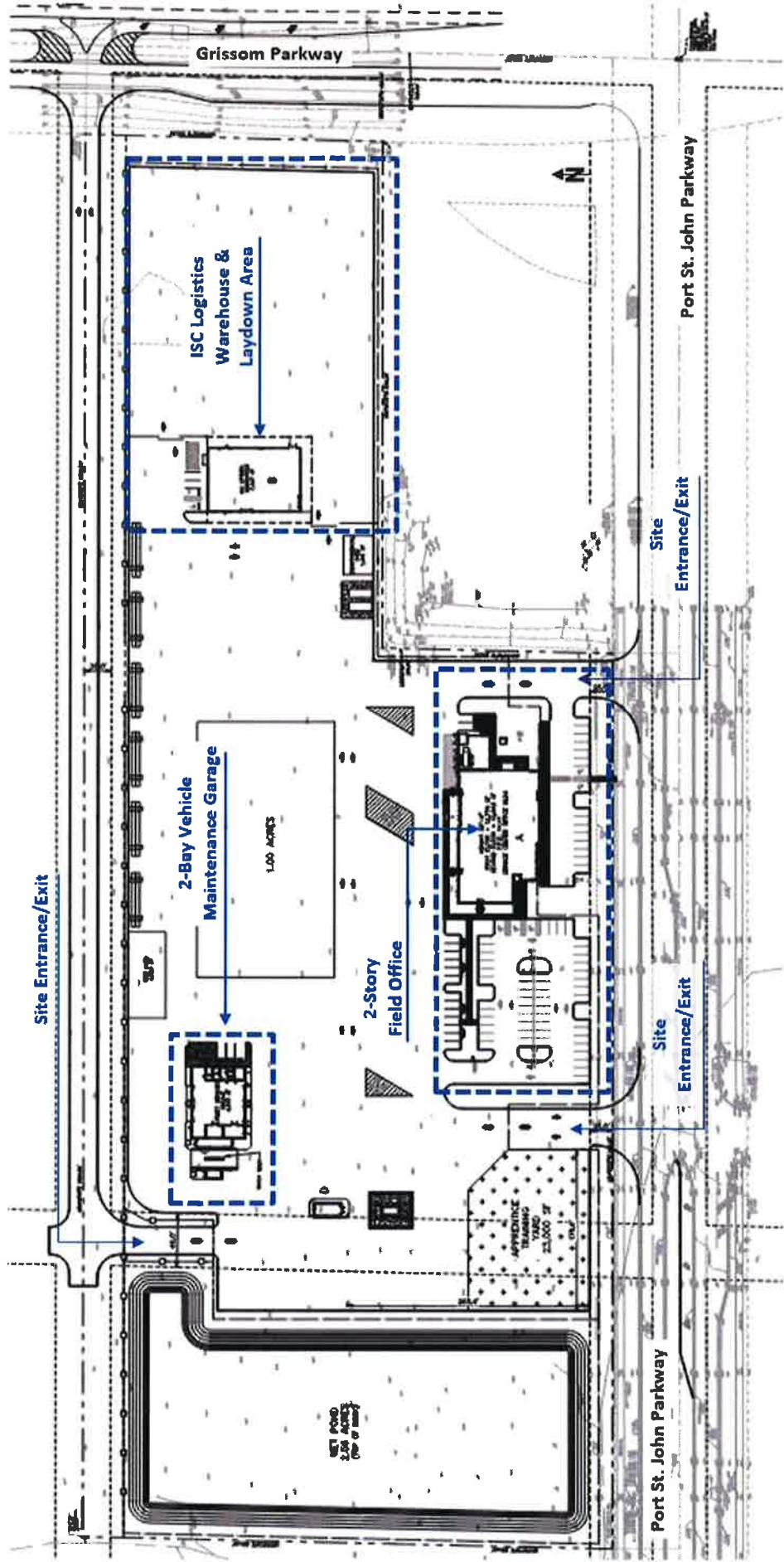
# Proposed Zoning

The proposed amendment is found to be consistent with, but not limited to, the Brevard County Land Development Code and the following Brevard County Comprehensive Plan Policies:

- FLU Administrative Policy 3
- FLU Administrative Policy 4
- FLU Policy 2.2
- FLU Policy 2.3
- FLU Policy 2.7



# Preliminary Site Plan



*Requesting recommendation of approval*

*Thank you & happy to answer any questions*

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

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 18, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

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

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Planner III; Alex Essee, Assistant County Attorney; and Tonya Parker, Administrative Secretary.

### **Excerpt of Complete Agenda**

#### **Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer (John Rosenthal)**

A Small Scale Comprehensive Plan Amendment (22S.06), to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial) and CC (Community Commercial) to all CC. The property is 17.70 +/- acres, located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) (22SS00003) (Tax Accounts 2312189, 2312249, 2312191, 2312201, 2312205, 2312203, 2312233, 2312234, 2312213, & 2312214) (District 1)

#### **Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer (John Rosenthal)**

A change of zoning classification from GU (General Use), BU-1-A (Restricted Neighborhood Commercial), and BU-1 (General Retail Commercial), with existing BDPs (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of existing BDP's (Binding Development Plan). The property is 17.70 +/- acres, located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) (22Z00020) (Tax Accounts 2312189, 2312249, 2312191, 2312201, 2312205, 2312203, 2312233, 2312234, 2312213, & 2312214) (District 1)

Jon Rosenthal, Florida Power & Light, stated before the board is a proposal for a new FPL service center, which is a place where FPL houses engineers, line crews, maintenance crews, and administrative staff. Three buildings are planned, one is a two-story, 25,000 square-foot service center, and the two others are a maintenance garage and a storage warehouse. A service center is where FPL maintains the electrical grid in neighborhoods throughout the community on a day-to-day basis, but more recently FPL has begun a strategy that involves positioning people in preparation of storm events. These hardened service centers have been established in various areas across the state; there is one in Flagler County, and one currently being built in Indian River County. The service center allows FPL to pre-position storm riders, such as electricians and contractors, to be on site and commence restoration once deemed safe to do so. He said FPL is able to bring in 120 storm riders prior to storm landfall, allowing restoration work to begin much quicker.

Kelley Klepper, Kimley Horn & Associates, 1777 Main Street, Ste. 200, Sarasota, Florida, stated the 120 storm riders are not people who will be there on a daily basis, they will be used in the case of a storm event. He said what FPL is trying to do is clean up the Future Land Use map for two parcels totaling 4.25 acres; concurrent with that is a rezoning request for 10 parcels totaling approximately 17 acres, and also the removal of two existing BDPs. The property is along the Port St. John Parkway, the NW quadrant of Grissom. There is some development to the south, the Parrish Health Care Center, the animal hospital, and the proposed multi-family project. The facility will be mostly isolated

from residential development. The majority of the surrounding properties are vacant. The CC designation is consistent and compatible with what is already established in the area, as well as on the south side of the quadrant. From a zoning perspective, they are asking for approval for the 10 individual parcels totaling 17.7 acres, to be rezoned to BU-2 to allow the service center. There will be access off of Grissom Parkway and Port St. John Parkway, and segregated access for customers and crews.

Henry Minneboo asked if the service center will have an impact on any of the other service centers, such as the one on Merritt Island.

Mr. Rosenthal stated they are still evaluating the existing facilities in the area. He said FPL likes to stage crews day-to-day as well as during a storm event, so there could still be a presence at the Merritt Island facility and other locations. The proposed facility will be day-to-day and will be staffed day-to-day. The proposed location in Port St. John is good because of the quick access to S.R. 528 and it also takes crews off of Merritt Island during a storm event and gives them a place take shelter.

No public comment.

Jeffrey Ball noted the proposed site plan has not been vetted to make sure it meets Code requirements, so it is conceptual in nature.

Mr. Rosenthal stated FPL has been working with the developer of the proposed apartments to the west, as well as Parrish Health Care facility and the animal clinic, to get feedback.

Mr. Hopengarten asked if there will be outside storage of transformers or utility poles. Mr. Rosenthal replied yes, there will be outdoor storage, which is why they are proposing an 8-foot screening wall around the perimeter of the site. He also anticipates softening the screening wall on the outside with shrubbery. He stated there is outdoor storage as well as vehicle staging, and there will be vehicle staging on the property all night every day of the week.

Robert Sullivan asked if the facility is a service center as well as an emergency operations center. Mr. Rosenthal replied it is a facility FPL anticipates staging storm riders. He said FPL has designed it and set aside space on the property to stage outside contractors that are coming in to assist with restoration activities, but he is hesitant to give it the title of emergency operations center.

Mr. Sullivan said he is in favor of the project.

Liz Alward stated the proposed facility is in a good location.

Motion by Liz Alward, seconded by Bruce Moia, to recommend approval of the Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from RES 4, NC and CC to all CC. The motion passed unanimously.

Motion by Liz Alward, seconded by Bruce Moia, to recommend approval of the change of zoning classification from GU, BU-1-A, and BU-1, with existing BDPs, to BU-2, and removal of the two existing BDP's. The motion passed unanimously.



H.10 & H.11



**FPL**®

# Florida Power & Light Space Coast Service Center

Florida Power & Light Company

August 4, 2022



The planned Space Coast Service Center features design like the Flagler Service Center in Palm Coast (pictured above).

# Project Team

## *Development Team:*

### *Florida Power & Light Company (FPL)*

Jon Rosenthal, Project Director, Construction & Project Management

Jack McGowan, PMP, Senior Project Manager

*Kimley-Horn and Associates, Inc.*

Kelley Klepper, AICP (Planning)

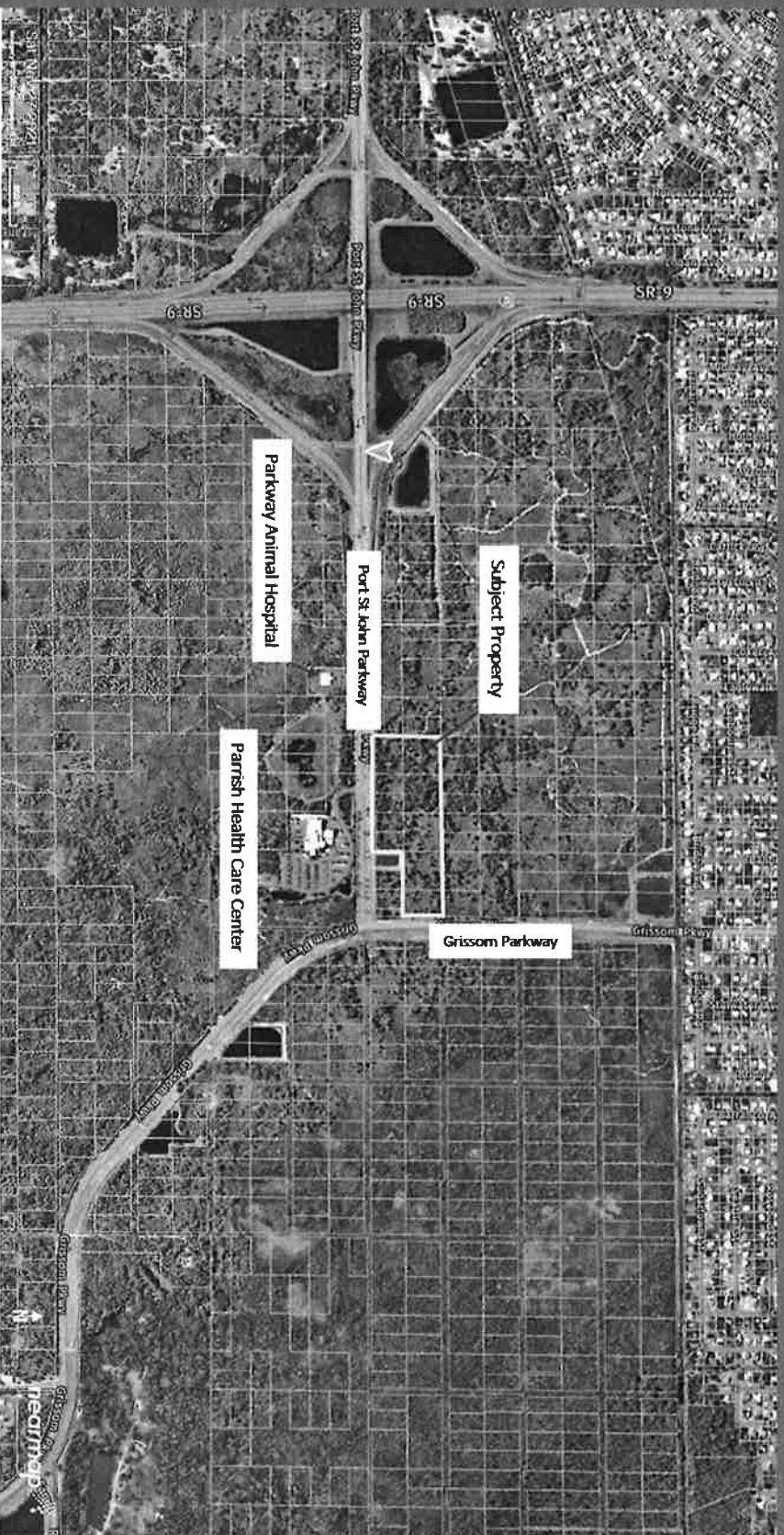
Chris Hollen, P.E. (Engineering)

Alyssa Monaghan, CNU-A (Planning)

# Requests

- ▶ **Future Land Use Map Amendment**
  - » Two (2) parcels from Residential 4 (Res-4) and Neighborhood Commercial (NC) to Community Commercial (CC)
- ▶ **Rezone**
  - » 10 individual parcels (17 +/- acre project area) from General Retail Commercial (BU-1), General Use (GU) and Restricted Neighborhood Retail Commercial (BU-1-A) to Retail, Warehousing and Wholesale Commercial (BU-2)
- ▶ **Removal of two (2) existing Binding Development Concept Plans**

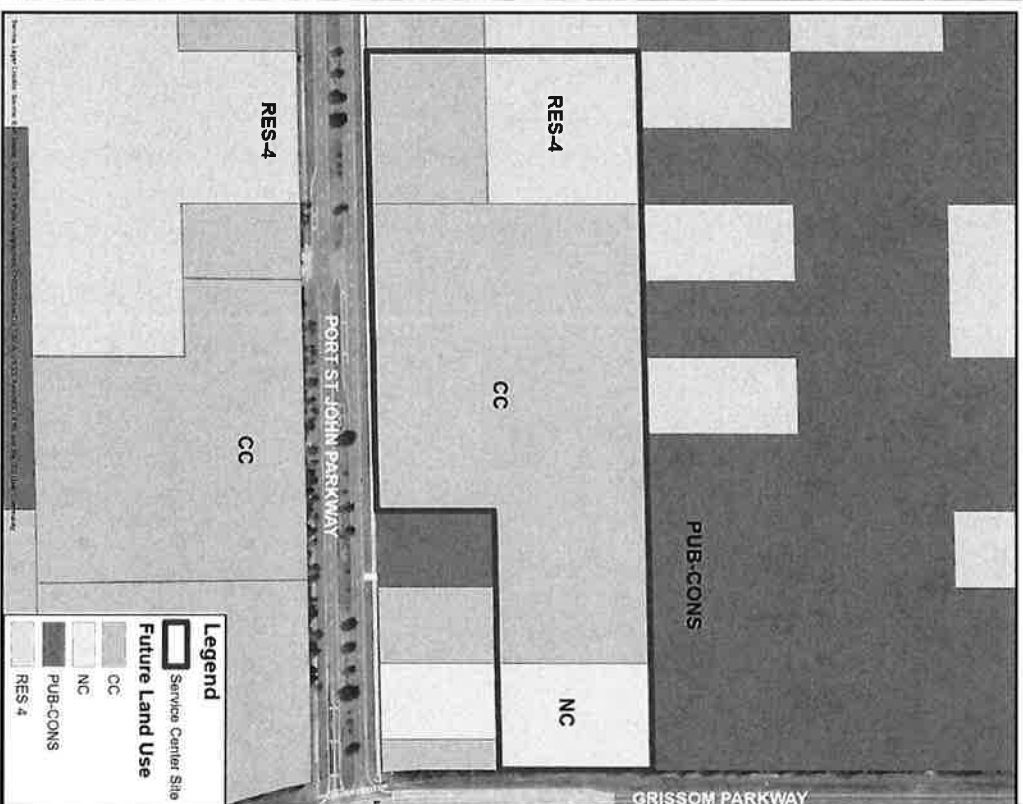
# Aerial





# Existing Future Land Use

Two (2) parcels from Residential 4 (Res-4) and Neighborhood Commercial (NC) to Community Commercial (CC)



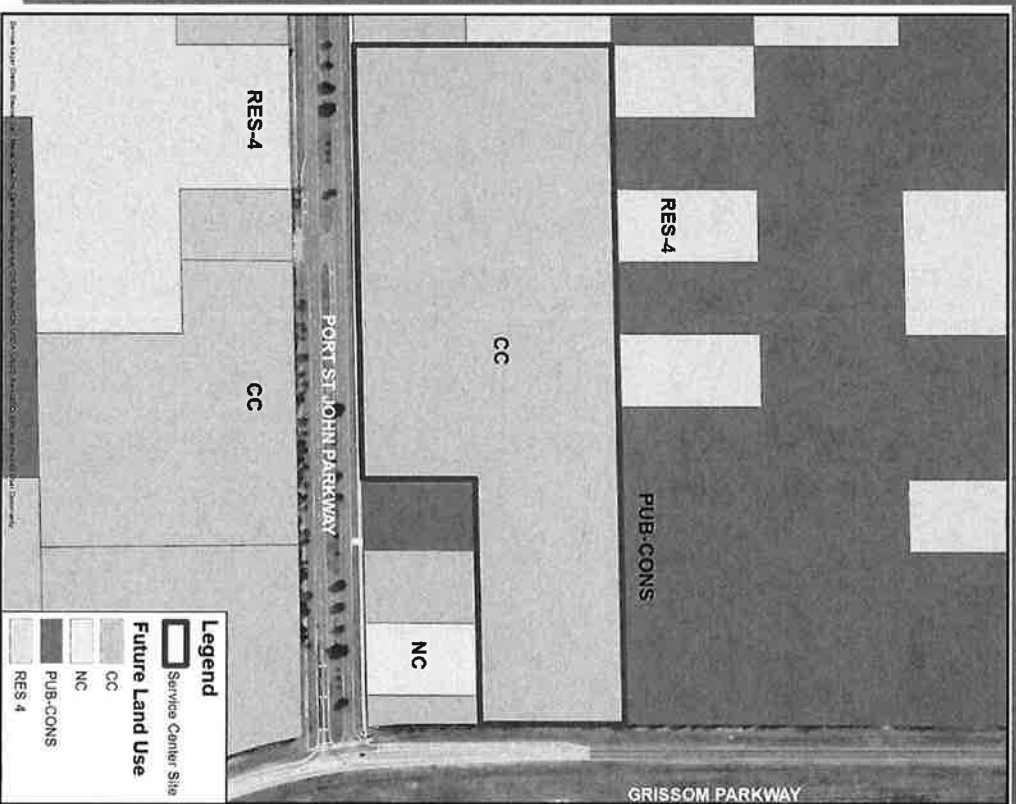


# Proposed Future Land Use

The proposed amendment is found to be consistent with, but not limited to, the following

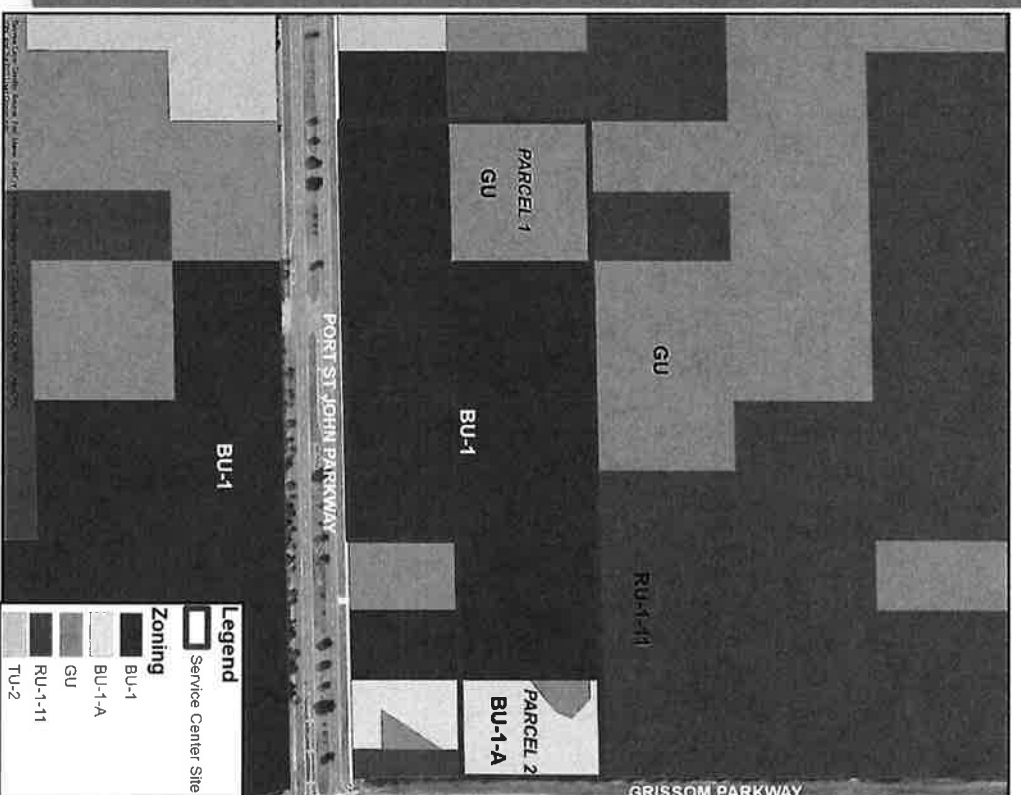
Brevard County Comprehensive Plan Policies:

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- FLU Policy 2.7
- FLU Policy 2.8



# Existing Zoning

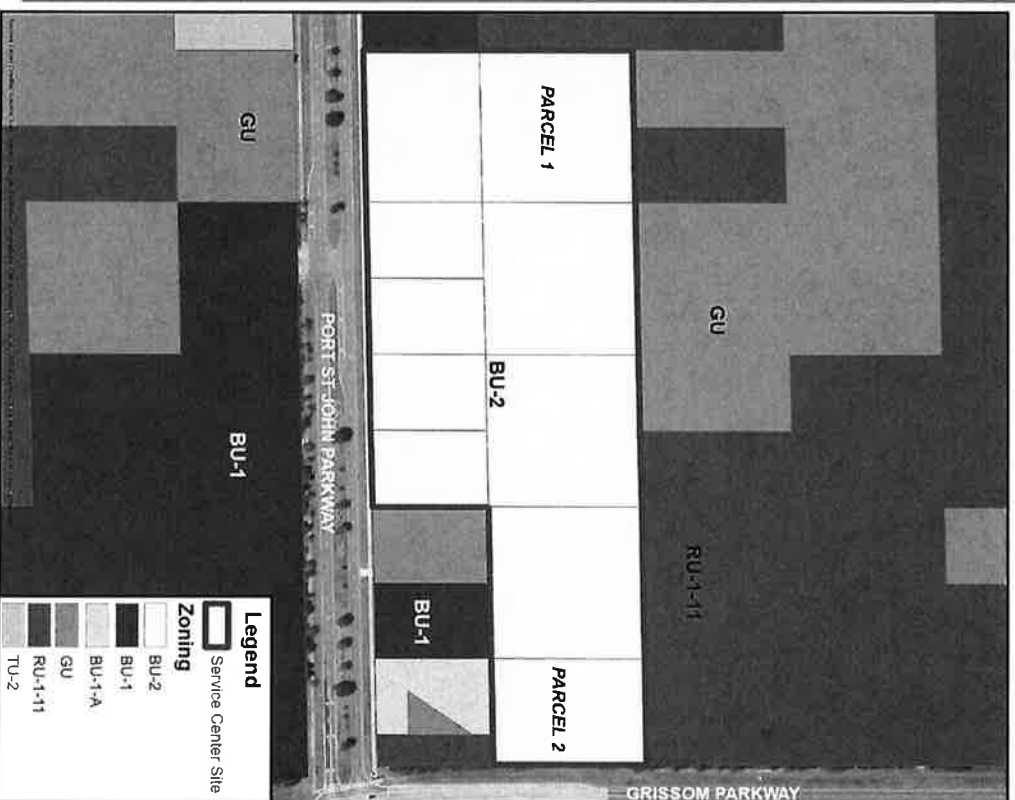
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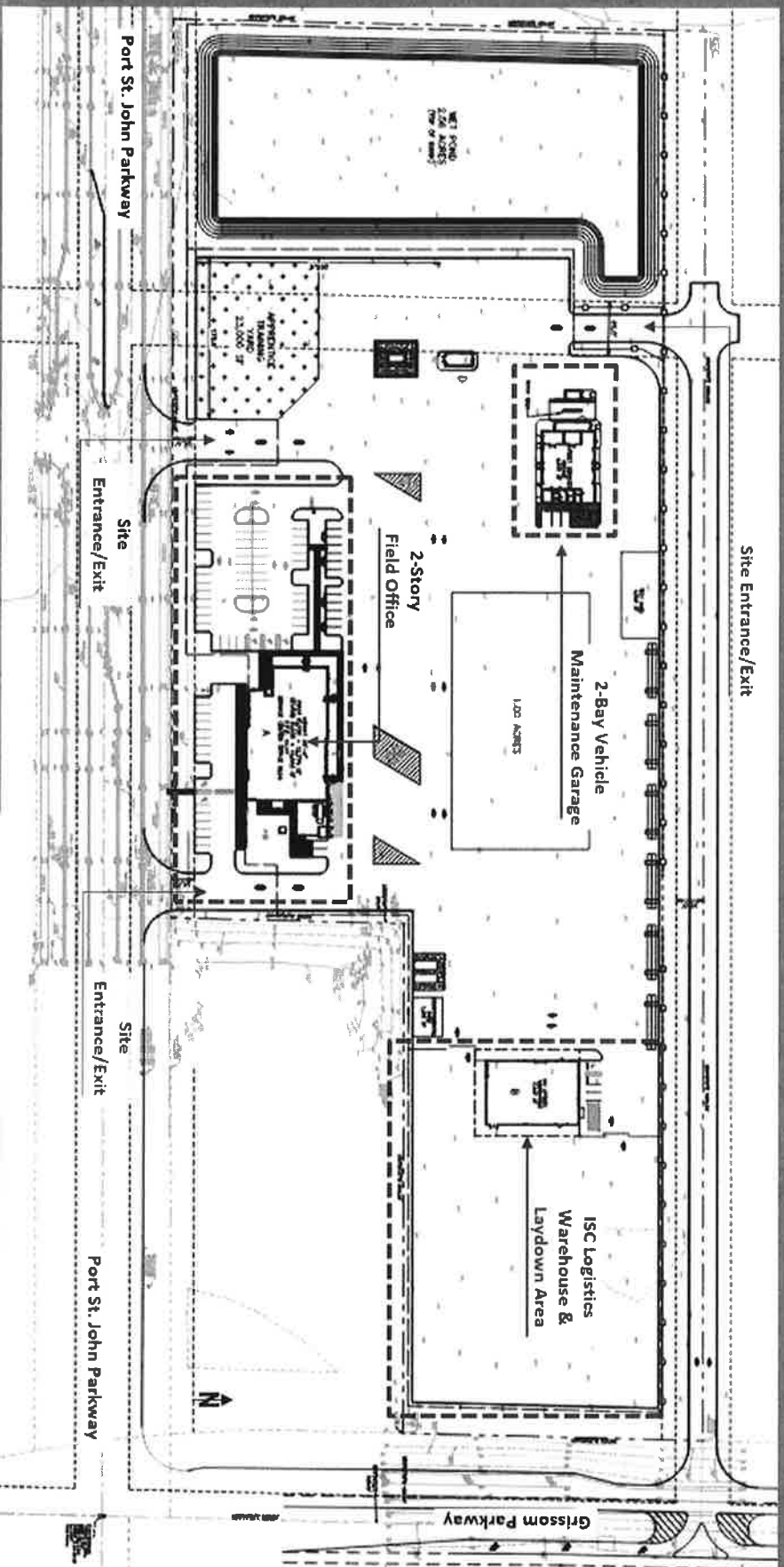
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- FLU Policy 2.3
- FLU Policy 2.7



# Preliminary Site Plan



# *Requesting approval*

*Thank you & happy to answer any questions*





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®

**From:** [Schmadeke, Adrienne](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Alward, Keith A](#)  
**Subject:** Disclosure Aug 4 Agenda H.10. and H.11.  
**Date:** Monday, August 1, 2022 3:20:35 PM  
**Attachments:** [July 12 meeting D4 FPL S 20220801161819.pdf](#)

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Jennifer,

On behalf of Commissioner Smith, please accept this disclosure submission for both Agenda H.10. and H.11. on the August 4 Zoning Agenda.

On July 12, 2022, Commissioner Smith met with Mr. Bart Gaetjens and Mr. Jon Rosenthal in the District 4 Commission Office for 30 minutes to receive information about these agenda items.

Attached is a handout provided to Commissioner at this meeting.

Regards,

*Adrienne Schmadeke*



**Adrienne Schmadeke**  
Chief of Staff  
Brevard County Commission, District 4  
Commissioner Curt Smith  
[321.633.2044](tel:321.633.2044) | [Adrienne.Schmadeke@brevardfl.gov](mailto:Adrienne.Schmadeke@brevardfl.gov)

2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,  
Viera, FL 32940

**Please note:**

*Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may, therefore, be subject to public disclosure.*