



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

9/2/2021

Subject:

William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1. (21PZ00033) (Tax Accounts 2316601 & 2323951) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on 8.25 acres parcel of land. The subject property is currently developed with one (1) single-family residence that was built in 2003 and has a Future Land Use designation of PI that was adopted with the Comprehensive Plan in September of 1988. The applicant intends to create two (2) flag lots for two (2) single family homes.

Existing development of the surrounding area is generally described as single-family homes on lots ranging in size from approximately one (1) to four (4) acres. To the north and east of the subject property are single-family residences. To the south and west of the subject property is vacant, undeveloped land. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There have been numerous noise complaints regarding the activities performed at the property.

A companion rezoning application (21Z00020) was submitted accompanying this request for a Zoning change from Planned Industrial Park (PIP) to Rural Residential (RR-1).

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

On August 12, 2021, the North Merritt Island Dependent Special District Board heard the request and

unanimously recommended approval.

On August 23, 2021, the Local Planning Agency heard the request and unanimously recommended approval.

Please note this application was received and deemed complete on May 10, 2021, which was before the July 2nd cutoff date of House Bill 59 (Chapter 2021-195). According to correspondence from DEO on August 5, 2021, applications initiated before July 2, 2021, may continue through the public hearing process.

Clerk to the Board Instructions:

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



September 3, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director **Attn:** Jeffrey Ball

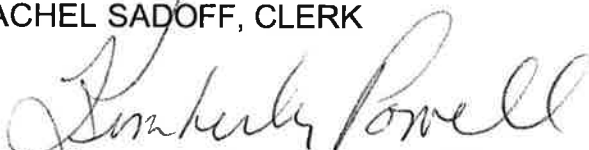
RE: Item H.1., 21S.05 Small Scale Comprehensive Plan Amendment

The Board of County Commissioners, in regular session on September 2, 2021, conducted the public hearing and adopted Ordinance No. 21-24, setting forth Plan Amendment 21S.05 of the Small Scale Comprehensive Plan to change the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) for William D. and Elizabeth Anne Elliott, Trustees. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
RACHEL SADOFF, CLERK**


Kimberly Powell, Clerk to the Board

Encl. (1)

ORDINANCE NO. 21-24

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIFTH SMALL SCALE PLAN AMENDMENT OF 2021, 21S.05, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2021 as Plan Amendment 21S.05; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 21S.05; and

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

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

Officially filed with the Secretary of the State on September 3, 2021.

WHEREAS, on August 23, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 21S.05, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on September 2, 2021, 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 21S.05; and

WHEREAS, Plan Amendment 21S.05 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 21S.05 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 21S.05 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 21S.05, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

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

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


DONE AND ADOPTED in regular session, this 2nd day of September, 2021.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Rita Pritchett, Chair

As approved by the Board on Sept. 2, 2021.

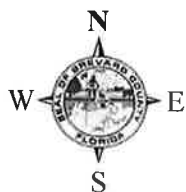
EXHIBIT A
20S.05 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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

Produced by BoCC - GIS Date: 5/26/2021

EXHIBIT B

Contents

1. Legal Description

[illegible]



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

September 3, 2021

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

Attention: Donna Scott

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-24, which was filed in this office on September 3, 2021.

Sincerely,

Anya Grosenbaugh
Program Administrator

AG/lb

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 21S.05 (21PZ00033)
Township 23, Range 36, Section 24*

Property Information

Owner / Applicant: **Elliott Family Revocable Trust**

Adopted Future Land Use Map Designation: Planned Industrial (PI)

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

Acreage: 8.25 acres

Tax Account #: 2316601 and 2323951

Site Location: South of Dalbora Road, approximately 1,220 feet east of N. Courtenay Parkway

Commission District: 3

Current Zoning: Planned Industrial Park (PIP)

Requested Zoning: Rural Residential (RR-1) (21Z00020)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on 8.25 acres parcel of land. The subject property is currently developed with one (1) single-family residence that was built in 2003 and has a Future Land Use designation of PI that was adopted with the Comprehensive Plan in September of 1988.

Existing development of the surrounding area is generally described as single-family homes on lots ranging in size from approximately one (1) to four (4) acres. The applicant intends to create two (2) flag lots for two (2) single family homes.

A companion rezoning application (21Z00020) was submitted accompanying this request for a Zoning change from Planned Industrial Park (PIP) to Rural Residential (RR-1).

The subject property is not considered an appropriate location for planned industrial land use as the site does not meet the criteria in FLU policy 3.5B which requires

planned industrial parks to be within 660 feet of a major transportation corridor. The site is located over 1,200 feet from SR 3 (North Courtenay Parkway).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Three (3) Single-Family residences	RR-1	RES 1
South	Vacant, undeveloped land	AU	RES 1
East	Two (2) Single-Family residences	RR-1 and AU	RES 1 and RES 1:2.5
West	Vacant, undeveloped land	PIP	PI

To the north and east of the subject property are single-family residences. To the south and west of the subject property is vacant, undeveloped land. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There have been numerous noise complaints regarding the activities performed at the property.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

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:

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

The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to four (4) acres. Although the immediate area originally had a Future Land Use of PI that was adopted with the Comprehensive Plan in September of 1988, many properties in the vicinity now have RES 1 Future Land Use. As such, a pattern of rural residential land use has been established along Dalbora Road.

A Future Land Use Map amendment from PI to Residential 1 (along with a rezoning to RR-1) would allow for development of the subject property that is compatible with the rural residential character of the area.

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

One (1) single family residence was constructed adjacent to the north of the subject property in 2019.

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

There have not been any development approvals that are pending construction along Dalbora Road within the past three (3) years.

Residential Land Use Designations

Policy 1.1

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

Criteria:

- F. Policies established in specialized plans as may be adopted by the Board of County Commissioners.

The subject property was located within the 2018 North Merritt Island Small Area Study (SAS) boundary. A recommendation from the 2018 North Merritt Island SAS was for all parcels ≥ 2.5 acres in size designated as Residential 1 (RES 1) Future Land Use and Agricultural Residential (AU) zoning classification, Brevard County should amend the Future Land Use Map to Residential 1:2.5 (RES 1:2.5). The Board of County Commissioners acknowledged the Recommendations of the 2018 North Merritt Island SAS. Staff was not directed to implement this recommendation.

Residential 1 (maximum of 1 dwelling unit per acre)

Policy 1.8

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be

considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 land use designation; or

The subject parcel is adjacent to existing Residential 1 land use designation to the north and east.

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

The subject parcel does not serve as a transition between greater and lesser densities.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

The subject parcel is not adjacent to an incorporated area.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The parcel is within the City of Cocoa's service area for potable water. The parcel is not serviced by public sewer. The closest available Brevard County sewer line is approximately 2.4 miles southwest of the subject property. No school concurrency information has been provided as the development potential is considered de minimis and falls below the minimum number of new residential lots that would require a formal review.

Environmental Resources

Mapped resources and noteworthy land use issues include wetlands/hydric soils, floodplain, Indian River Lagoon Nitrogen Reduction Overlay, protected and 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 may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area, recognizing the existing development trends.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00033**

Applicant: Mayer for Elliot

FLU Request: PI to RES-1

Note: Applicant wants two flag lots to build two single family homes.

NMI Hearing Date: 08/12/21; **P&Z Hearing Date:** 08/23/21; **BCC Hearing Date:** 09/02/21

Tax ID Nos: 2323951 & 2316601

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

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the

Floodplain Protection ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Riviera & Winder soils, Copeland-Bradenton-Wabasso complex, and Bradenton fine sand), and SJRWMD wetlands as shown on the USDA Soil Conservation Service Soils Survey, and SJRWMD-Florida Land Use & Cover Codes maps, respectively; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Information available to NRM indicates that impacts to wetlands may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted wetland impacts may result in enforcement/restoration action.

Floodplain

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic

modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

Information available to NRM indicates that impacts to the floodplain may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted floodplain impacts may result in enforcement/restoration action.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

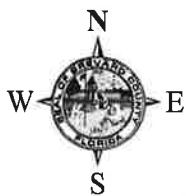
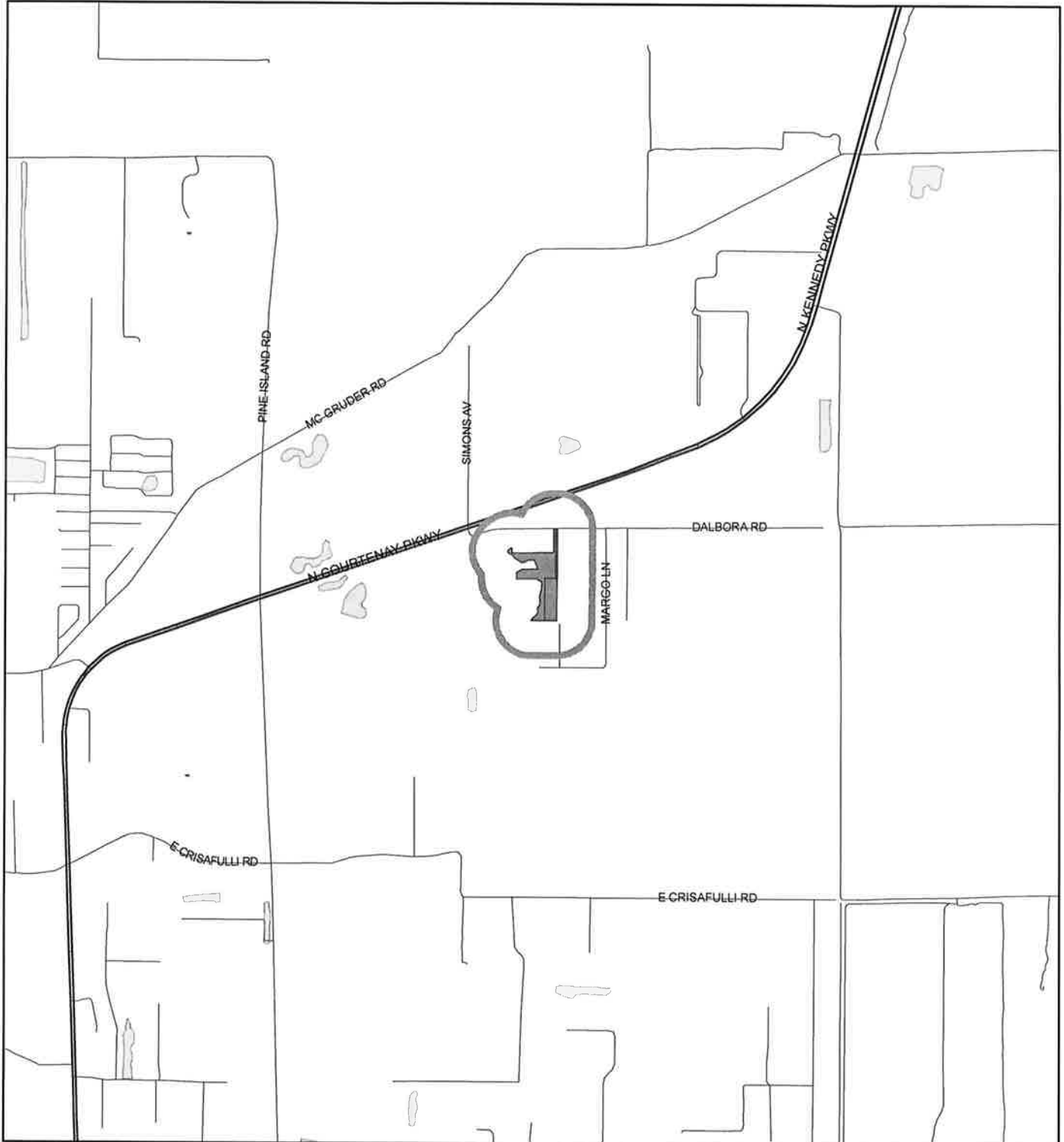
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation, and Protected/Specimen tree requirements. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM. Information available to NRM indicates that unpermitted land clearing may have occurred when a portion of the site (and potentially off-site) was cleared. The discovery of unpermitted land clearing activities may result in enforcement/restoration action.

Protected Species

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

LOCATION MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



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

Buffer Distance: 500 feet

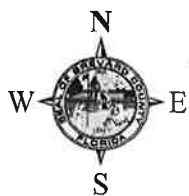
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/26/2021

Buffer
Subject Property

ZONING MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

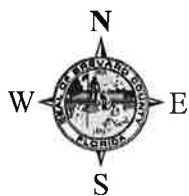
Subject Property

Parcels

Zoning

FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

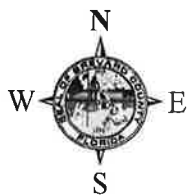
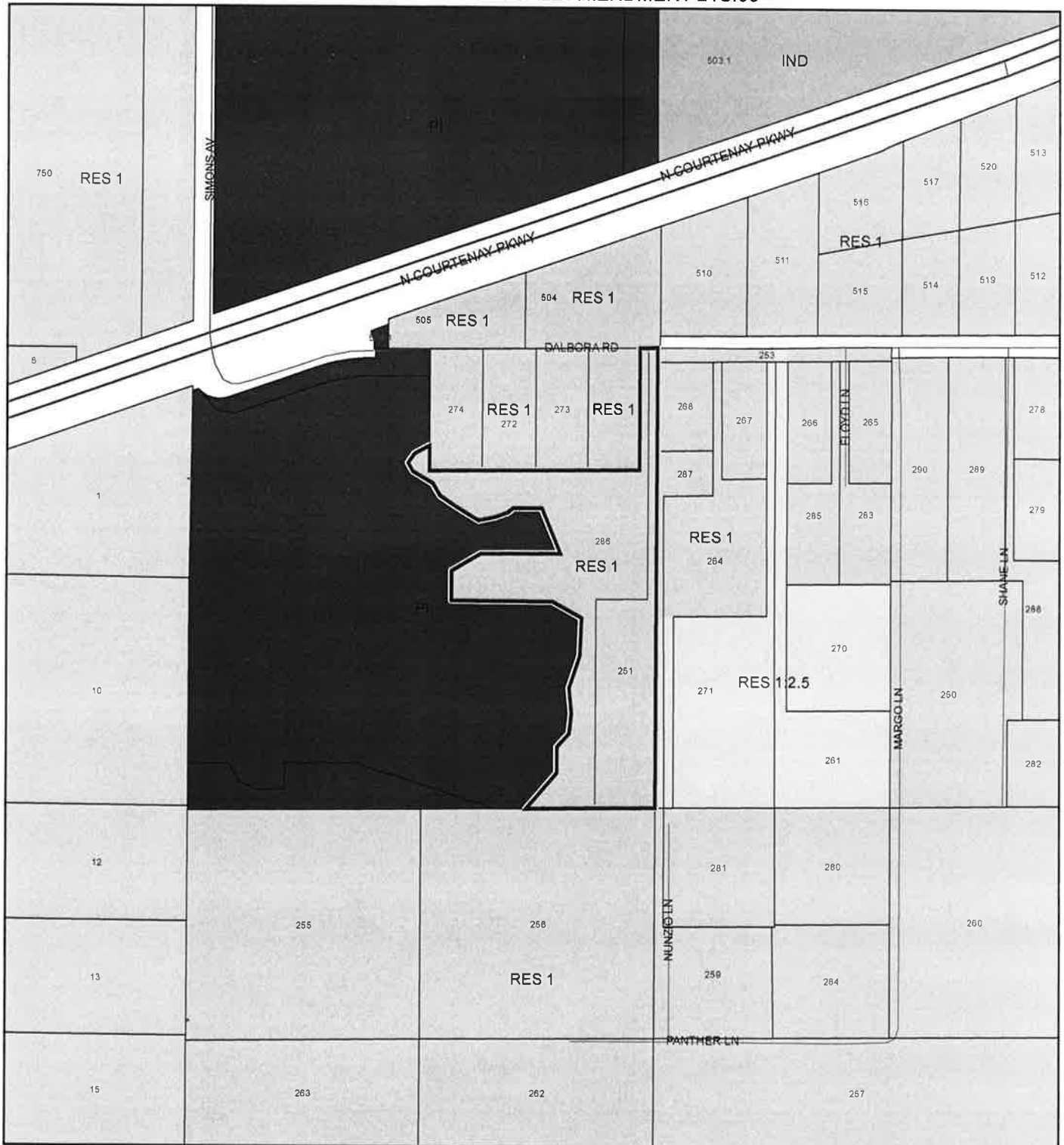
— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 5/26/2021

PROPOSED FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

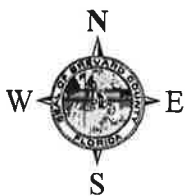
— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 5/26/2021

AERIAL MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

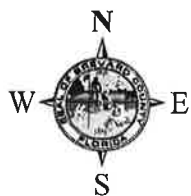
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/26/2021

— Subject Property
□ Parcels

NWI WETLANDS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

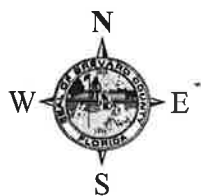
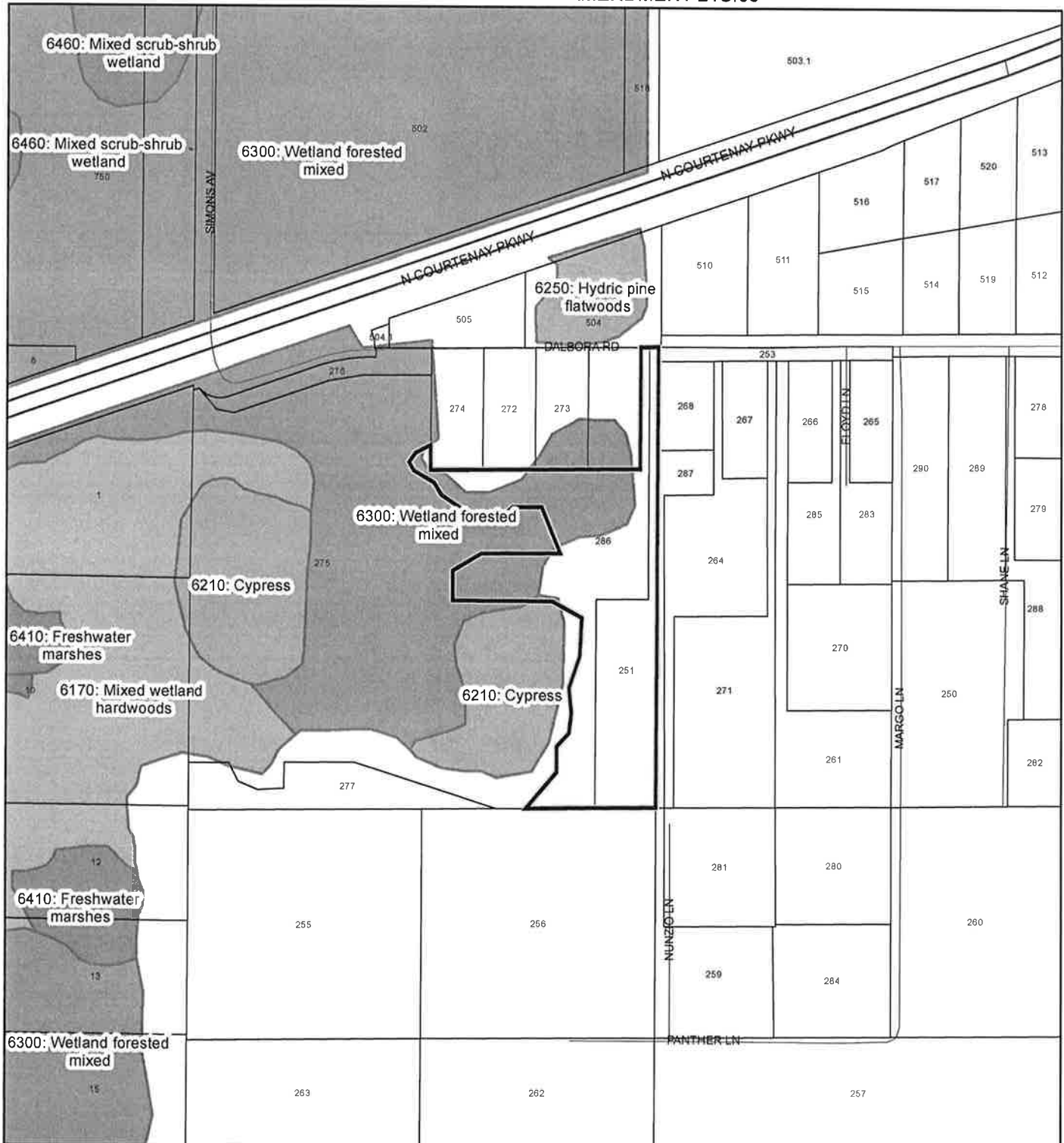
National Wetlands Inventory (NWI)

	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

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

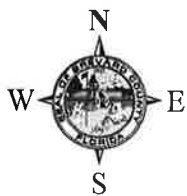
SJRWMD FLUCCS WETLANDS

- 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

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

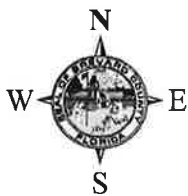
Produced by BoCC - GIS Date: 5/26/2021

FEMA Flood Zones		
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES


21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet


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

Produced by BoCC - GIS Date: 5/26/2021

 Subject Property

 Parcels

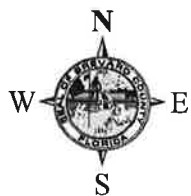
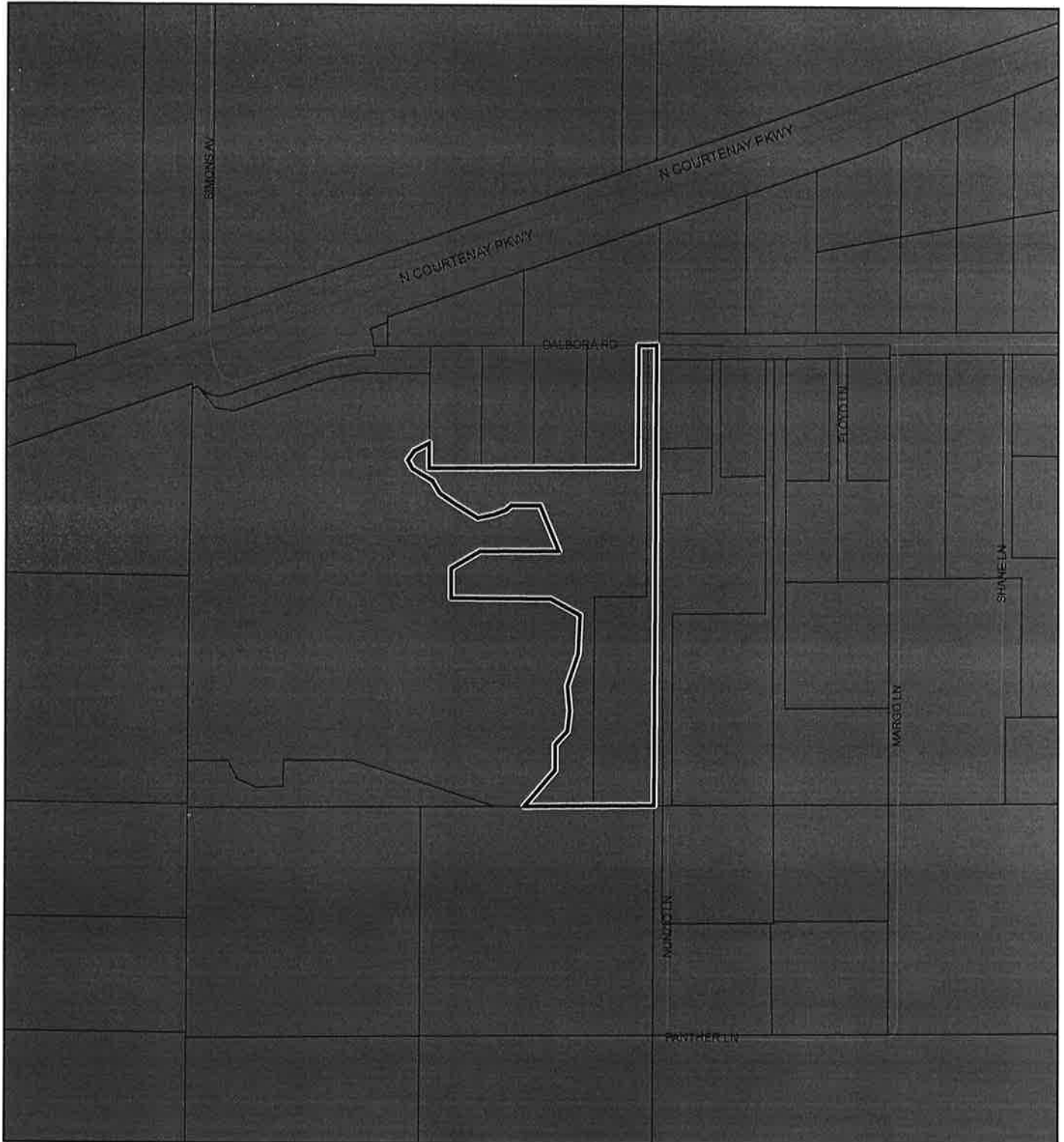
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

— Subject Property

□ Parcels

Septic Overlay

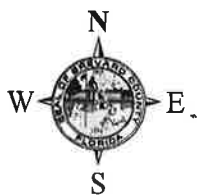
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

 Subject Property

 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

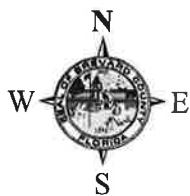
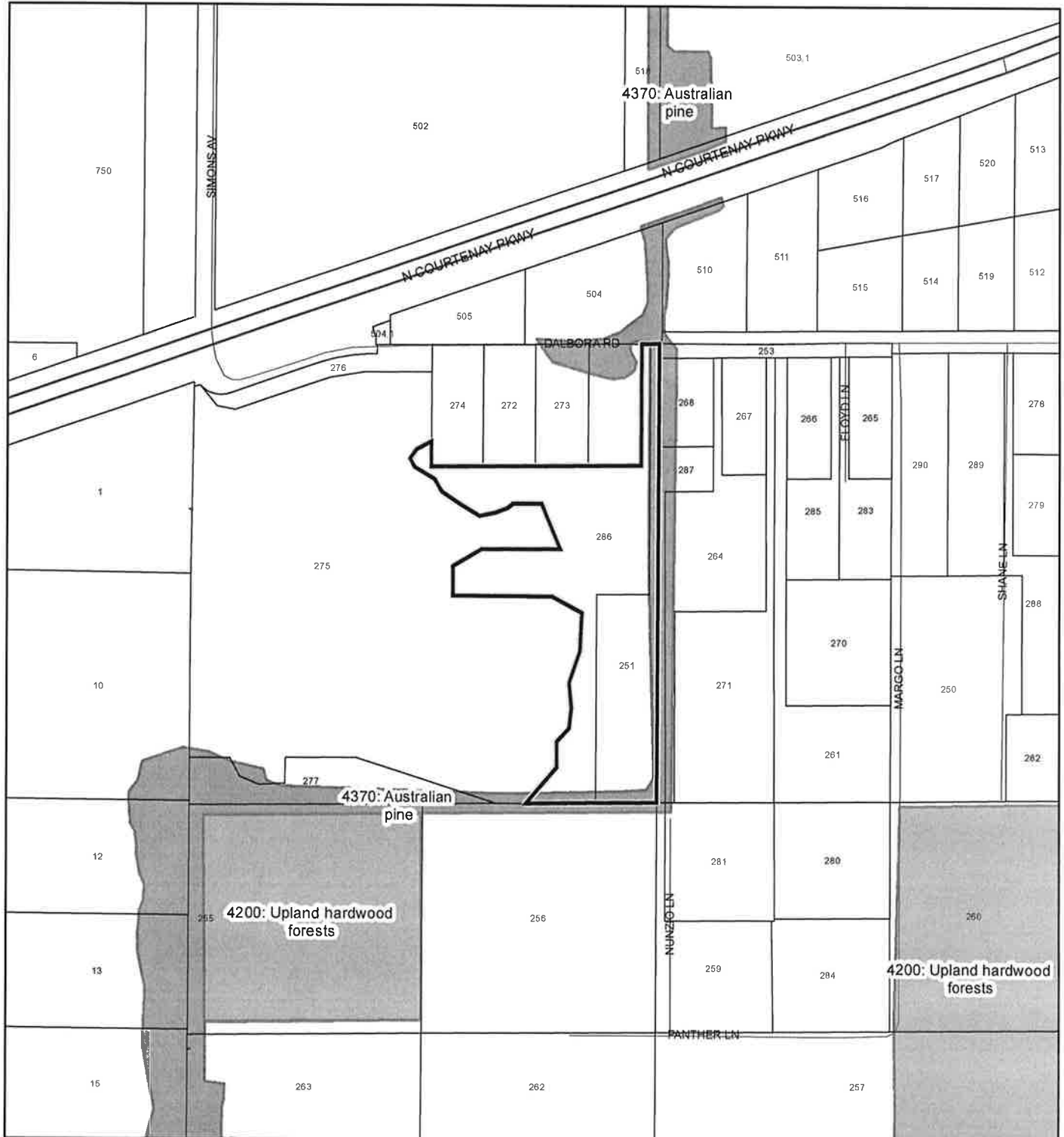
Produced by BoCC - GIS Date: 5/26/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2021

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

21S.05

**Application for Zoning Action, Comprehensive Plan Amendment, or
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21 PZ 00033

Existing FLU: PI(Planned Industrial) Existing Zoning: PIP(Planned Industrial Park)

Proposed FLU: RES1 Proposed Zoning: _____

PROPERTY OWNER INFORMATION

RE: Parcel ID#23-36-24-00-251/Tax Acct. #2316601
Parcel ID#23-36-24-00-286/Tax Acct. #2323951

If the owner is an LLC, include a copy of the operating agreement.

Elliott Family Revocable Trust

Name(s)	Company		
<u>1355 Dalbora Road</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32953</u>
Street	City	State	Zip Code
<u>gunnstruction@cfl.rr.com</u>	<u>321-455-6498</u>		
Email	Phone	Cell	

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☒ Other Engineer/Surveyor

<u>Joe Mayer</u>	<u>Bussen-Mayer Engineering Group, Inc</u>		
Name(s)	Company		
<u>100 Parnell St.</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32953</u>
Street	City	State	Zip Code
<u>joe@bmeg.net</u>	<u>321-453-0010</u>	<u>321-543-0494</u>	
Email	Phone	Cell	

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☒ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☐ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: _____

Acreage of Request: 8.25
~~9.6~~ AC ±

Reason for Request:

Applicant is requesting Residential Zoning in order to allow approval of two (2) flag lots. Surrounding area is rural residential and industrial development would be incompatible. Requesting verification that Flag lots can be approved; then rezoning and Comp Plan amendment; followed by formal application and approval of the two proposed flag lots.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

William Elliott
Signature of Property Owner or
Authorized Representative

5-7-21
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by X physical presence or _____ online notarization,

this 7th day of May, 20 21, personally appeared

William Elliott, who is personally known to me or produced

William Elliott as identification, and who did / did not take an oath.

Angela O'Brien
Notary Public Signature

Seal



ANGELA R. O'BRIEN
Commission # GG 963501
Expires March 25, 2024
Bonded Thru Budget Notary Services

Office Use Only:

Accela No. 21P200033 Fee: \$1,219⁰⁰ Date Filed: 5/10/21 District No. 2

Tax Account No. (list all that apply) 2316601 and 2323951

Parcel I.D. No.

+ 23 36 24 00 251
23 36 24 00 286
Twp Rng Sec Sub Block Lot/Parcel

Planner: J. Hart Sign Issued by: N/A Notification Radius: _____

MEETINGS

DATE

TIME

☐ P&Z

☐ PSJ Board

☒ NMI Board

8/12/21

6pm

☒ LPA.

8/23/21

3pm

☐ BOA

☒ BCC

9/2/21

5pm

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials _____

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☒ Yes

☐ No

If yes, list North Merritt Island DSD

Location of subject property:

South of Dalbora Rd, approximately 1220 feet east of N. Courtenay Parkway.

Description of Request:

PI to RES 1

Brevard County
Supplement to Comprehensive Plan Amendment Application
Planning and Zoning Office, 2725 Judge Fran Jamieson Way, Viera, FL 32940
(321) 633-2069



1. Type of Application:

- ☒ Small-scale Comprehensive Plan Future Land Use Map Amendment
☐ Large-scale Future Land Use Map Amendment
☐ Comprehensive Plan Text Amendment
Plan Element(s) of Text Amendment request: _____

2. Applicant: William Elliott Staff Planner: Paul Body/Jane Hart

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: PI (Planned Industrial)
Requested Future Land Use Designation: RES1
Existing Zoning: PIP (Planned Industrial Park)

Proposed Text Amendment (if applicable): Attach the proposed text amendment in a strike-thru/underlined format along with one copy on a CD in Microsoft Word, rtf or text format.

4. Description of Request/Justification: Must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

Text amendment supplemental information shall include any goal, objective, policy, implementation strategy, directive and any supporting data and analysis, including maps, figures and tables, and; (1) Identification of the particular element of the plan on which the request is based; and, (2) Citation of the existing language which is proposed to be changed; and, (3) Proposed rewording of the existing language or the wording of proposed new text.

Applicant is requesting Residential Zoning in order to allow approval of two (2) flag lots. Surrounding area is rural residential and industrial development would be incompatible. Only industrial development is possible under the current zoning and Comprehensive Plan FLU designation of Planned Industrial. This change will limit development of the parcel to 2 flag lots.

(use additional sheets if necessary)

Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

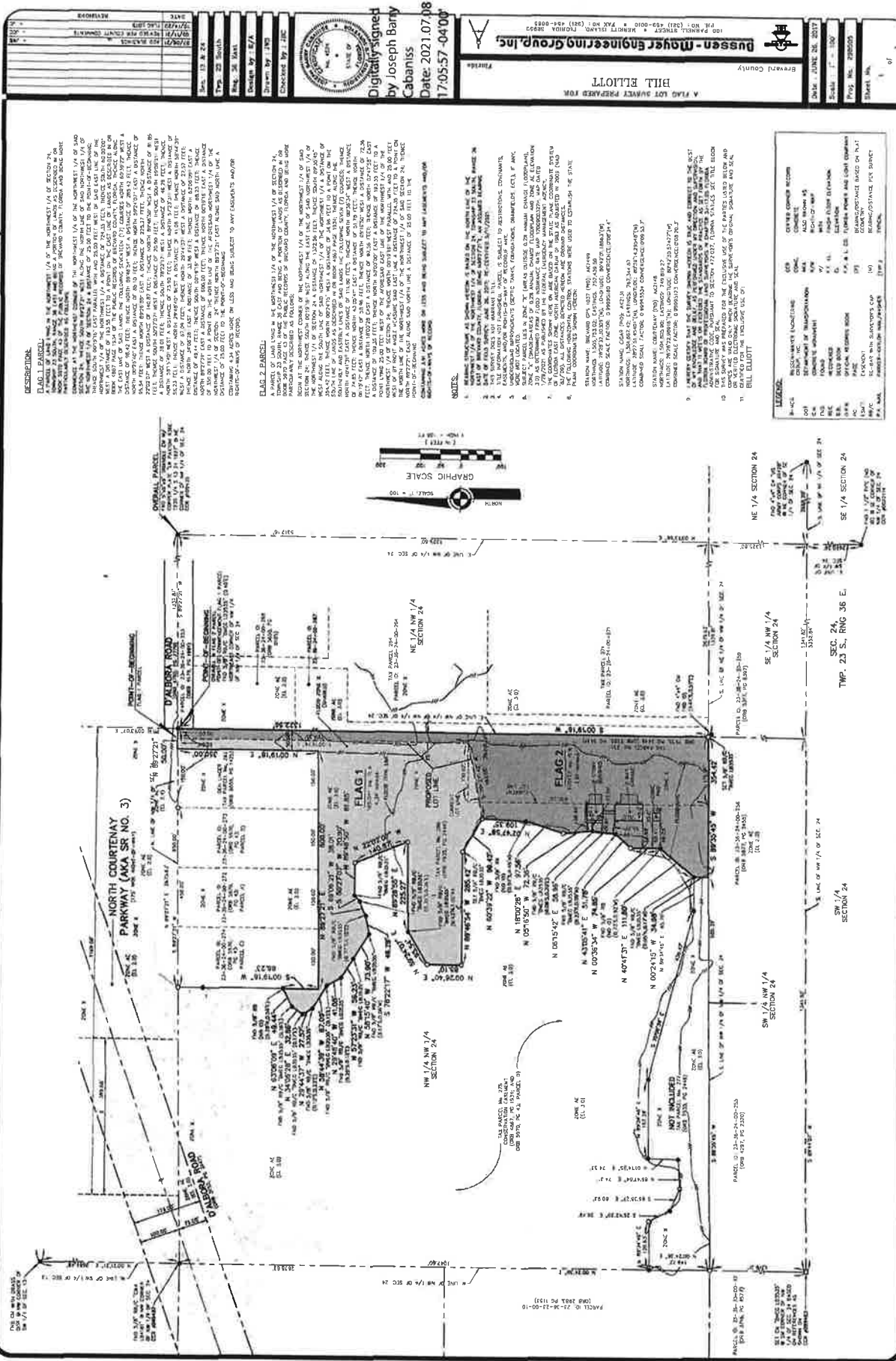
Please transmit staff's comments via:

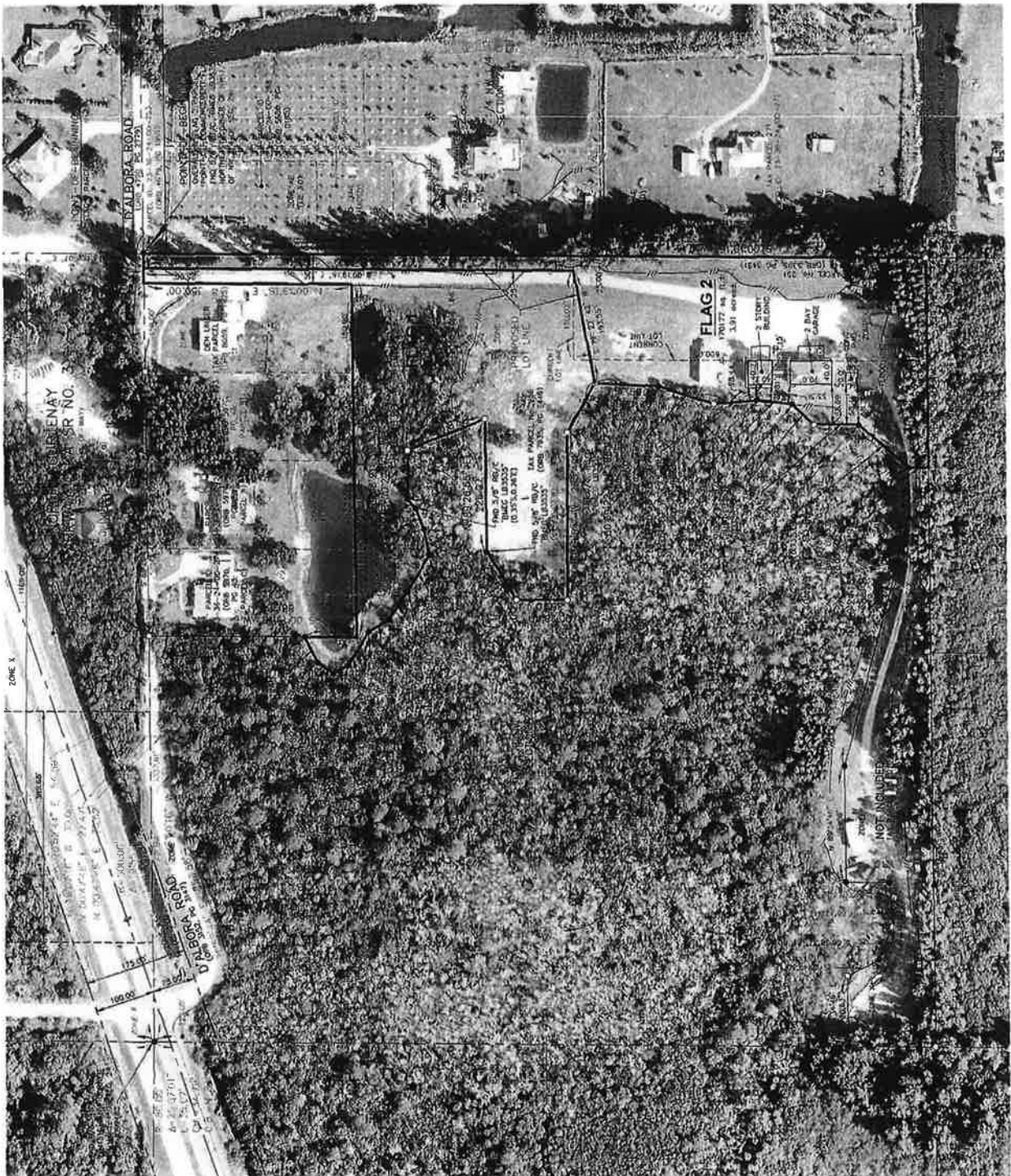
joe@bmcg.net or () or U.S. Mail _____
mail address fax number

Yes/No

I have received a copy of this notice:

[Signature]
(APPLICANT SIGNATURE)





NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 12, 2021**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

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

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

Excerpt of Complete Minutes

William D. and Elizabeth Anne Elliott (Joe Mayer)

A Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21PZ00033) (Tax Accounts 2616601 & 2323951) (District 2)

William D. and Elizabeth Anne Elliott (Joe Mayer)

A change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21Z00020) (Tax Account 2616601 & 2323951) (District 2)

Joe Mayer - My name is Joe Mayer, 100 Parnell Street, Merritt Island, and I'm the engineer representing the applicant, Bill Elliott. We're here to propose a rezoning and comp plan amendment on 8.25 acres, located south of D'Albora Road. The current Future Land Use designation is Planned Industrial and we are proposing Residential 1. The current zoning is Planned Industrial Park, and we are proposing RR-1 zoning. What we are truly proposing to do is two flag lots, each approximately four acres in size. [Mr. Mayer handed out an aerial photo of the proposed flag lots. The photo can be found in files 21PZ00033 and 21Z00020, located in the Planning and Development Department.] The existing land to the west of the flag lots is a conservation easement made up of wetlands, and it will stay that way. The properties to the east and north are zoned RR-1 and the property to the south is AU (Agricultural Residential). The adjacent Future Land Use to the north, east, and south is Residential 1, and there is a small piece to the southeast that is Residential 1:2.5. We believe this is a much more compatible zoning classification than Planned Industrial on this large lot. D'Albora Road, as you know, has been developed as large lots with flag lots. We would like to change our zoning so we can do the same thing.

Jack Ratterman - Is the odd shape due to the wetlands next to it?

Joe Mayer - Yes, sir. The edge of the wetland was identified years ago and put into a conservation easement.

Mary Hillberg - Are these houses going to have septic?

Joe Mayer - Yes.

Mary Hillberg - Will they be the advanced septic systems?

Joe Mayer - Yes, we are mandated by code, just like everybody else on Merritt Island, and we'll have to put in the advanced treatment system.

Mary Hillberg - For the record, there are a lot of people here who understand that these advanced systems only hold 65% of the affluent, but that other 35% is not welcome either.

Jeffrey Ball - It's not 65% of the affluent, it's 65% of the nitrogen.

Mary Hillberg - Yes, nitrogen, the part that does the damage. For the record, the community is aware that 65% sounds good, but 35% is still going back into the groundwater. We're anxious to see everybody get onto sewer if and when they can.

Joe Mayer - I believe State law would require us hook up to sewer once it becomes available in front of our property.

Gina Lindhorst - So, there's no sewer available at all there?

Joe Mayer - No.

Gina Lindhorst - So, the lots to the east do not have sewer?

Joe Mayer - They are all on septic.

Mary Hillberg - The first flag lot says it will permit one residence maximum.

Joe Mayer - Correct.

Mary Hillberg - Does that mean the second flag lot will be more than that?

Joe Mayer - No, it will be one residence per flag lot, for a total of two. If we successfully make it through the rezoning and comp plan amendment, there is a flag lot process that we have to go through to establish the flag lots.

Chris Cook - The property to the west that is not included, that's over one acre, correct?

Joe Mayer - Yes, but it will be part of the second flag lot; it's not buildable.

Chris Cook - Should it be colored in as part of the flag lot?

Joe Mayer - Technically, yes. There will not be a third lot because there is no access to it, but it will be part of the second flag lot.

Jeffrey Ball - The closest sewer line is approximately 2.4 miles southwest of the parcel, so sewer is not available.

Mary Hillberg - I just wanted the record to reflect that we are not enthusiastic about septic tanks putting 35% of nitrogen into our groundwater.

Public Comment.

Kim Smith - My name is Kim Smith, and I'm here to speak for the North Merritt Island Homeowners Association, and regarding these requests, the HOA had no objections.

Mary Hillberg - Seeing no other public comment, it is back to the board. What's your pleasure?

Jack Ratterman - I make a motion that we accept Item H.1., Small Scale Plan Amendment.

Jim Carbonneau - I second.

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

Jack Ratterman - I make a motion that we accept Item H.2.

Jim Carbonneau - I'll second.

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

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, August 23, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher (D1); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair; Joe Buchanan (D4); Bruce Moia (D5); Peter Filiberto, Vice Chair (D5); and David Bassford (D5).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris, Planner I; Abby Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

1. William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer)

A Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (District 2)

2. William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer)

A change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (District 2)

Joe Mayer, Bussen-Mayer Engineering, 100 Parnell Street, Merritt Island, stated he is representing the applicant, who is proposing to change the Future Land Use from PI to Residential 1, and the zoning from PIP to RR-1. He noted the surrounding lots are Residential 1 and RR-1, and the industrial zoning is left over from a long time ago, and the Elliott's would like to have two flag lots.

No public comment.

Peter Filiberto asked what the North Merritt Island Dependent Special District Board recommended.

Jeffrey Ball replied the board recommended approval of both requests.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the change of classification from PIP to RR-1.