



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.11.

4/7/2022

### Subject:

Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) request a change of zoning classification from BU-1-A to BU-1. (21Z00049) (Tax Accounts 2511036 & 2511043) (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 change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) to BU-1 (General Retail Commercial)

### Summary Explanation and Background:

The applicant requests to change the property from BU-1-A to BU-1. Both parcels are developed with existing buildings. The northern parcel is developed with an office use. The southern parcel is developed as a single-family residence. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots, but does not permit warehousing or wholesaling. A companion application for Small Scale Plan Amendment to change the Future Land Use from NC to CC accompanies this request.

The applicant wishes to develop two Assisted Living Facilities (ALF); one on each lot. An ALF use is not allowed under the current BU-1-A zoning. This use requires the BU-1 zoning classification, which allows higher intensity retail uses.

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County jurisdiction. This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, and west across Murrell Road. To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge). The applicant does not currently propose to annex into Rockledge. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under previous zoning actions.

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

On March 14, 2022, the Planning and Zoning Board heard the request and voted 7:1 to recommend approval.

**Clerk to the Board Instructions:**

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

**Resolution 21Z00049**

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

**WHEREAS, Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc.,** has requested a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) to BU-1 (General Retail Commercial), on property described as, Tax Parcel 262, as recorded in ORB 7306, Page 1108, of the Public Records of Brevard County, Florida; and Tax Parcel 269, as recorded in ORB 9213, Page 982 - 983, of the Public Records of Brevard County, Florida. **Section 22, Township 25, Range 36.** (2 acres) Located on the east side of Murrell Rd., approx. 700 ft. south of Roy Wall Blvd. (3545 & 3525 Murrell Rd., Rockledge); and

**WHEREAS,** a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

**WHEREAS,** the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1-A to BU-1, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of April 7, 2022.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

Kristine Zonka, Chair  
Brevard County Commission  
As approved by the Board on April 7, 2022.

ATTEST:

  
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 14, 2022

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

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

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

### **Administrative Policy 1**

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**21Z00049**

**Harmony Villas Properties, Inc. & Murrell Properties of Brevard, LLC**

**BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial)**

Tax Account Numbers: 2511043 & 2511036

Parcel I.D.s: 25-36-22-00-269 & 25-36-22-00-262

Location: 3525 & 3545 Murrell Road Rockledge, FL 32955 (District 2)

Acreage: 2.00 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1-A	BU-1
<b>Potential*</b>	65,340 sq. ft. commercial	87,120 sq. ft. commercial
<b>Can be Considered under the Future Land Use Map</b>	YES NC	YES** CC

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Application is pending approval of companion request **21PZ00095** which proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC). If approved, this request can be heard.

**Background and Purpose of Request**

The applicant requests to change the property from BU-1-A (Restricted Neighborhood Retail Commercial) (lowest intensity commercial zoning classification) to the BU-1 (General Retail Commercial) zoning classification. Both parcels are developed with existing buildings. The northern parcel (269) is developed with an office use. The southern parcel (262) is developed as a home. The northern parcel is utilized in site plan **21SP00034** for an existing office and proposed group home level II use. The southern parcel was already developed as a home (residential use).

The northern parcel (269) received its current BU-1-A zoning under Zoning Resolution **Z-9598** adopted on August 28, 1995. The southern parcel (262) received its current BU-1-A zoning under Zoning Resolution **15PZ00075** adopted on February 4, 2016.

## Land Use

The subject property is currently designated Neighborhood Commercial (NC) FLU. The proposed BU-1 zoning is not consistent with the Neighborhood Commercial (NC) FLU designation. The companion request **21PZ00095** proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC) on these two parcels. The BU-1 request would be consistent with the Community Commercial (CC) FLU designation.

## Applicable Land Use Policies

### FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

#### Criteria:

A. Permitted/prohibited uses;

**Applicant wishes to develop two Assisted Living Facilities (ALF); one on each lot. ALF use cannot be performed from the current BU-1-A zoning. This use requires the BU-1 zoning classification. The BU-1 classification allows higher intensity retail uses, automobile washing and minor/major automotive repairs.**

B. Existing commercial zoning trends in the area;

**These parcels already have commercial zoning (BU-1-A). City zoning adjacent to these lots is also a commercial designation. This request will increase the potential commercial uses allowed on these properties from fulfilling local needs to regional needs.**

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

**The development is buffered north and south by existing commercial zoning under the City of Rockledge's jurisdiction. To the east is a private airport zoned Light Industrial (IU) under county zoning jurisdiction.**

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

**As the site is already developed, should the property propose future development, those plans will need to meet county site plan approval.**

E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and **NRMD will review impacts to natural resources as part of this zoning action and under site plan review should the zoning request be approved.**

F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**This property will need to comply with Brevard County Performance Standards noted within Sections 62-2251 through 62-2272 of Brevard County Code.**

### FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

**Criteria:**

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

B. Buffering from adjacent existing/potential uses;

**Site abuts commercial on both sides and the rear lot line. No buffering is proposed.**

C. Open space provisions and balance of proportion between gross floor area and site size;

**Open space development is not required for this type of commercial usage. Building type and floor area ratio will be reviewed at the site plan stage.**

D. Adequacy of pervious surface area in terms of drainage requirements;

**Drainage requirements will be reviewed at the site plan stage.**

E. Placement of signage;

**Sign location has been identified on aerials of the property. New signage will need to comply with Section 62-3316 of Brevard County Code.**

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;

**External site lighting will need to comply with Section 62-2257 of Brevard County Code and will be reviewed at the site plan review stage.**

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;

**Review will be performed at the site plan review stage.**

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;

**Review will be performed at the site plan review stage.**

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and

**No noteworthy comments have been identified by the NRMD review. Review will be performed at the site plan review stage.**

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.

**No waivers, administrative approvals or variances have been applied for at this time.**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

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 not identified any operational changes to the use of the subject property. The effects of lighting, site activity and traffic will be evaluated as part of a future site plan review.**

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

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

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

1. historical land use patterns;

**There is an existing commercial use pattern along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. City of Rockledge zoning is C2 (a general commercial designation) and IP (an industrial park designation). Existing county zoning is identified as BU-1-A for this set of abutting parcels and the next set of abutting parcels to the south under county jurisdiction.**

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

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

**As this site (both parcels) were previously developed, no material violation of relevant policies have been identified.**

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

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County Zoning jurisdiction. This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, to the west across Murrell Road right-of-way. To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge). The applicant does not currently propose to annex into Rockledge. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions: **Z-9468, Z-9872, Z-9900 and 15PZ00075.**

### Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Office building	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
<b>South</b>	One (1) single-family residence	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
<b>East</b>	Airstrip	IU	IND
<b>West</b>	Two (2) single-family residences (across Murrell Road)	City of Rockledge: P1-Professional; and AU	Rockledge: MUPD7-Mixed Use Planning District 7; and RES 15

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

There has been no zoning action within a half-mile radius of the subject property within the last three years.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Murrell Road, between Roy Wall Boulevard to Barnes Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 43.27% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 5.99%. The corridor is anticipated to operate at 49.26% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 6,025 feet south of the subject property at Murrell Road and Solitary Drive. The City of Rockledge can provide sewer service, if requested.

### **Environmental Constraints**

- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **For Board Consideration**

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

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

**Item # 21Z00049**

**Applicant:** Vaheed Teimouri

**Zoning Request:** BU-1A to BU-1

**Note:** Applicant wants assisted living facility use

**P&Z Hearing Date:** 03/14/22; **BCC Hearing Date:** 04/07/22

**Tax ID Nos:** 2511043 & 2511036

- 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:**

- Protected Species
- Land Clearing and Landscape Requirements

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:**

**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.

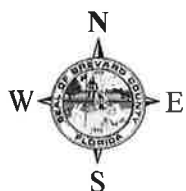
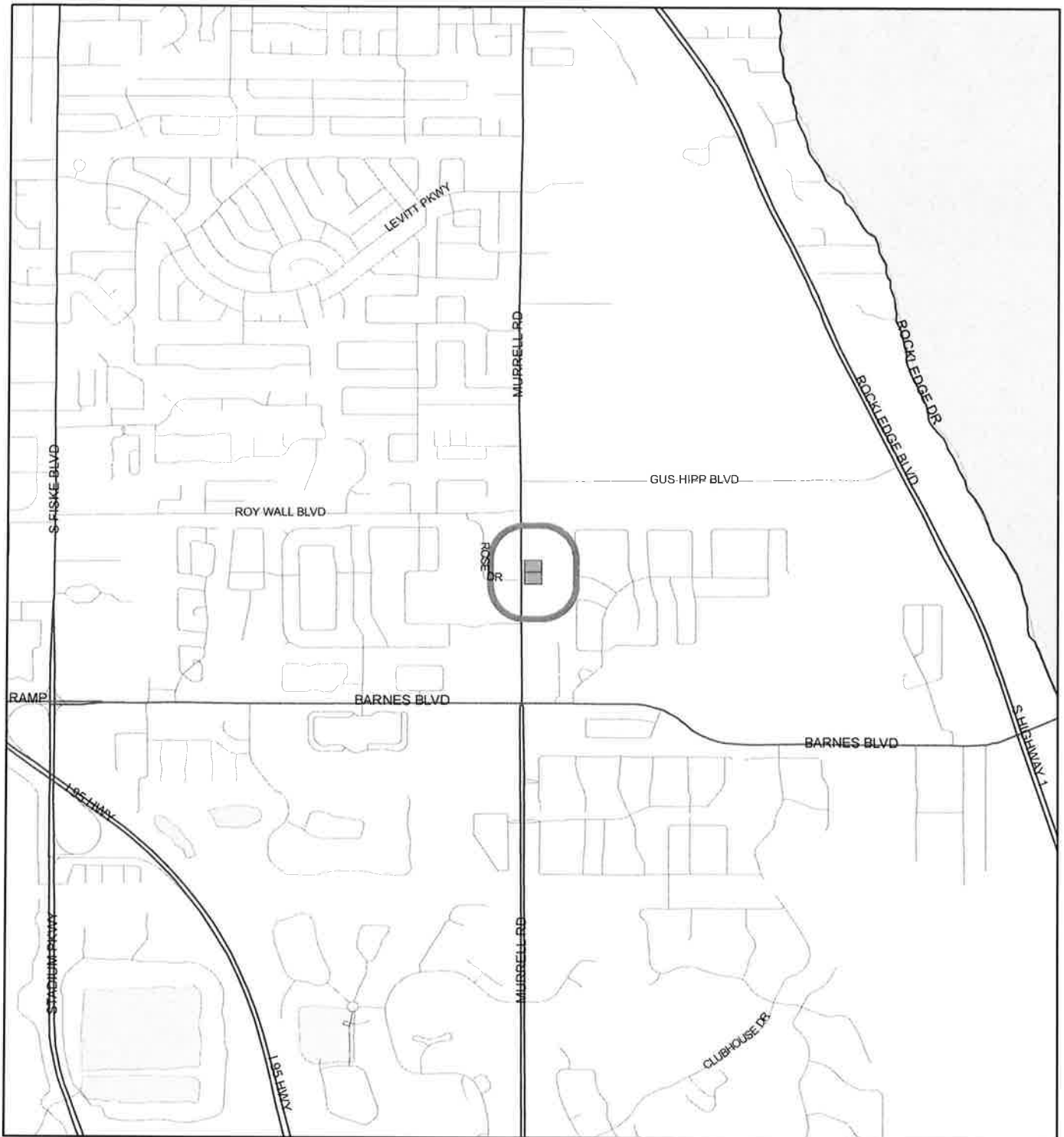
**Land Clearing and Landscape Requirements**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The

applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

# LOCATION MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.  
21Z00049



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: 1/3/2022

— Buffer  
■ Subject Property

# ZONING MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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.

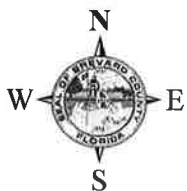
Produced by BoCC - GIS Date: 1/3/2022

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

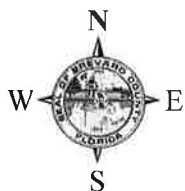
**Subject Property**  
**Parcels**

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: 1/3/2022

# AERIAL MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.  
21Z00049



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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

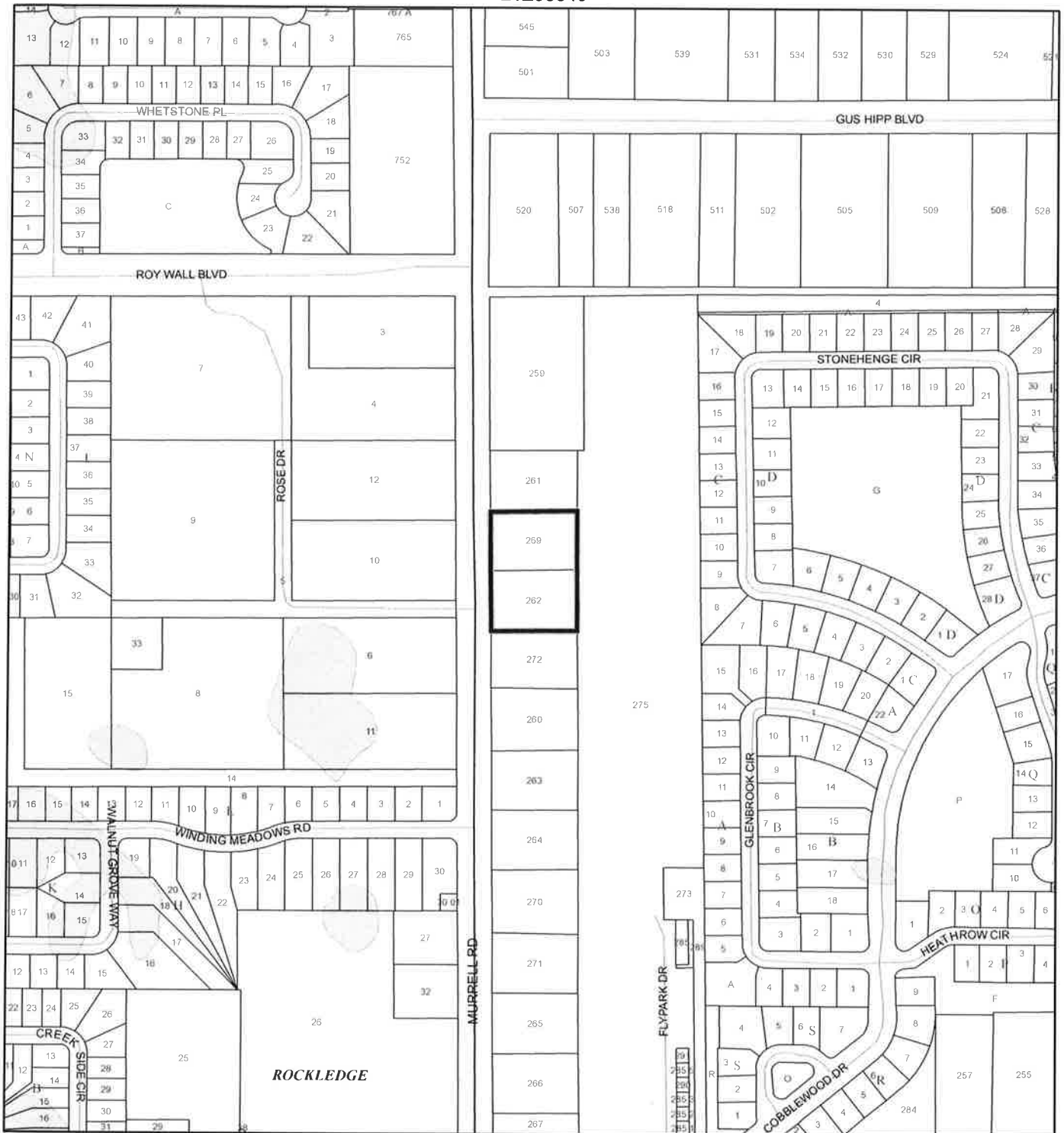
Produced by BoCC - GIS Date: 1/3/2022

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049













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: 1/3/2022

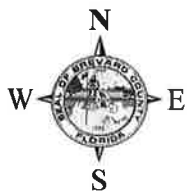
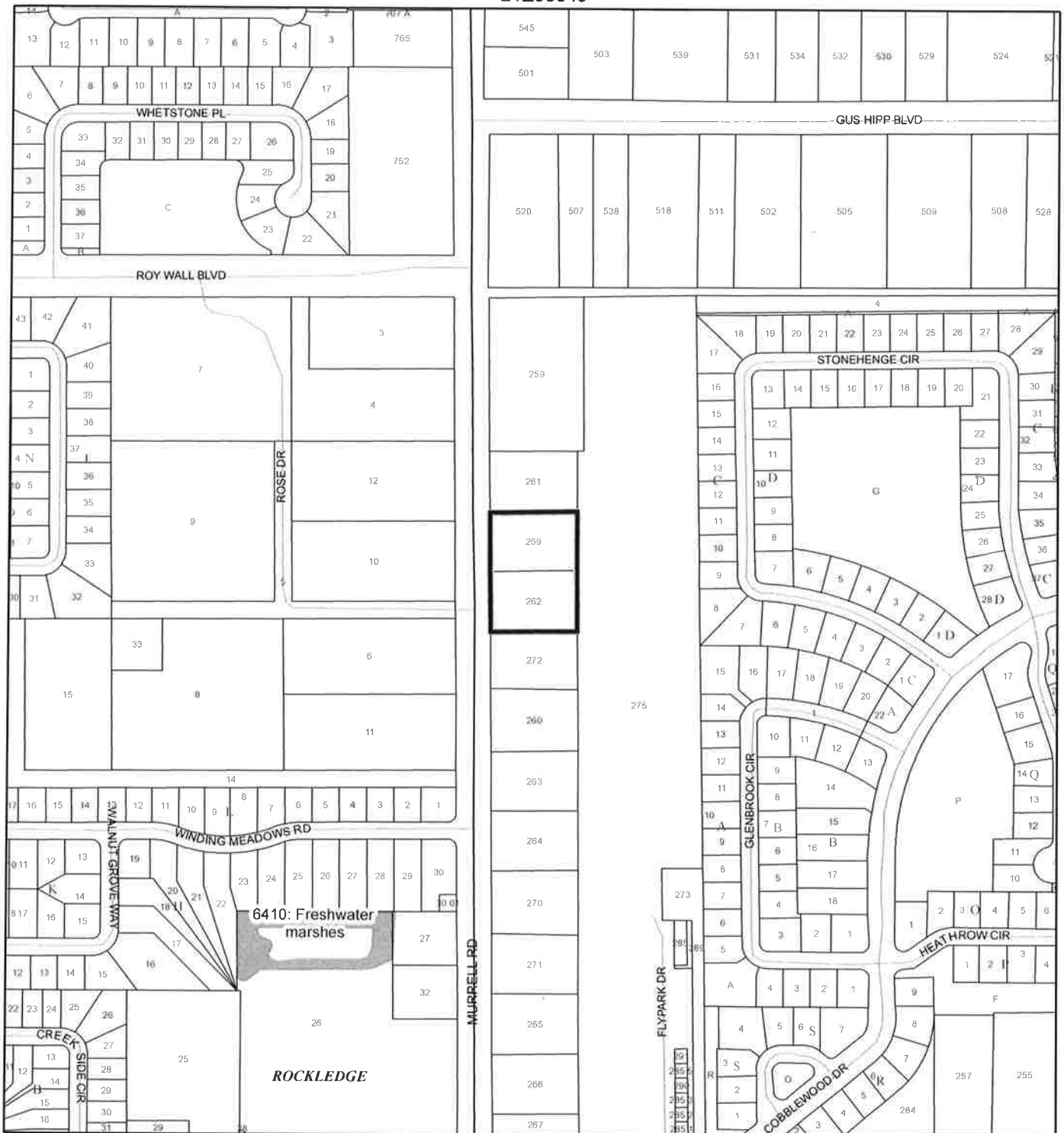
## National Wetlands Inventory (NWI)

 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

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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: 1/3/2022

## 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

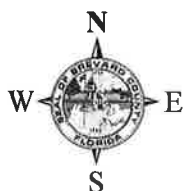
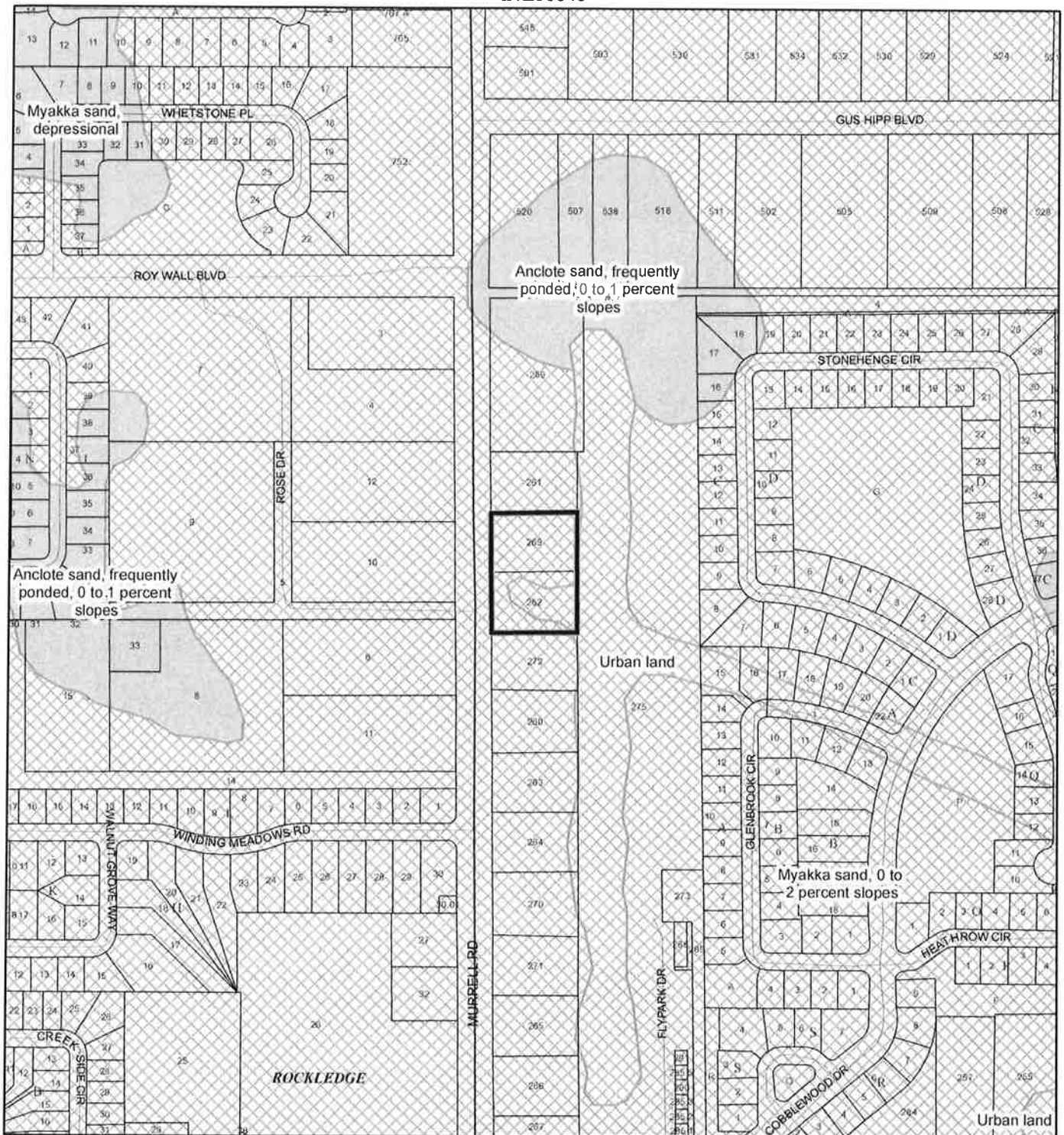
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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: 1/3/2022

## USDA SCSSS Soils

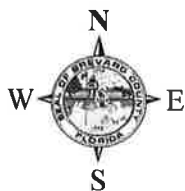
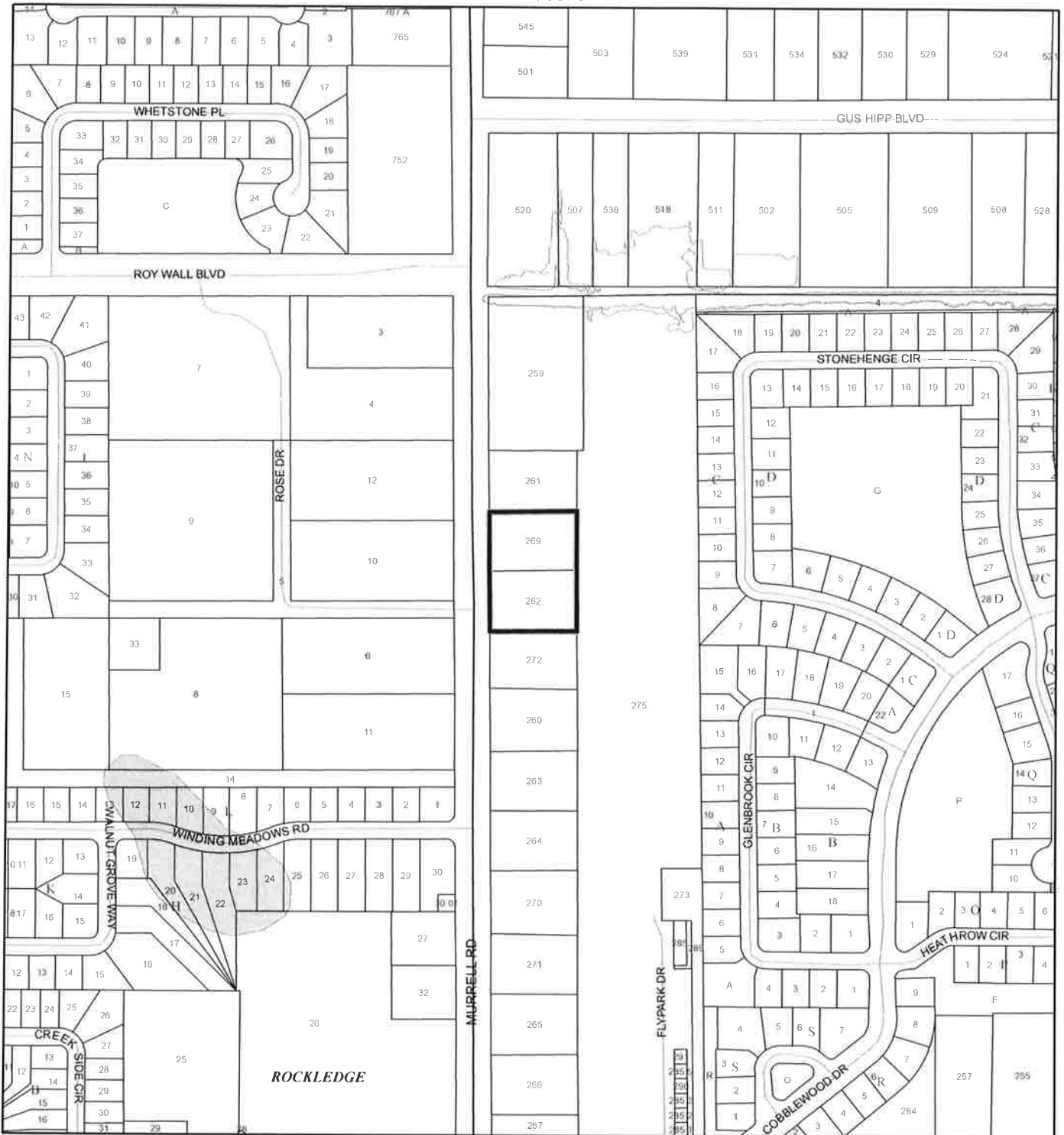
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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.

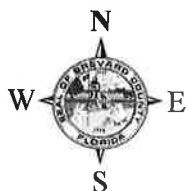
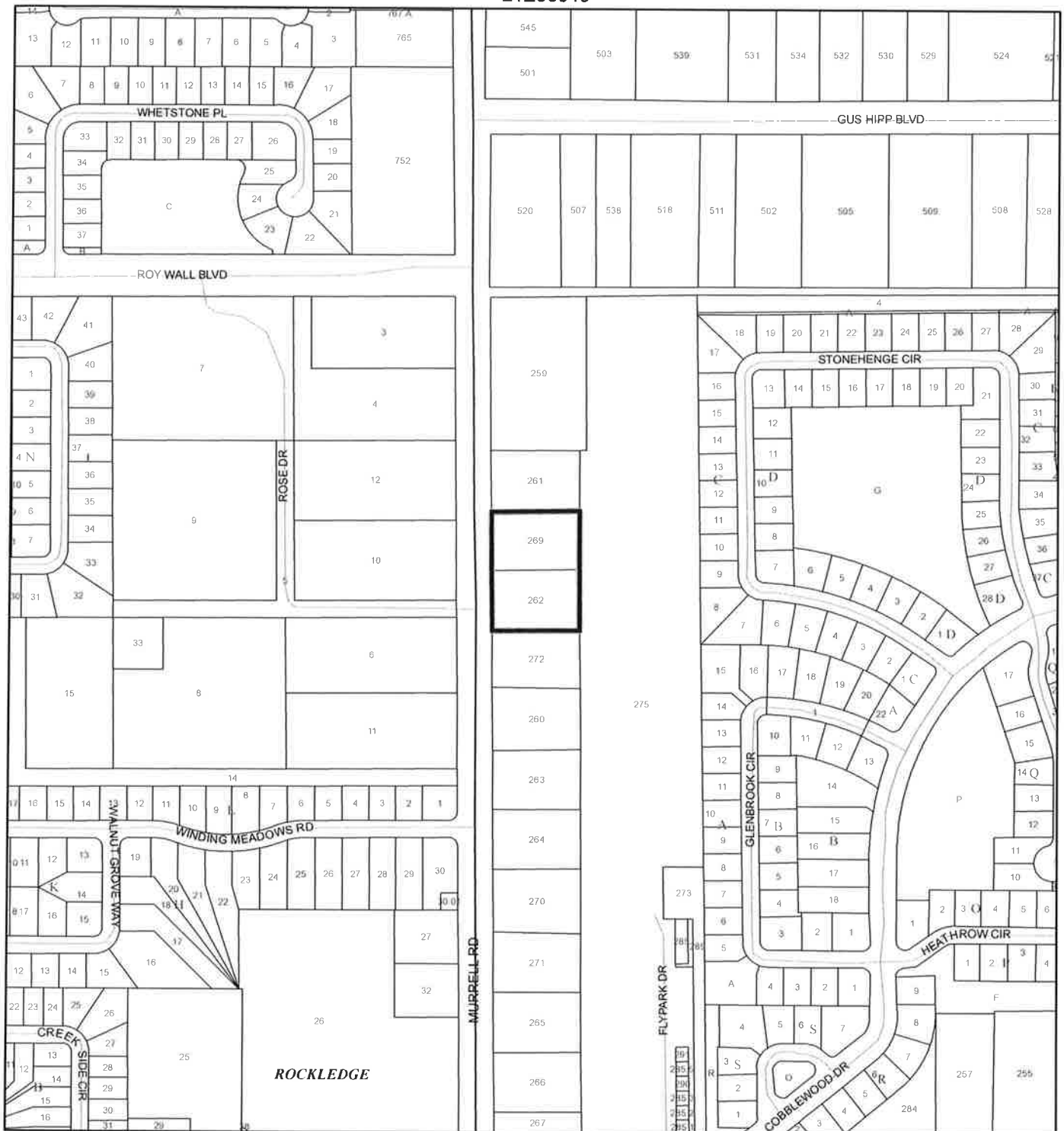
Produced by BoCC - GIS Date: 1/3/2022

## FEMA Flood Zones

- |                  |            |   |
|------------------|------------|---|
| A                | AO         | X |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |

# COASTAL HIGH HAZARD AREA MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.  
21Z00049



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: 1/3/2022

— Subject Property

□ Parcels

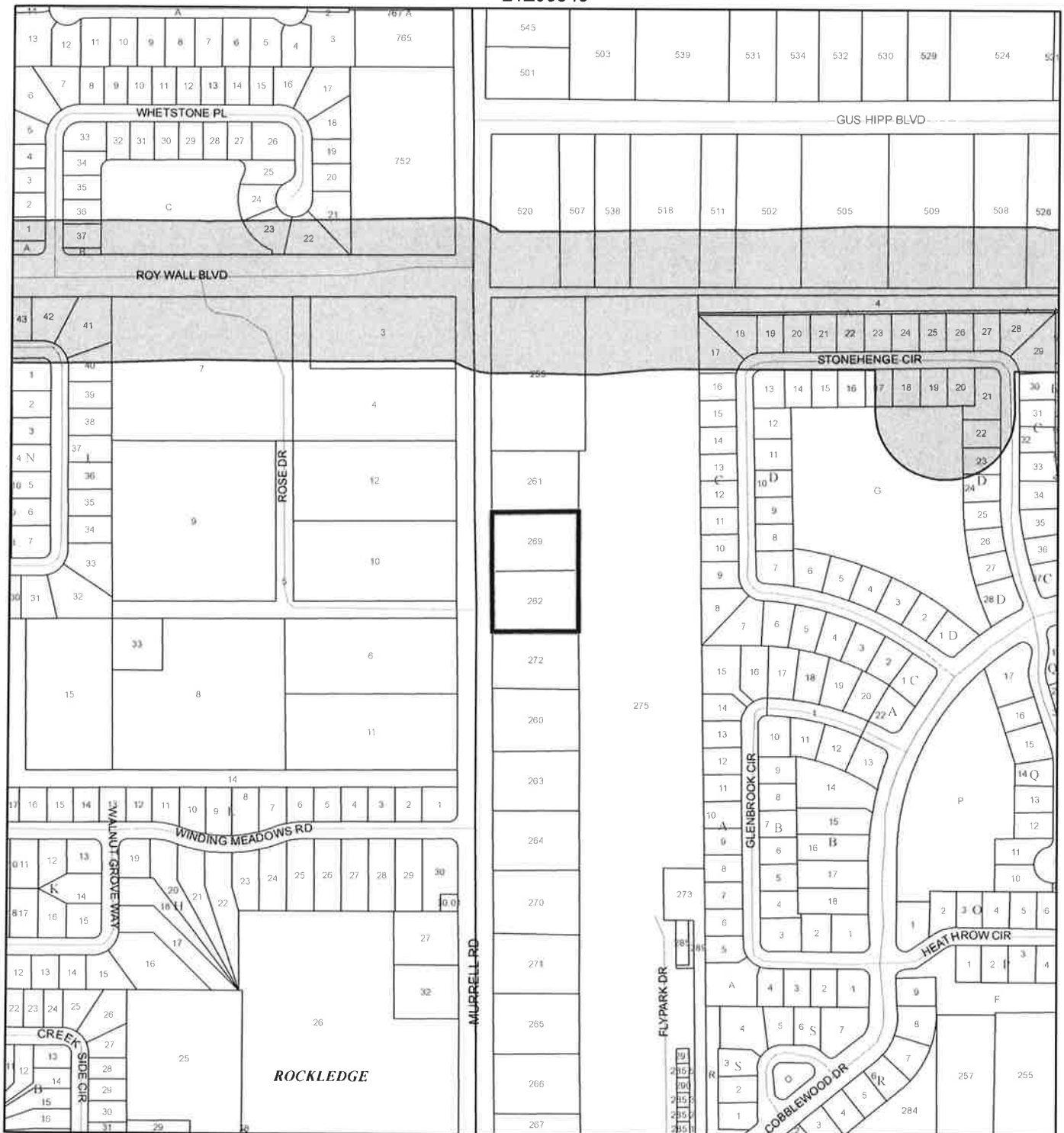
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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: 1/3/2022

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

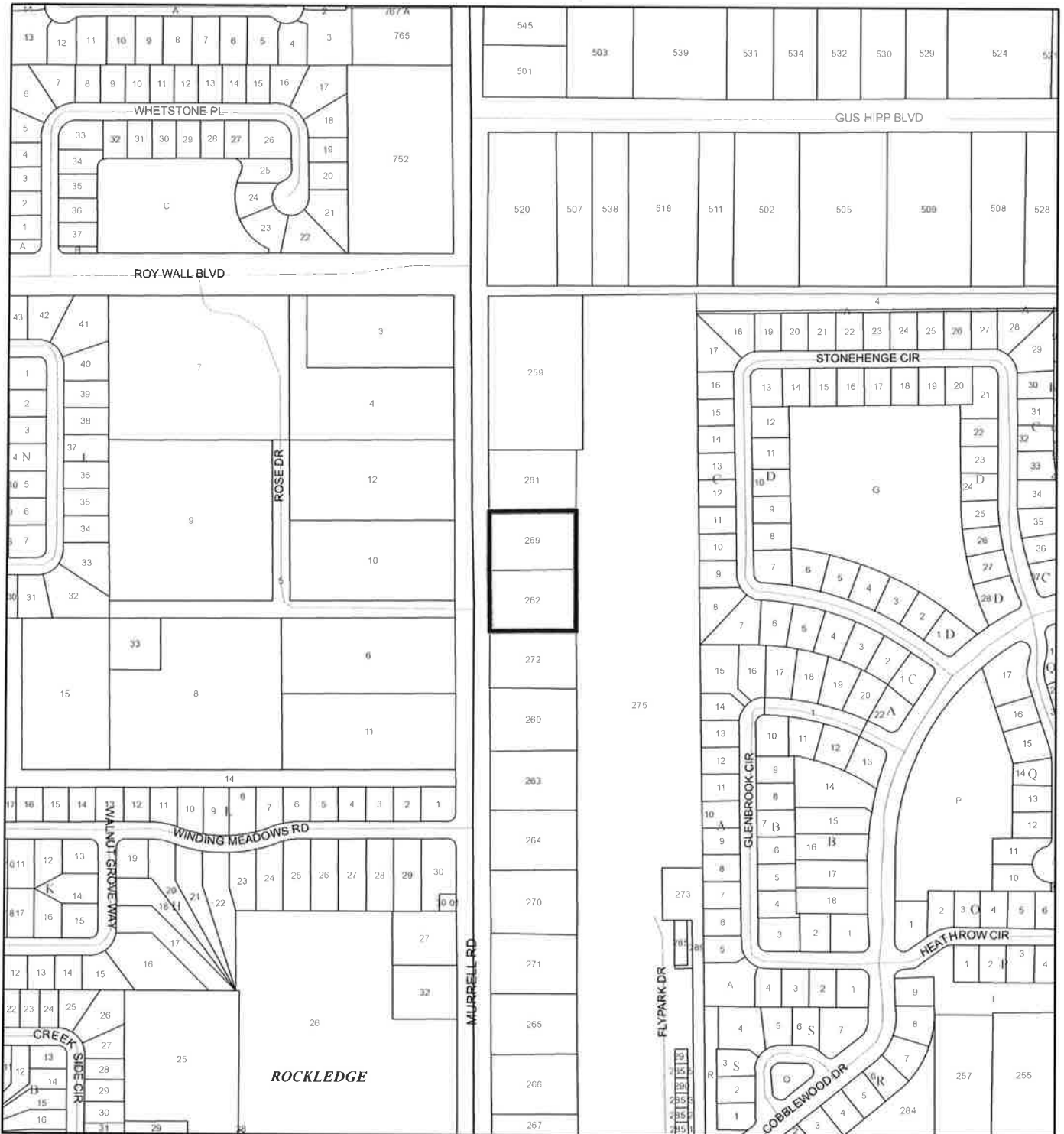
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

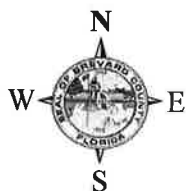
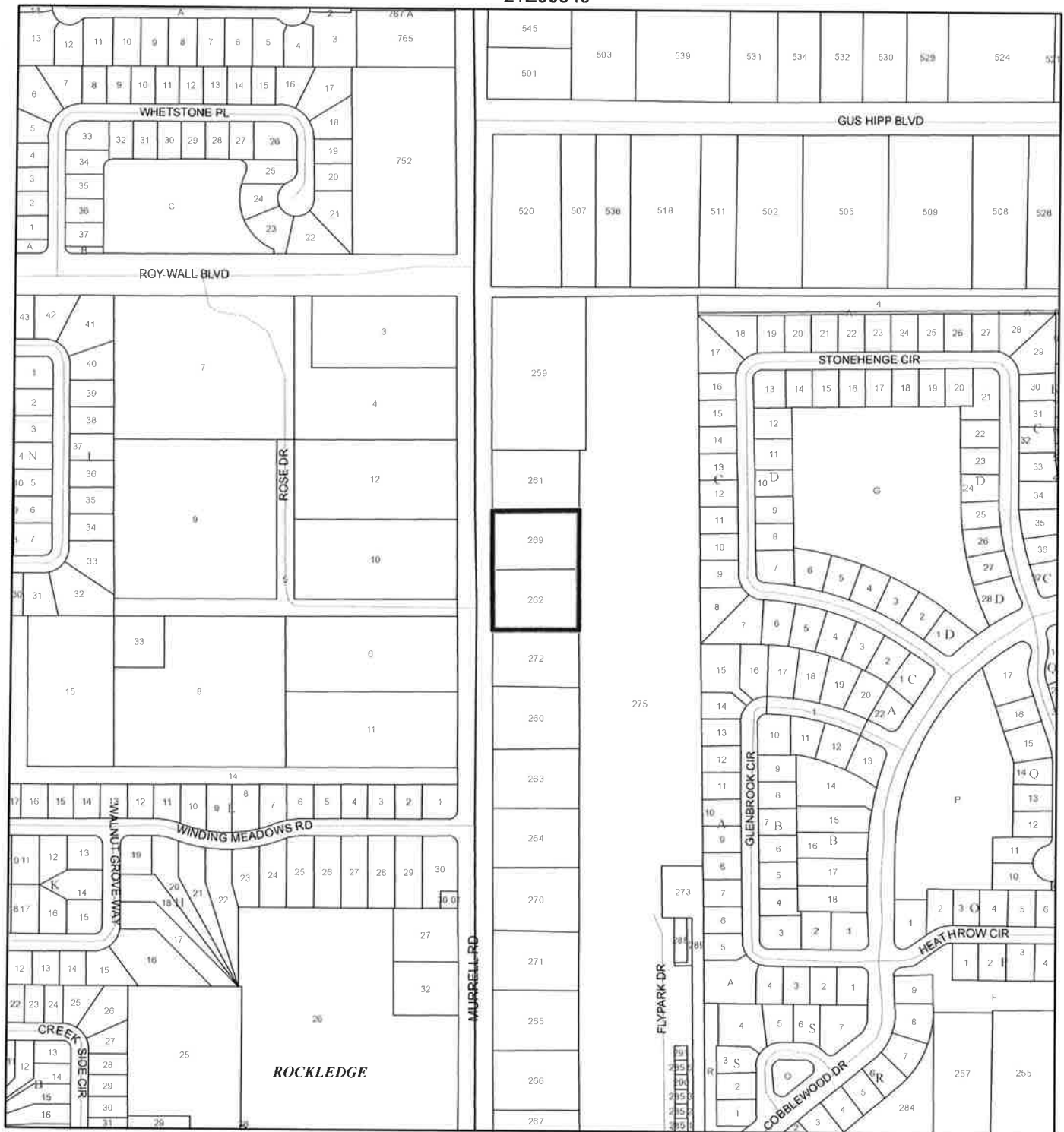
21Z00049



# SCRUB JAY OCCUPANCY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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.

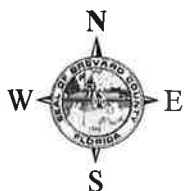
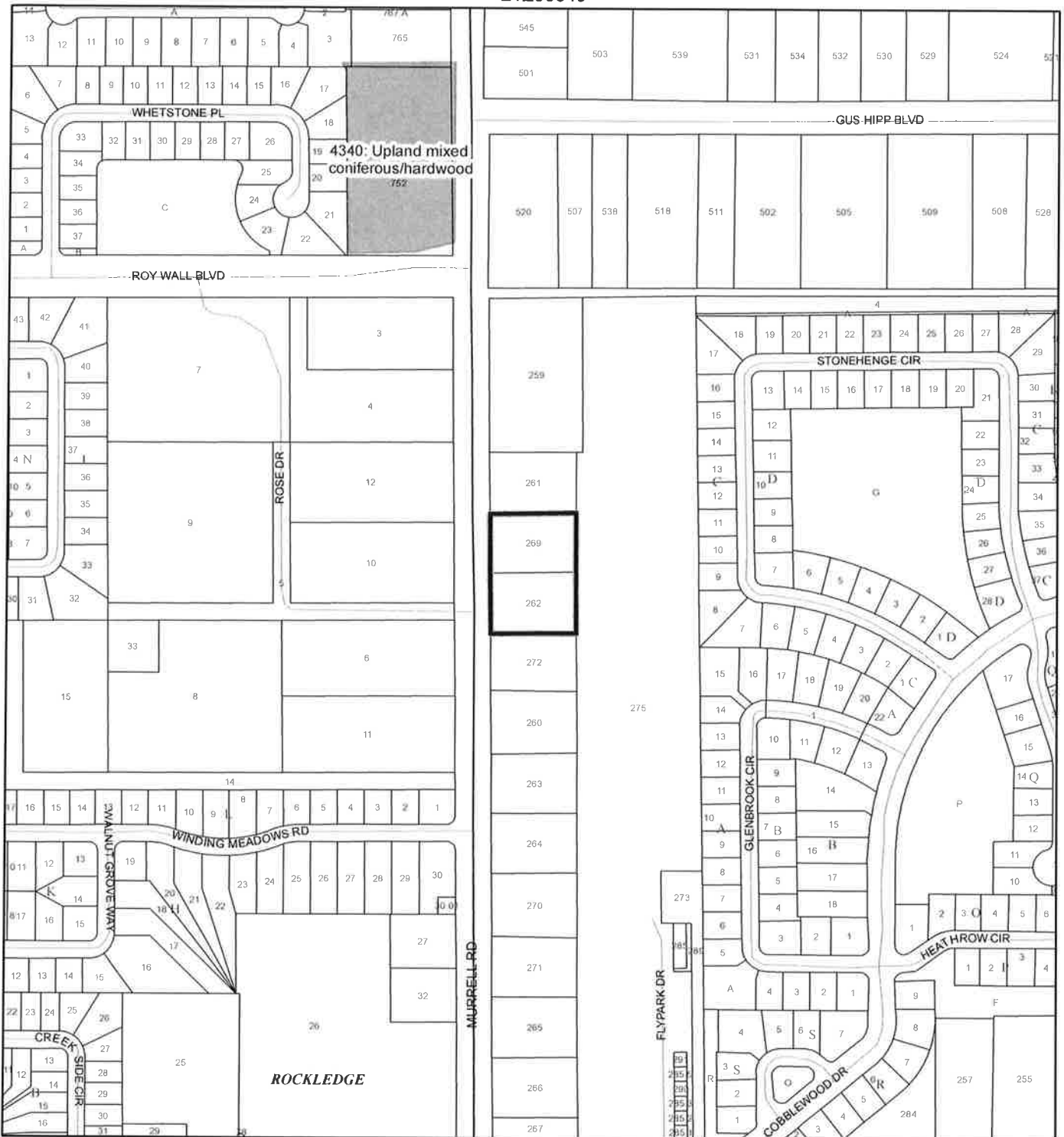
Produced by BoCC - GIS Date: 1/3/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049







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: 1/3/2022

## SJRWMD FLUCCS Upland Forests

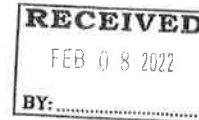
-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels



# City of Rockledge Future Land Use

21200049



## Map Revision

Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:
10/5/1988	890-88	3/25/1998	1158-98	2/2/2002	1266-2002	8/1/2007	1453-07	6/5/2013	1619-2013
5/3/1989	911-89	10/21/1998	1170-98	10/2/2002	1290-2002	8/1/2007	1454-07	12/18/2019	1758-2019
10/18/1989	931-89	5/19/1999	1182-99	2/5/2003	1300-02	12/5/2007	1473-07	12/19/2019	1759-2019
6/5/1991	998-91	2/16/2000	1203-2000	9/8/2004	1348-04	9/17/2008	1503-08	12/20/2019	1760-2019
8/18/1993	1060-93	2/16/2000	1205-2000	12/15/2004	1361-04	2/2/2011	1574-2011	4/7/2021	1810-2021
4/6/1994	1070-94	2/16/2000	1207-2000	1/4/2006	1402-06	4/20/2011	1577-2011	6/2/2021	1819-2021
8/16/1995	1099-95	2/16/2000	1209-2000	8/16/2006	1413-06	8/17/2011	1580-2011	12/15/2021	1845-2021
9/20/1995	1108-95	7/19/2000	1217-2000	8/1/2007	1450-07	4/3/2013	1615-2013	12/15/2021	1848-2021
1/17/1996	1109-96	7/19/2000	1219-2000	8/1/2007	1451-07	4/3/2013	1616-2013	12/15/2021	1849-2021
4/3/1996	1117-96	7/19/2000	1225-2000	8/1/2007	1452-07	4/3/2013	1617-2013		

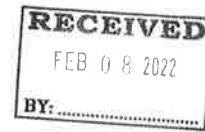
## GENERAL DISCLAIMER

This map was compiled from recorded documents and DOES NOT REFLECT AN ACTUAL SURVEY. The City of Rockledge does not assume responsibility for any errors or omissions contained herein. This map was prepared only for the expressed and official use by the City of Rockledge.

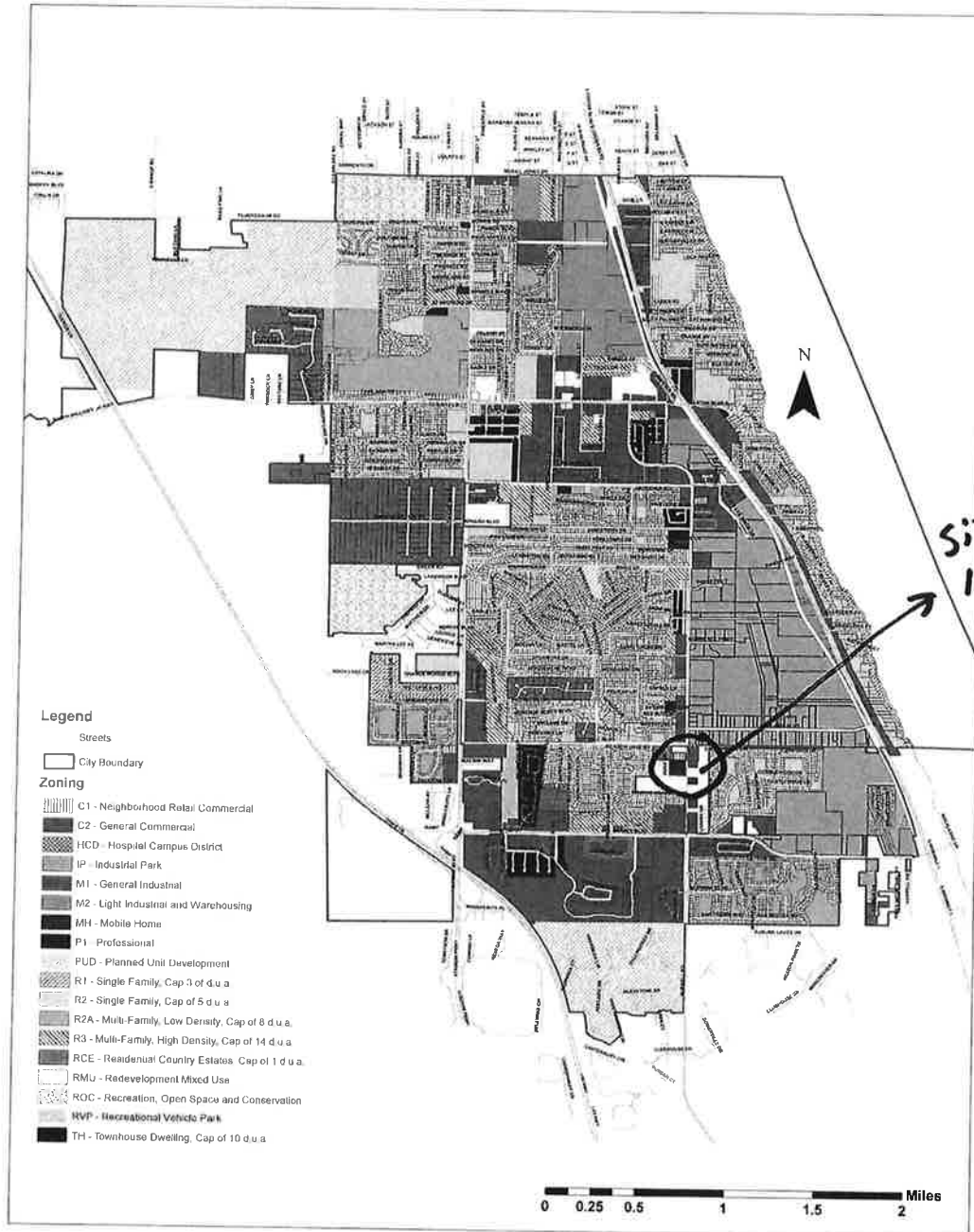
0 0.5 1 2 Miles

Verified by: John Cooper, Planning/Building Department Director  
Date Revised: 12.22.2021

21200049



# City of Rockledge Zoning Map



Site location

## GENERAL DECLARATION

This map was compiled from recorded documents and DOES NOT REFLECT AN ACTUAL SURVEY. The City of Rockledge does not assume responsibility for any errors or omissions contained herein. This map was prepared only for the expressed and official use by the City of Rockledge.

Date Revised: 10.22.2020  
Verified by: Trina Gilliam, Senior City Planner





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

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 14, 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: Henry Minneboo (D1); Ron Bartcher (D1); Lorraine Koss (Alt. D2) (present for and voted on H.3. - H. 14.); Ben Glover (D3) (present for and voted on H.1. - H.13.); Mark Wadsworth, Chair (D4); Liz Alward (D4); David Bassford (Alt. D5) (voted on H.1. - H.12, and H.14; abstained on H.13.); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; George Ritchie, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri)**

A Small Scale Comprehensive Plan Amendment (21S.11), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 2 acres, located on the east side of Murrell Rd., approx. 700 ft. south of Roy Wall Blvd. (3545 & 3525 Murrell Rd., Rockledge) (Tax Accounts 2511036 & 2511043) (District 2)

#### **Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri)**

A change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) to BU-1 (General Retail Commercial). The property is 2 acres, located on the east side of Murrell Rd., approx. 700 ft. south of Roy Wall Blvd. (3545 & 3525 Murrell Rd., Rockledge) (Tax Accounts 2511036 & 2511043) (District 2)

Vaheed Teimouri, 32 East New Haven Avenue, stated the projects are currently operating as group homes, and the owners would like to add additional units. Changing from BU-1-A to BU-1 would allow his clients to go to an adult congregate care facility (ACLF) that would allow more beds. He stated all infrastructure will be provided and they are providing a lift station that will serve both buildings currently on septic tank. The first building is under construction right now and they are waiting for the rezoning so they can go for an additional site plan and change the site plan for the southern lot.

No public comment

Mr. Hopengarten asked how many beds will be in the facility. Mr. Teimouri replied 19 or 20 beds on each property.

Mr. Hopengarten stated the properties abut an airport and asked if it is an active runway. Mr. Teimouri replied it is not an active airport.

Mark Wadsworth asked how much more bed space they are getting by changing to BU-1. Mr. Teimouri replied a lot more than what they want.

George Ritchie stated in the BU-1-A zoning, they are limited to 14 units as a level 2 group home, and once over 14, the code defines them as assisted living facilities and they go up with no cap. The building will have to be sized to support those residents at 250 square feet per resident, and that is part of the criteria he will have to meet during site planning.

Mr. Hopengarten stated his office has developed ALF's and he's concerned about the ALF market where people are essentially dropped off and have a meager existence if amenities are not provided.

Johan Starn, owner, stated there will be amenities, such as entertainment, a garden, a hair salon, an exercise area.

Liz Alward stated in regards to land use, the request is compatible with what is currently in the neighborhood, and it has been her experience that ALF's are good neighbors.

Motion by Liz Alward, Seconded by Ron Bartcher, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. The motion passed 7:1 with John Hopengarten voting nay.

Motion by Liz Alward, Seconded by Ron Bartcher, to recommend approval of a change of zoning classification from BU-1-A to BU-1. The motion passed 7:1 with John Hopengarten voting nay.