



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

12/3/2020

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### **Subject:**

Flor-Ohio requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to NC. (20PZ00089) (Tax Account 2851597) (District 3)

### **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 to change the FLU (Future Land Use) designation from RES 4 (Residential 4) to NC (Neighborhood Commercial).

### **Summary Explanation and Background:**

The applicant is requesting to amend the FLU designation from RES 4 to NC on a 3.32 acre parcel of land located on the southwest corner of Eber Boulevard and Hollywood Boulevard. The subject property is vacant and has an existing FLU designation of RES 4 that was adopted with the Comprehensive Plan in September 1988. The subject property has retained BU-1-A (Restricted Neighborhood Retail Commercial) zoning since 1976. The proposed FLU Amendment will establish consistency between the zoning classification and the Future Land Use Map as RES 4 is not consistent with BU-1-A per Brevard County Code, Section 62-1255.

The parcel is not serviced by Brevard County water or sanitary sewer; however, potable water may be available to the subject site through the City of West Melbourne. Additionally, the City of West Melbourne Utilities Department confirms an 8-inch sewer force main exists on the north side of Eber Boulevard and a 16-inch sewer force main exists on the east side of Hollywood Boulevard.

To the north of the subject property (across Eber Boulevard) is a residential subdivision (West Melbourne); adjacent to the south and west is a residential mobile home park with a FLU designation of RES 4; and to the east (across Hollywood Boulevard) is vacant, undeveloped land (West Melbourne).

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

On November 9, 2020, the Local Planning Agency heard the request and unanimously recommended approval.

### **Clerk to the Board Instructions:**

Please return two certified copies of the ordinance to Planning and Development.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

December 4, 2020

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

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 20-22, which was filed in this office on December 4, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



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

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

December 4, 2020

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

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

**RE:** Item H.1., Flor-Ohio Request Small Scale Comprehensive Plan Amendment (20S.08)

The Board of County Commissioners, in regular session on December 3, 2020, conducted the public hearing and adopted Ordinance No. 20-22, setting forth the eighth Small Scale Amendment 20S.08 of the Comprehensive Plan to change the Future Land Use designation from Residential 4 to Neighborhood Commercial for Flor-Ohio (20PZ00089). Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

/ns

Encl. (1)

ORDINANCE NO. 20-22

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE EIGHTH SMALL SCALE PLAN AMENDMENT OF 2020, 20S.08, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.08; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.08; 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

WHEREAS, on November 9, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.08, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 3, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.08; and

WHEREAS, Plan Amendment 20S.08 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.08 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.08 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.08, 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,

**EXHIBIT A**  
**20S.08 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

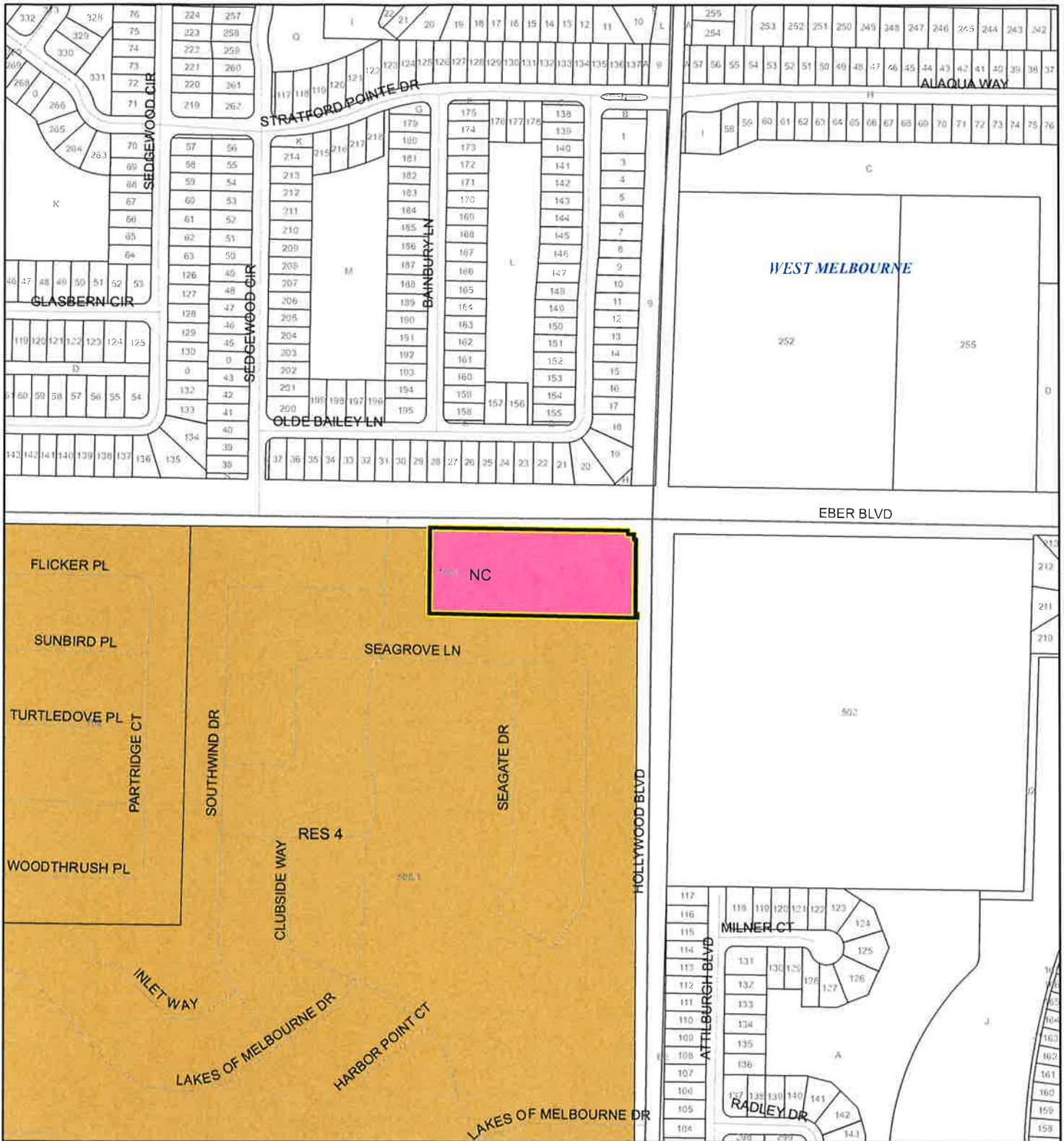
**Contents**

**1. Proposed Future Land Use Map**



# PROPOSED FUTURE LAND USE MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



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: 9/4/2020

## **EXHIBIT B**

### **Contents**

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

AD#4429102

10/22/2020

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, NOVEMBER 9, 2020, and THURSDAY, DECEMBER 3, 2020.

**DISTRICT 3**

1. (20200089) FLOR-ORIO (Jack Spira) requests a Small Scale Comprehensive Plan Amendment (205.08) to change the Future Land Use designation from RES 4 (Residential 4) to NC (Neighborhood Commercial), on property described as Tax Parcel 750.1, at recorded in ORB 6062, Pages 2942 - 2943, of the Public Records of Brevard County, Florida, Section 18, Township 26, Range 37, (13.32 acres) Located on the southwest corner of Eber Blvd. and Hollywood Blvd. (No assigned address. In the West Melbourne area) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 205.08: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part VI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

**DISTRICT 4**

2. (20200025) JOHN HALEY - requests a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential), on property described as Lot 29, Indian River Estates, as recorded in ORB 8826, Pages 1200 - 1207, of the Public Records of Brevard County, Florida, Section 12, Township 26, Range 37, (0.99 acres) Located on the east side of U.S. 1, approx. 200 ft. south of E. Elm St. (4147 N. U.S. 1, Melbourne)

**DISTRICT 1**

3. (20200026) JASON A. AND CHRISTINE N. SPINA request a change of zoning classification from GU (General Use) and AU (Agricultural Residential) to all AU, on property described as Lots 10 & 11, Block 19, Canaveral Groves Subdivision, as recorded in Survey Book 2, Page 55, of the Public Records of Brevard County, Florida, Section 33, Township 23, Range 35, (4.76 acres) Located on the east side of Pine St., approx. 630 ft. north of Arca Falls St. (5035 Pine St., Cocoa)

4. (20200027) REID B. HART AND GAIL A. SCHWENHART request a change of zoning classification from GU (General Use) to RR-1 (Rural Residential), on property described as Lot 9, Block 2, Canaveral Groves Subdivision, as recorded in Survey Book 2, Page 61, of the Public Records of Brevard County, Florida, Section 10, Block 2, Canaveral Groves Subdivision, as recorded in ORB 5317, Page 810, of the Public Records of Brevard County, Florida, Section 08, Township 24, Range 35, (2.02 acres) Located on the north side of Simpson Place, approx. 750 ft. west of Lake Ave. (Lot 9 = No assigned address. In the Cocoa area. Lot 10 = 5530 Simpson Place, Cocoa)

5. (20200028) DONALD MINNICK requests a change of zoning classification from AU (Agricultural Residential) and EU-2 (Estate Use Residential) with a BDP (Binding Development Plan) to all EU-2 and removal of BDP, on property described as Lot 1, Block D, Eagle Pointe Subdivision, a subdivision according to the plat thereof, as recorded in Plat Book 52, Pages 37 - 39, inclusive, of the Public Records of Brevard County, Florida, Section 24, Township 21, Range 34, (0.24 acres) Located on the east side of Arnold Palmer Dr., approx. 120 ft. north of London Town Rd. (1989 Arnold Palmer Dr., Titusville)

**DISTRICT 1**

6. (20200030) LAZY RIVER INVESTMENTS (Laura Young) requests a change of zoning classification from RU-1-13 (Single-Family Residential) to AU/L (Agricultural Residential, Low-Intensity), on property described as Lots 10 & 11, Frank H. Allen Subdivision of 136 acre tract of Fleming Grant, according to the map or plat thereof, as recorded in Plat Book 1, Page 77, of the Public Records of Brevard County, Section 19, Township 30S, Range 18E, (20.29 acres) Located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.)

**DISTRICT 1**

7. (20200032) WATERMARK INVESTORS, LLC (Bruce Mola) requests an amendment to an existing PUD (Planned Use Development) on property described as follows: A parcel of land lying in Section 30, Township 23S, Range 36E, Brevard County, Florida, being more particularly described as follows: Commence at a railroad spike monumenting the SW corner of said Section 30 and run N00deg09'19"E, along the west line of the SW 1/4 of said Section 30, a distance of 800 ft. to the NW corner of lands described in ORB 5505, Page 8025, the point of beginning; thence continue N00deg09'19"E, along said west line, a distance of 1,863.51 ft. to a 5/8 inch iron (stamped "Allen") which monument the west 1/4 corner of said Section; thence N00deg33'33"E, along the west line of the NW 1/4 of said Section, a distance of 1,315.58 ft. to the SW corner of "Replat of Hardeville", recorded in Plat Book 19, Page 148 of the Public Records of Brevard County, Florida; thence N89deg52'38"E, along the south line of said subdivision, a distance of 1,319.59 ft. to the SE corner of said "Replat of Hardeville", said point being on the east line of the SW 1/4 of the NW 1/4 of said Section 30; thence S00deg32'18"W, along said east line, a distance of 229.29 ft. to a point 100 ft. north of the south line of the SE 1/4 of the NW 1/4; thence S89deg54'22"E, parallel with and 100 ft. north of said south line, a distance of 1,281.49 ft. to a point on the west right-of-way line of U.S. Hwy 1 (a 143-ft. wide right-of-way); thence S00deg13'32"W, along said west right-of-way line, a distance of 183.97 ft. to a point on the easterly extension of the north line of MacArthur Heights, according to the plat thereof, as recorded in Plat Book 16, Page 135 of said Public Records; thence N88deg11'08"W, along said extension and said north line, a distance of 1,219.48 ft. to a point on the aforesaid east line of the SW 1/4 of the NW 1/4 and along the west line of said MacArthur Heights, a distance of 578.30 ft. to the SW corner of said subdivision; thence N89deg46'51"W, parallel with the south line of said NW 1/4 a distance of 280 ft. to the NW corner of lands of the Diocese of Orlando (ANJA Blessed Sacrament Catholic Church); thence S00deg32'18"W along a west line of said lands, said line being 280 ft. distant west of the east line of the SW 1/4 of the NW 1/4 of said Section 30, a distance of 329.56 ft. to a point on the north line of said SW 1/4; thence S00deg08'31"W, parallel with and 280 ft. distant from the east line of the west 1/4 of said SW 1/4, a distance of 234.66 ft.; thence S89deg46'51"E, parallel with the north line of said SW 1/4, a distance of 1,503.12 ft. to a point on the aforesaid west right-of-way line of U.S. Hwy 1; thence S00deg13'32"W, along said west right-of-way line, a distance of 579 ft. to the SE corner of aforesaid lands the Diocese of Orlando (ANJA Blessed Sacrament Catholic Church); said point being 814.06 ft. distant south, by right angle measurement, from the aforesaid north line of the SW 1/4; thence N89deg46'51"W, along the south line of said lands which is 814.06 ft. distant from said north line of the SW 1/4, a distance of 1,503.25 ft.; thence S00deg08'31"W, a distance of 14.67 ft. to a 4"x4" concrete monument (no identification) which marks the NW corner of Williams Point Complex according to the plat thereof, as recorded in Plat Book 19, Page 121, of said Public Records; S00deg13'32"W, along the west line of said Williams Point Complex, a distance of 1,095.25 ft. to the SW corner thereof; thence S89deg53'28"E, along the south line of said subdivision, a distance of 1,503.23 ft. to a point on the aforesaid west right-of-way line of U.S. Hwy 1; thence S00deg13'32"W, along said west right-of-way line, a distance of 59.80 ft. to the NE corner of lands described in ORB 4269, Page 2305; thence N89deg52'38"W, along the north line of said lands, a distance of 150 ft. to the NW corner thereof; thence S00deg13'32"W, along the west line of said lands, a distance of 358.20 ft. to a point 320 ft. north of the south line of said SW 1/4 of Section 30; thence N88deg52'38"W, parallel with and 320 ft. distance from said south line of Section, a distance of 1,171.02 ft. to the NW corner of lands described in ORB 5294, Page 2038; thence S00deg08'24"W, along the west line of said lands, a distance of 295 ft. to a point on the north right-of-way line of Camp Rd., said point being 25 ft. distance from said south line of the SW 1/4; thence N89deg52'38"W, along said north right-of-way, distance of 620.61 ft. to a point which is 600 ft. distant east from the aforesaid west line of Section 30; thence N00deg09'19"E, parallel with and 600 ft. distance from said west line, a distance of 775 ft.; thence N89deg52'38"W, parallel with the south line of said Section 30, a distance of 600 ft. the point of beginning; containing 129 +/- acres. Located on the west side of U.S. Hwy 1, approx. 0.2 mile south of Broadway Blvd. (Tax parcel 251 = 5082 & 5083 Perimmon Ln., Cocoa; Tax Parcels 252 & 510 = No assigned address. In the Cocoa area.)

**DISTRICT 2**

8. (20200033) TROPICAL MANOR HOLDINGS, LLC (Kenneth Metcalf) requests a change of zoning classification from RU-1-7 (Single-Family Residential) and RU-2-30 (High Density, Multi-Family Residential) to RU-2-12 (Medium Density, Multi-Family Residential) with a BDP (Binding Development Plan) limited to a maximum of 85 units, on property described as Tax Parcel 783, as recorded in ORB 8336, Pages 370 - 372, of the Public Records of Brevard County, Florida, Section 22, Township 24, Range 36, (8.47 acres) Located on the west side of Jordan Rd., at the end of Grove Blvd., and approx. 727 ft. north of Lucas Rd. (1165 Jordan Rd., Merritt Island)

Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, NOVEMBER 9, 2020, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, DECEMBER 3, 2020, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

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 3 day of December, 2020.

ATTEST

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

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
By: \_\_\_\_\_  
Rita Pritchett, Chair

As approved by the Board on Dec . 3, 2020.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

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

205.08

**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 # 20PZ00089

Existing FLU: RES4 Existing Zoning: BU1-A

Proposed FLU: Neighborhood Commercial Proposed Zoning: \_\_\_\_\_

**PROPERTY OWNER INFORMATION**

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

Sheldon Fromson

Flor-Ohio LLC

Name(s)	Company		
<u>505 S. Flagler Dr. Suite 401</u>	<u>West Palm Beach</u>	<u>FL</u>	<u>33401</u>
Street	City	State	Zip Code
<u>sfromson@msn.com</u>	_____	<u>561-632-2323</u>	
Email	Phone	Cell	

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☒ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Jack B Spira

Spira, Beadle & McGarrell, P.A

Name(s)	Company		
<u>5205 Babcock Street</u>	<u>Palm Bay</u>	<u>FL</u>	<u>32905</u>
Street	City	State	Zip Code
<u>jspira@sbmlawyers.com</u>	<u>321-725-5000</u>	<u>321-258-1959</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)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 3.32

Reason for Request: Change FLU from RES 4 to NC

Required for development

The appropriate data in this case is: In 1976 this 3 acre parcel was rezoned to BU1-A by County

Commissioners by unanimous vote. In 1988 it was given the FLU designation of RES 4 along

with the approx 200 acres surrounding it. Apparently because of the vast size of the acreage parcel

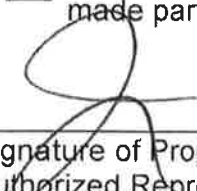
abutting the subject property County staff had missed/overlooked this independent parcel being

zoned BU1-A and thus didn't assign it the proper designation of Neighborhood Commercial.

This administrative error now needs to be corrected to make the zoning and land use consistent.

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.
- ☐ 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.

  
\_\_\_\_\_  
Signature of Property Owner or  
Authorized Representative


9-2-2020  
\_\_\_\_\_  
Date

State of Florida

County of Brevard

Subscribed and sworn to me before me this 2nd day of, Sept., 20 20.

personally appeared JACK B. Spira, who is personally known to me or  
produced \_\_\_\_\_ as identification, and who did / did not take an oath.

  
\_\_\_\_\_  
Notary Public Signature



Office Use Only:

Accela No. 20P200089 Fee: \$1,219.00 Date Filed: 9/8/20 District No. 3

Tax Account No. (list all that apply) 2851597

Parcel I.D. No.

28 37 18 0 0 750.1  
Twp Rng Sec Sub Block Lot/Parcel

Planner: JHart Sign Issued by: — Notification Radius: 500'

MEETINGS

DATE

TIME

☐ P&Z

\_\_\_\_\_

\_\_\_\_\_

☐ PSJ Board

\_\_\_\_\_

\_\_\_\_\_

☐ NMI Board

\_\_\_\_\_

\_\_\_\_\_

☒ LPA

11/9/20

3pm

☐ BOA

\_\_\_\_\_

\_\_\_\_\_

☒ BCC

12/3/20

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 \_\_\_\_\_

Location of subject property:

Southwest corner of Eber Boulevard  
and Hollywood Boulevard

Description of Request:

Change FLU from RES4 to NC

ACCELA #

20PZ00089

## DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Authorization to Act Form <sup>1</sup>	Recorded Property Deeds	Legal Description of Request <sup>2</sup>	Certified Survey <sup>8</sup>	Property Appraisers Map	Concurrency	School Concurrency <sup>3</sup>	Wetland Survey <sup>4</sup>	CUP Worksheet & Sketch <sup>5</sup>	Comp Plan Information <sup>6</sup>	Notice to Applicants	Neighbors Affidavit <sup>7</sup>	Letter to Zoning Official	Variance Hardship Worksheet <sup>9</sup>	meeting schedule *Additional Documentation	Fees
	NUMBER OF COPIES REQUIRED																
Staff to check indicating receipt	✓	✓	✓	✓	✓	✓					✓						
Comprehensive Plan Amendment <sup>6</sup>	1	1	1	1	2	1		X			1					*	Y
Zoning request	1	1	1	1	1 <sup>8</sup>	1	1	1	1			1					Y
Conditional Use Permit (CUP)	1	1	1	1	1 <sup>8</sup>	1				1		1					Y
AA – Waiver	1	1			1	1							1	1			Y
AA – Easement or Flag lot	1	1	1	1	1	1											Y
Variance	1	1	1	1	1	1									1	*	Y

<sup>1</sup>Authorization to Act form is required, if other than the owner of record is making the application. If the property is not owned in entirety, by the applicant, either a Form "A", or a notarized letter must accompany the application giving written consent by all property owners of the subject property.

<sup>2</sup>Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup>School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup>Wetland Survey required on Commercial or Industrial property.

<sup>5</sup>CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup>Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rationale and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup>Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup>Survey must be submitted if requested by staff.

<sup>9</sup>Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

**\*Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

**Traffic Impact Analysis (TIA):** TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

**Environmental Impact Analysis:** The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

**Water and Sewer Demand:** Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.

# CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

PUBLIC HEARING APPLICATION FEES	BASE FEE	ACREAGE FEE	UNIT FEE	SUB-TOTAL
<b>REZONING</b>				
Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00*	( -5) x 24**		
Single-Family Residential	849.00*	( -5) x 24**		
Single-Family Mobile Home	849.00*	( -5) x 24**		
Commercial/Planned Commercial	1,184.00	( ) x 24		
Tourist Commercial	1,855.00	( ) x 45		
Industrial/Planned Industrial	1,855.00	( ) x 45		
Planned Unit Development	5,661.00	( ) x 45		
Single-Family Attached Residential	960.00	( ) x 24		
Multiple-Family Residential	960.00	( ) x 24		
Recreational Vehicle Park	1,408.00	( ) x 24		
Mobile Home Park/Mobile Home Co-op	1,408.00	( ) x 24		
<b>CUP'S OR ROU APPLICATIONS</b>				
Fee per request (with rezoning)	447.00			
Fee per request (without rezoning)	849.00			
<b>OTHER APPLICATION FEES</b>				
Consultant fee Retainer per Tower Application	6,934.00			
Transfer of Development Rights	1,520.00			
Comprehensive Plan Appeals (Vested Rights)				
One (5.0 acres or less) Single-family residential	433.00			
All other Appeals	1,733.00			
Variance/Appeals of Administrative Interpretation				
Base Fee	598.00			
Fee for each additional request	182.00			
Special Hearing Fee for P & Z / LPA	3,692.00			
Special Hearing Fee for BOA	1,872.00			
All Other Unlisted Zoning Applications	849.00			
Miscellaneous				
<b>COMPREHENSIVE PLAN AMENDMENTS</b>				
Small Scale Amendment	919.00			919.00
Large Scale Amendment	1,785.00	\$43 per acre		
Maximum Fee on a Single Application	17,334.00			
<b>FEES COLLECTED FOR ADMINISTRATIVE ACTIONS</b>				<b>SUB-TOTAL ****</b>
Office of Natural Resources zoning review (if applicable)	300.00			300.00
flag lot &/or easement review	360.00			
Land Development PUD review	100.00			
flag lot &/or easement review	150.00			
Address Assignment review of flag lot &/or easement	100.00			
Zoning fee	277.00			
<b>BASE FEE ADJUSTMENTS</b>				
* If area for these requests have the potential for only one more lot, the fee is	288.00			
** Maximum acreage fees for these requests shall be	2,240.00			
*** Maximum Planned Unit Development Fee shall be	13,432.00			
**** Maximum fee for all other zoning requests shall be	8,955.00			
<b>TOTAL</b>				<b>8,219.00</b>

## RECEIPT OF PAYMENT

**Payment Date: 9/3/2020**  
**Receipt #: 578787**  
**Transaction Id# 43958/1108**

Payment Method	Payment Reference #	Amount Paid	Comments
Check	43958/1108	\$1,219.00	Check# 43958 - \$919.00 Check# 1108 - \$1108
		\$1,219.00	Total

### FL

PZ Miscellaneous Fees \$1,219.00

**20PZ00089**

Fee	Invoice #	Amount
Comprehensive Plan	680741	\$919.00
NRMO	680741	\$300.00

**Grand Total \$1,219.00**

**Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.**  
**To verify fees please visit the Brevard County Planning & Development Search.**

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)

P (321) 633-2068 F (321) 633-2052



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department  
2725 Judge Fran Jamieson Way, Bldg A, Suite 114  
Viera, FL 32940  
Phone: (321) 633-2070, Fax: (321) 633-2074  
[www.BrevardFL.gov/PlanningDev](http://www.BrevardFL.gov/PlanningDev)

## Supplement to Comprehensive Plan Amendment Application

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:** Jack B Spira **Staff Planner:** Jane Hart

3. **Comprehensive Plan Amendment Information:**

Adopted Future Land Use Designation: RES 4  
Requested Future Land Use Designation: Neighborhood Commercial  
Existing Zoning: BU1-A

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 rationale 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.

The appropriate data in this case is: In 1976 this 3 acre parcel was rezoned to BU1-A by County

Commissioners by unanimous vote. In 1988 it was given the FLU designation of RES 4 along

with the approx 200 acres surrounding it. Apparently because of the vast size of the acreage parcel

abutting the subject property County staff had missed/overlooked this independent parcel being

zoned BU1-A and thus didn't assign it the proper designation of Neighborhood Commercial.

This administrative error now needs to be corrected to make the zoning and land use consistent.

(Use additional sheets if necessary)

This document prepared by and return to:  
Jack B. Spira, Esquire  
5205 Babcock Street, N.E.  
Palm Bay, Florida 32905

Tax I.D. #: 28-37-18-00-00750.1-0000.00

THIS IS THE LEGAL NOTICE OF A  
USE FOR ADVERTISING PURPOSES

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED** executed the 10 day of Nov, 2009, by FLOR-OHIO HOLDINGS, LLC, a Florida limited liability company, first party, to FLOR-OHIO, LLC, a Florida limited liability company, whose post office address is 505 S. Flagler Drive, Suite 401, West Palm Bay Beach, Florida 33401 second party.

(Wherever used herein, the terms "first party" and "second party" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**Witnesseth**, that the first party, for and in consideration of the sum of Ten Dollars and No/100 (\$10.00), in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Brevard, State of Florida, to wit:

The North 353.0 feet of Lot 16, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION of Section 18, Township 28 South, Range 37 East, as recorded in Plat Book 1, Page 164, Public Records of Brevard County, Florida, lying South of Eber Road and West of Hollywood Boulevard, containing 3.32 acres, more or less.

**To Have and to Hold**, the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of said second party forever.

**In Witness Whereof**, the said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered  
in the presence of:

FLOR-OHIO HOLDINGS, LLC

Christine K Burns

Printed name: Christine K Burns

BY:

Print Name:

Its:

Sheldon Fromson

SHELDON FROMSON

MANAGING MEMBER

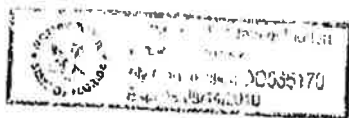
Printed name:

Jack Spira

STATE OF FLORIDA  
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the  
aforementioned State and County to take acknowledgments and administer oaths,  
personally appeared, SHELDON FROMSON, as MANAGING MEMBER of FLOR-  
OHIO, LLC, who is personally known to me/produced \_\_\_\_\_ as  
identification, to me known to be the persons described in and executed the foregoing  
instrument and he acknowledged before me that he executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 4  
day of NOVEMBER, 2009.



Diane Chodonski  
NOTARY PUBLIC



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

### AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, Sheldon Fromson as Manager of Flor-Ohio, LLC being the owner of Parcel 28-37-18-00-750.1

Authorize Jack B. Spira to act on my behalf which may include, representing me in Public Hearings before Brevard County pertaining to the submittal of the attached application.

- ☒ Comprehensive Plan Amendment
- ☐ Rezoning
- ☐ Variance
- ☐ Administrative Action
- ☐ Development Plan

Signature

Title

State Of FLORIDA

County Of PALM BEACH

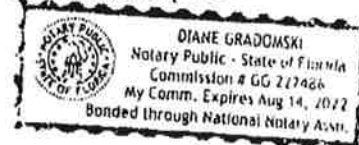
The foregoing instrument was acknowledged before me this 31st day of August 20 20

By SHELDON FROMSON who is personally known to me or has produced \_\_\_\_\_

As identification and who did (did not) take an oath.

Signature of Notary Public

8/14/2022  
Commission Expires



Phone (321) 633-2070

Website: [www.brevardcounty.us/PlanningDev/](http://www.brevardcounty.us/PlanningDev/)

[Home](#)

Rev 12/21/2017

P&Z Authorization to Act



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Foreign Limited Liability Company  
FLOR-OHIO, LLC.

### Filing Information

**Document Number** M00000000439  
**FEI/EIN Number** 34-1370060  
**Date Filed** 03/06/2000  
**State** OH  
**Status** ACTIVE

### Principal Address

4000 HOLLYWOOD BLVD.  
MELBOURNE, FL 32904

Changed: 03/19/2009

### Mailing Address

505 S FLAGLER DR  
SUITE 401  
WEST PALM BEACH, FL 33401

### Registered Agent Name & Address

FROMSON, SHELDON  
505 S FLAGLER DR  
SUITE 401  
WEST PALM BEACH, FL 33401

### Authorized Person(s) Detail

#### **Name & Address**

Title MGRM

FROMSON, SHELDON  
505 S FLAGLER DR SUITE 401  
WEST PALM BEACH, FL 33401

### Annual Reports

Report Year	Filed Date
2018	03/08/2018
2019	04/08/2019
2020	03/09/2020

**COPY**

**OPERATING AGREEMENT  
OF  
FLOR-OHIO LLC  
AN OHIO LIMITED LIABILITY COMPANY  
DATED AS OF JANUARY 1, 2013**

**OPERATING AGREEMENT  
OF  
FLOR-OHIO LLC**

**THIS OPERATING AGREEMENT** ("Agreement") is executed as of January 1, 2013, by SHELDON FROMSON and SUN AMERICA ASSET MANAGEMENT LLC, an Ohio limited liability company (individually sometimes called a "Member" and collectively the "Members").

**RECITALS:**

A. On August 27, 1999 Articles of Organization were filed with the Ohio Secretary of State, thereby forming a limited liability company (the "Company") under the provisions of the Ohio Limited Liability Company Act set forth in Chapter 1705 of the Ohio Revised Code.

B. On February 4, 2003 a Certificate of Restatement of the Articles of Organization was filed with the Ohio Secretary of State adding Article Fourth, a copy of which is attached to this Agreement (the "Restatement").

**NOW, THEREFORE**, pursuant to the Act (as defined below), the following shall constitute the Operating Agreement, as the same may be amended from time to time, for Flor-Ohio LLC, an Ohio limited liability company.

**SECTION 1**  
**FORMATION OF LIMITED LIABILITY COMPANY**

The Company was formed on August 27, 1999, as provided in Recital A above.

**SECTION 2**  
**NAME**

The business of the Company shall be conducted under the name Flor-Ohio LLC, or such other name as the Manager shall hereafter designate.

**SECTION 3**  
**DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings indicated.

A. "Act" means the Ohio Limited Liability Company Act set forth in Chapter 1705 of the Ohio Revised Code.

B. "Agreement" means this Operating Agreement, as amended, modified or supplemented from time to time.

C. "Capital Contribution" means any amount contributed by the Members to the Company in exchange for its/his/her respective Membership Interest, which contribution may take the form of (i) cash, (ii) property, (iii) services rendered, (iv) a promissory note or other binding obligation to contribute cash or property or to perform services or (v) any combination of the foregoing.

D. "Cash Available for Distribution" means and includes all funds received by the Company from (i) its operations, including interest earned on such funds; (ii) borrowing or the refinancing of any indebtedness of the Company; and/or (iii) the sale of any of the Company's assets (but excluding sales made to liquidate Company Property upon dissolution), and determined by the Manager to be available for distribution after paying expenses, making prepayments of indebtedness of the Company and providing reserves for such anticipated expenses as the Manager determines are necessary for the efficient and appropriate operation of the Company.

E. "Code" means the Internal Revenue Code of 1986, as amended. All references to particular sections of the Code shall be deemed to include references to corresponding provisions of subsequent federal tax law.

F. "Company" means the limited liability company formed pursuant to the Articles of Organization of the Company, as said Company may from time to time be constituted.

G. "Company Property" means all real and personal property acquired by the Company and shall include both tangible and intangible property.

H. "Manager" means the Person or Persons who shall manage the day to day business and activities and affairs of the Company in accordance with this Agreement. As used herein, the term Manager or Managers shall be deemed to be singular if there is one Manager and plural if there is more than one Manager, unless the context otherwise requires. The initial Manager shall be Sheldon Fromson.

I. "Membership Interest" means the ownership interests of the Members in the Company, including the right of such Member to any and all benefits to which such Member may be entitled as provided in this Agreement or the Act, together with the obligations of such Member to comply with the terms hereof and the Act.

J. "Person" means any individual, trust, estate or any incorporated or unincorporated entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such person where the context so permits.

#### **SECTION 4** **NATURE OF BUSINESS**

The purposes for which the Company is formed are set forth in the Certificate.

## **SECTION 5** **MEMBERS**

**5.1 Capital Contribution Of Member.** The initial Capital Contribution of the Members shall be as set forth on Exhibit A. No time is specified for the return of the capital contributions of the Members. No Member has any right to demand or receive property other than cash in return for his capital contribution. No interest shall be paid on capital contributions and no Member shall be obligated to make additional capital contributions to the Company. Neither the Company nor any Member guarantees, in any way, the return of the capital contributions of the Members, or a return of profit for the Members from the operations of the Company. Capital accounts shall be maintained in compliance with Treasury Regulation Section 1.704-1(b).

**5.2 No Personal Liability.** No Member shall be personally liable for any debts, liabilities or obligations of the Company, whether to the Company or to the creditors of the Company, beyond the amount contributed by the Member to the capital of the Company.

## **SECTION 6** **TERM**

The term of the Company commenced on the date the Articles of Organization were filed with the Secretary of State of Ohio and shall be perpetual, unless sooner terminated as hereinafter provided.

## **SECTION 7** **PRINCIPAL PLACE OF BUSINESS**

The principal place of business of the Company shall be Cleveland, Ohio, or such other place as the Manager may designate, either within or without the State of Ohio.

## **SECTION 8** **DISTRIBUTIONS**

**8.1 Cash Available For Distribution.** Except as otherwise provided in Section 8.2, any Cash Available for Distribution shall be distributed on a pro rata basis in accordance with the Membership Interests of each Member to the Members at such times as determined by the Manager in his sole discretion.

**8.2 Dissolution.** Upon the occurrence of a Dissolution Event (defined below), the Manager shall liquidate Company Property and apply and distribute the proceeds thereof as follows:

A. The proceeds shall first be applied to the payment of the liabilities of the Company (including the repayment of any loans or advances made by the Members to the Company) and the expenses of liquidation. The Manager may retain such amounts as she/he

deems necessary as a reserve for contingent liabilities or obligations of the Company. A reasonable time shall be allowed for the orderly liquidation of the Company.

B. Any or all proceeds remaining after paying the liabilities referred to in Subparagraphs A above shall be distributed to the Members.

**8.3 Additional Capital Contributions.** The Members shall not be obligated to make additional Capital Contributions to the Company; but under certain circumstances, the Members may (but shall not be obligated to) lend the Company additional funds. Any funds so lent shall be repaid with reasonable interest and prior to any distribution to the Members pursuant to Section 8.2.B. Except as otherwise expressly agreed, the Members shall not be entitled to interest on his/her Capital Contribution.

## **SECTION 9** **MANAGEMENT**

**9.1 Management.** The business and affairs of the Company shall be managed by the Manager. The Manager shall direct, manage and control the business of the Company to the best of such Manager's ability and shall have full and complete authority, power and discretion to make any and all decisions and to do any and all things which the Manager deems to be reasonably required in light of the Company's business and objectives. The Manager, individually, shall have full authority to bind the Company and to make any decisions required to operate the Company.

**9.2 Authority Of Members.** Unless authorized to do so by this Agreement or by the Members, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose.

**9.3 Members and Manager Have No Exclusive Duty To The Company.** The Manager shall not be required to manage the Company as his sole and exclusive function; and the Manager, the Members and their respective members, shareholders, officers, managers, employees and agents (collectively "Affiliates") may have other business, trade, investment or employment interests and may engage in other activities in addition to those relating to the Company. The Company shall not have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Manager or Members or their respective Affiliates or to the income or proceeds derived therefrom. The Manager and Members and their respective Affiliates shall not incur any liability to the Company as a result of engaging in any other business or venture.

**9.4 Resignation.** The Manager may resign at any time by giving written notice to the Members. The resignation of the Manager shall take effect upon receipt of notice thereof or at such other time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of the Manager who is also a Member shall not affect such Manager's rights as a Member and shall not constitute a withdrawal of such Member.

**9.5 Removal.** The Members holding a majority of the Membership Interests shall have the right to remove the Manager for any action taken by the Manager on behalf of the Company, but only if such act constitutes gross negligence or wanton or reckless misconduct and has a material adverse effect on the Company. The Manager shall not be removed until the Manager has received written notice of the alleged grounds for removal and is given a period of thirty (30) days from the giving of such notice to cure the alleged grounds for removal. If the default specified in such notice cannot be reasonably cured within such thirty (30) day period, then the cure period shall be extended by such period of time as is reasonably necessary to cure the default. The removal of the Manager shall be effective upon the expiration of the applicable cure period specified in the preceding sentences if the default specified in the notice has not been cured. The removal of a Manager who is also a Member shall not affect such Manager's rights as a Member and shall not constitute a withdrawal of such Member.

**9.6 Vacancies.** If there is a vacancy in the position of Manager for any reason, then the new Manager shall be chosen by the affirmative vote of Members holding a majority of the Membership Interests. Such successor Manager shall be designated in writing by the Members within thirty (30) days following the occurrence of the vacancy. A Manager shall hold office until his, her or its earlier resignation, death or removal.

**9.7 Indemnity.** The Company shall indemnify, defend and hold harmless the Manager and make advances for expenses to the maximum extent permitted under Section 1705.32 of the Act and applicable law. The Company shall indemnify, defend and hold harmless its Members, employees and other agents who are not Managers to the fullest extent permitted by law, provided that such indemnification and defense in any given situation is approved by the Manager.

## **SECTION 10** **ADDITIONAL MEMBERS**

From and after the date of the formation of the Company, any Person acceptable to the Members may become a member of the Company either by the issuance by the Company of Membership Interests for such consideration as the Members shall determine, or as a transferee of the Member's Membership Interest or any portion thereof. No new member shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Members may, at their option, at the time a member is admitted, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new member for that portion of the Company's tax year in which the new member was admitted in accordance with the provisions of Section 706(d) of the Code and the Treasury Regulations promulgated thereunder.

## **SECTION 11** **DISSOLUTION OF THE COMPANY**

**11.1 Dissolution Events.** The Company shall be dissolved only upon the occurrence of any of the following events ("Dissolution Events"):

A. The issuance of a decree by a court of competent jurisdiction ordering the dissolution of the Company.

B. As a result of the decision of the holders of the majority of Membership Interests to dissolve the Company.

The Company shall not dissolve prior to the occurrence of a Dissolution Event. The withdrawal of the Member, including the death, incompetency or bankruptcy of the Member, shall not cause a dissolution of the Company; and unless otherwise provided herein, the business of the Company shall automatically continue after any such withdrawal. If it is determined that the Company has dissolved prior to the occurrence of a Dissolution Event, the Members shall continue the business of the Company without a winding-up or liquidation.

**11.2 Withdrawal.** The Members shall not cease to be a Member by reason of the occurrence of any of the events of withdrawal set forth in Section 1705.15 of the Act. In the event of the occurrence of any of the events set forth in Section 1705.15 with respect to any Member, then either she/he shall remain a Member, or, if applicable, its/her/his heirs, personal representatives, successors or assigns, as the case may be, shall be a substituted Member.

**11.3 Winding-Up.** Upon the occurrence of a Dissolution Event, the Manager shall proceed with the winding-up of the affairs of the Company, and Company Property shall be applied and distributed in accordance with the provisions of Section 8.2 of this Agreement.

## **SECTION 12** **MISCELLANEOUS**

**12.1 Rights Of Creditors And Third Parties Under This Agreement.** This Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by Section 1705.19 of the Act, no creditor or third party shall have any rights under this Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

**12.2 Governing Law; Venue.** This Agreement and the rights of the Members and Manager hereunder shall be governed by and interpreted in accordance with the local laws of the State of Ohio; and the courts of the State of Ohio shall have exclusive jurisdiction; and the courts of Cuyahoga County, Ohio, where the Company's principal place of business is located, shall have exclusive venue over disputes arising herefrom.

**12.3 Binding Effect.** Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the Members, their successors and assigns.

**12.4 Captions.** Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision thereof.


**12.5 Invalidity.** If any provision of this Agreement, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected hereby.

**12.6 Title to Real Estate.** Title to any property owned by the Company (or to be acquired by the Company) or in which the Company has an interest shall be held in the name of the Company.

**IN WITNESS WHEREOF,** the undersigned has executed this Agreement as of the date first set forth above.

  
\_\_\_\_\_  
SHELDON FROMSON

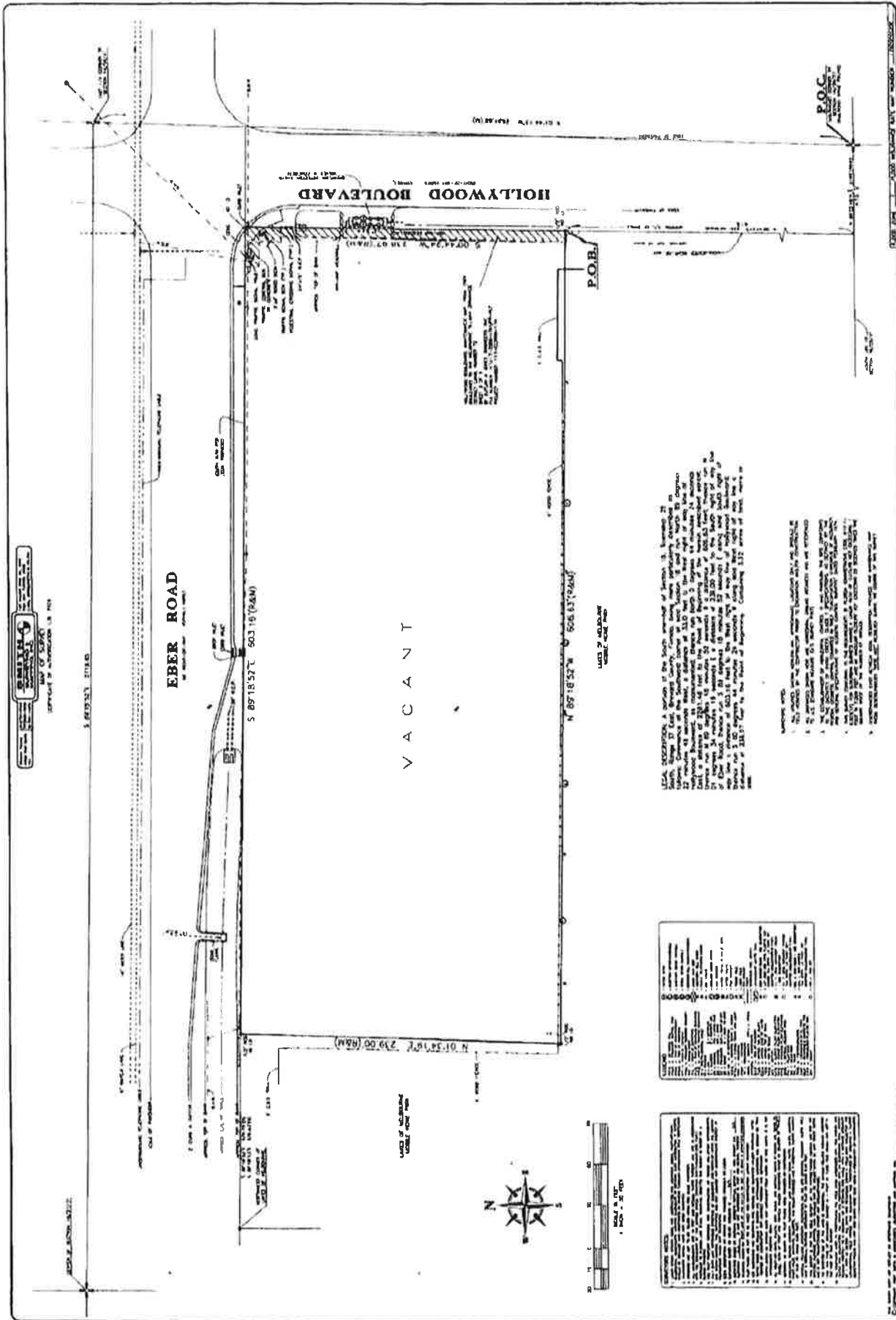
SUN AMERICA ASSET MANAGEMENT LLC

By:   
\_\_\_\_\_  
Sheldon Fromson, Managing Member

**EXHIBIT A**

<b>MEMBER</b>	<b>PERCENTAGE INTEREST IN THE COMPANY</b>
Sheldon Fromson c/o 505 S. Flagler Drive, Suite 401 West Palm Beach, Florida 33401	75%
Sun America Asset Management LLC 505 S. Flagler Drive, Suite 401 West Palm Beach, Florida 33401	25%

CLEV1997 2012064v1  
29362.00012

[illegible]



## Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

### PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2851597  
Owners Flor-Ohio LLC  
Mailing Address 505 S Flagler Dr Ste 401 W Palm Bch FL 33401  
Site Address Not Assigned  
Parcel ID 28-37-18-00-750.1  
Property Use 0009 - Vacant Residential Land (Single Family, Unplatted)  
Exemptions None  
Taxing District 3400 - Unincorp District 3  
Total Acres ~~3.04~~ **3.32**  
Subdivision --  
Site Code 0339 - Hollywood Blvd  
Plat Book/Page 0000/0000  
Land Description N 353 Ft Of Lot 16 Of Pb 1 Pg 164 Exc Rd & Canal  
R/W's: As Desc IN Orb 4829 Pg 893

### VALUE SUMMARY

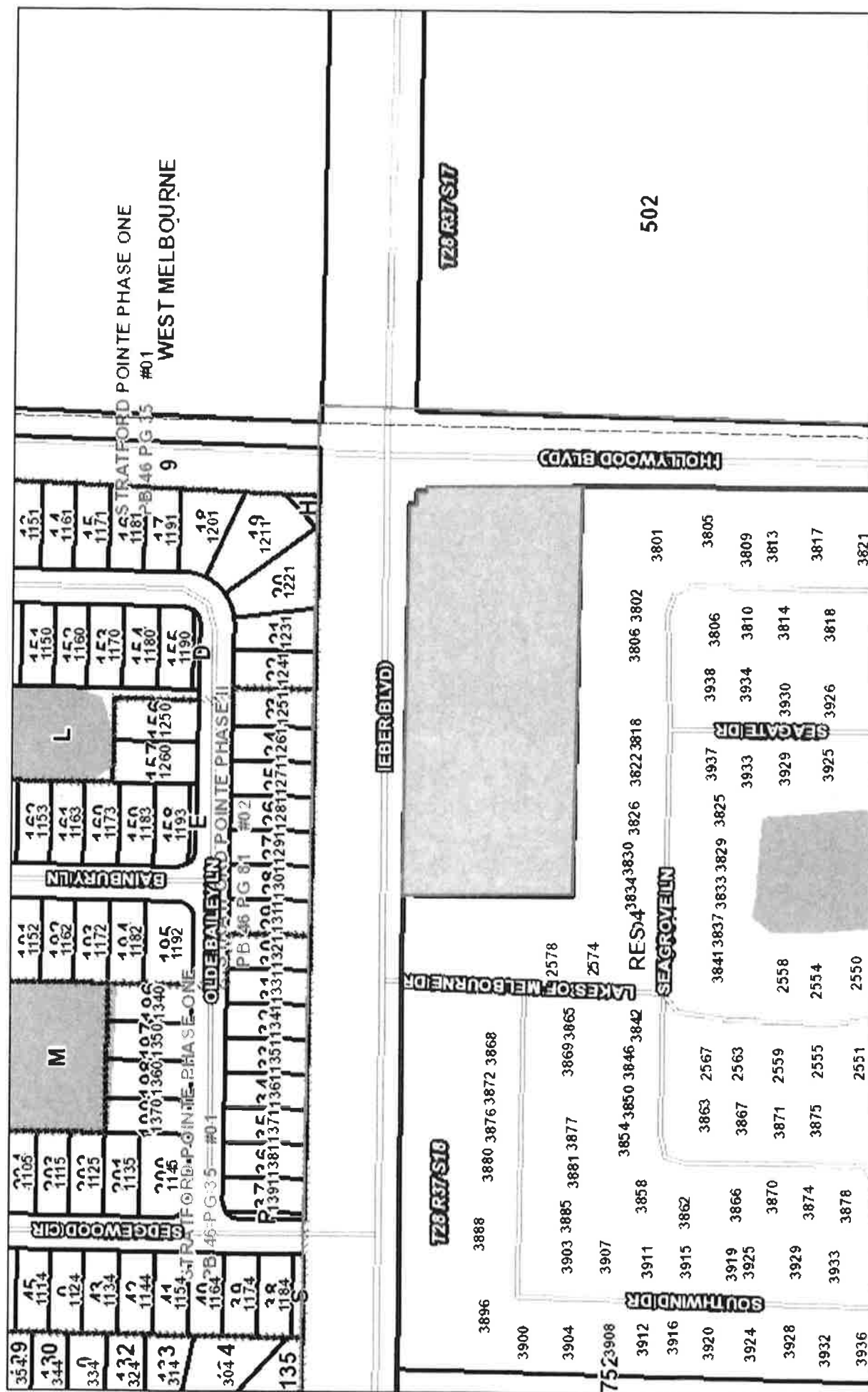
Category	2020	2019	2018
Market Value	\$264,840	\$264,840	\$264,840
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$264,840	\$264,840	\$264,360
Assessed Value School	\$264,840	\$264,840	\$264,840
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$264,840	\$264,840	\$264,360
Taxable Value School	\$264,840	\$264,840	\$264,840

### SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
11/04/2009	--	QC	Vacant	6062/2942
02/21/2003	\$300,000	QC	Vacant	4829/0893

No Data Found

Fromson, Tax# 2851597



Section  
Future Landuse

Address

Street Label



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

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

#### **(c) General Standards of Review.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 20S.08 (20PZ00089)*  
**Township 28, Range 37, Section 18**

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**Property Information**

Owner / Applicant: **Flor-Ohio LLC**

Adopted Future Land Use Map Designation: Residential 4 (RES 4)

Requested Future Land Use Map Designation: Neighborhood Commercial (NC)

Acreage: 3.32 acres

Tax Account #: 2851597

Site Location: Southwest corner of Eber Boulevard and Hollywood Boulevard

District: Three (3)

Current Zoning: Restricted Neighborhood Retail Commercial (BU-1-A)

**Background & Purpose**

The applicant is requesting to amend the Future Land Use (FLU) designation from Residential 4 (RES 4) to Neighborhood Commercial (NC) on a 3.32 acre parcel of land located on the southwest corner of Eber Boulevard and Hollywood Boulevard. The subject property is vacant and has an existing FLU designation of RES 4 that was adopted with the Comprehensive Plan in September of 1988. The subject property has retained Restricted Neighborhood Retail Commercial (BU-1-A) zoning since 1976. The proposed Future Land Use Amendment will establish consistency between the zoning classification and the Future Land Use Map as RES 4 is not consistent with BU-1-A per Brevard County Code section 62-1255.

The closest concurrency management segment to the subject property is Hollywood Boulevard (Eber to Florida/Wingate) which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of C, and currently operates at 83.42% of capacity daily. The maximum development potential from the current zoning (108,460 square feet) would increase the percentage of MAV utilization by 22.46%. If fully developed, the corridor is anticipated to operate at 106.88% of capacity daily. Pursuant to Brevard County Code Section 62-602, a concurrency evaluation will be conducted at the site plan review stage.

The parcel is not serviced by Brevard County water or sanitary sewer; however, potable water may be available to the subject site through the City of West Melbourne. Additionally, the City of West Melbourne Utilities Department confirms an 8-inch sewer force main exists on the north side of Eber Boulevard and a 16-inch sewer force main exists on the east side of Hollywood Boulevard.

A School Impact Analysis was not required for this application.

### Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Across Eber Boulevard - Residential Subdivision	R1-B Single-Family Residential (West Melbourne)	MD-RES Medium Density Residential (West Melbourne)
<b>South</b>	Residential Mobile Home Park	TR-3	RES 4
<b>East</b>	Across Hollywood Boulevard – Vacant, Undeveloped Land	R-A Residential Agricultural (West Melbourne)	COM Commercial (West Melbourne)
<b>West</b>	Residential Mobile Home Park	TR-3	RES 4

To the north of the subject property (across Eber Boulevard) is a residential subdivision (West Melbourne); adjacent to the south and west is a residential mobile home park with a FLU designation of RES 4; and to the east (across Hollywood Boulevard) is vacant, undeveloped land (West Melbourne).

### Environmental Resources

*Based on the summary provided by the Natural Resource Management Department, it has been determined that the following are mapped on the subject property:*

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

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

## **Historic Resources**

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

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

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

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

## **Future Land Use Element – Policies/Analysis:**

### **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 subject property is located at the intersection of Eber Boulevard and Hollywood Boulevard which are classified as urban major collector and urban minor arterial roadways, respectively. There is a historical land use pattern of residential land use surrounding the subject site; however, the site has retained BU-1-A neighborhood commercial zoning since 1976 (Z-4052). Existing development to the north, south, and west of the subject site is residential. East of the subject site is undeveloped land located in the City of West Melbourne.*

*The existing zoning (BU-1-A) is not consistent with the adopted Future Land Use (RES 4). The proposed land use change to NC will correct the inconsistency and legitimize the subject property's commercial zoning classification and allow development.*

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

*There has not been any actual development on surrounding properties within the preceding three (3) years.*

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

*There have been no development approvals by Brevard County for surrounding properties within the past three (3) years that have not yet been constructed.*

### **Role of the Comprehensive Plan in the Designation of Commercial Lands**

#### **Policy 2.1**

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

#### **Criteria:**

A. Overall accessibility to the site;

*The subject property has direct access to Eber Boulevard (an urban major collector road) and Hollywood Boulevard (an urban minor arterial road).*

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

*The subject property is adjacent to parcels with Future Land Use designations of RES 4 on the south and west. The proposed change in land use to NC will acknowledge the subject property's commercial zoning classification. The adjacent properties are already developed and there is no opportunity for inter-connectivity.*

E. Existing commercial development trend in the area;

*The subject property is adjacent to vacant commercial land on the east side, across Hollywood Boulevard. An existing commercial node of various commercial retail stores and businesses is located approximately one (1) mile southeast of the subject property at the intersection of Hollywood Boulevard and Palm Bay Road. Additionally, a commercial cluster is located approximately one (1) mile east of the subject property at the intersection of Eber Boulevard and Dairy Road.*

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

*Potable water may be available to the subject site through the City of West*

*Melbourne. Sewer force mains exist on the north side of Eber Boulevard and on the east side of Hollywood Boulevard per the City of West Melbourne Utilities Department.*

*The preliminary concurrency analysis indicates a potential deficiency in the transportation adopted level of service if the maximum development potential from the current zoning of the subject property is realized.*

G. Spacing from other commercial activities;

*A convenience store with gas pump is located 2,340 feet to the west of the subject property. A daycare center (within the City of West Melbourne) is located approximately 4,400 feet to the west of the subject site. Additionally, an office park and a convenience store with gas pump (within the City of Melbourne) is located approximately 5,000 feet to the east of the subject property at the intersection of Eber Boulevard and Dairy Road.*

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

*The FLU designation change from RES 4 to NC is proposed on a 3.32 acre parcel of land. Consistent with Policy 2.5 of the Future Land Use Element of the Comprehensive Plan, neighborhood commercial development is intended to be low-impact in nature and serve the needs of the immediate residential area. Based on size, staff considers this request to serve the needs of the immediate residential area.*

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

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

**Activities Permitted in Neighborhood Commercial (NC) Future Land Use Designations**  
**Policy 2.5**

Neighborhood Commercial (NC) development activities are intended to be low-impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);

- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.12.

## **Locational and Development Criteria for Neighborhood Commercial Uses**

### **Policy 2.6**

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

#### **Criteria:**

- A. Neighborhood commercial clusters should be located at collector/collector or collector/arterial intersections, except as otherwise provided for in this Comprehensive Plan.

*The proposed NC future land use is located at the southwest intersection of Eber Boulevard (urban major collector) and Hollywood Boulevard (urban minor arterial).*

- C. New neighborhood commercial land use sites should incorporate no more than two acres maximum at each corner of an intersection, as set forth in Criterion A of this policy. Neighborhood commercial land uses at such intersections should not exceed eight (8) acres total.

*The proposed NC future land use is for a total of 3.32 acres at the southwest corner of Eber Boulevard and Hollywood Boulevard. This request recognizes the existing commercial zoning on the property.*

- D. Neighborhood commercial development clusters should be spaced at least 1/2 mile apart, except in the south beaches where neighborhood commercial clusters should be spaced at least three (3) miles apart.

*The closest NC future land use designation is at a parcel located approximately 4,700 feet to the east of the subject property at the intersection of Eber Boulevard and Dairy Road. This request recognizes the existing commercial zoning on the property.*

- E. The gross floor area of neighborhood commercial complexes should not exceed 21,800 square feet and the Floor Area Ratio (FAR) should not exceed 0.75.

*No proposed gross floor area has been submitted by the applicant. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.*

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Future Land Use (FLU) Review & Summary  
Item # 20PZ00089**

**Applicant:** Jack Spira for Sheldon Fromson

**FLU Request:** RES-4 to NC

**Note:** Applicant wants to change FLU to be consistent with zoning of BU1-A.

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 2851597

- 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:**

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

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

**Land Use Comments:**

**Hydric Soils**

The majority of the subject parcel contains mapped hydric soils (Pineda sand and Eau Gallie sand) as shown on the USDA Soil Conservation Service Soils Survey map. On the southeast corner of the property, there is a small area of Basinger sand, which may also function as a potential hydric soil. Hydric soils are an indicator that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

**Aquifer Recharge Soils**

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

**Indian River Lagoon Nitrogen Reduction Overlay**

The northern portion of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. Upon development, if adequate sewer 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.

**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 reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

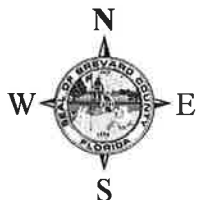
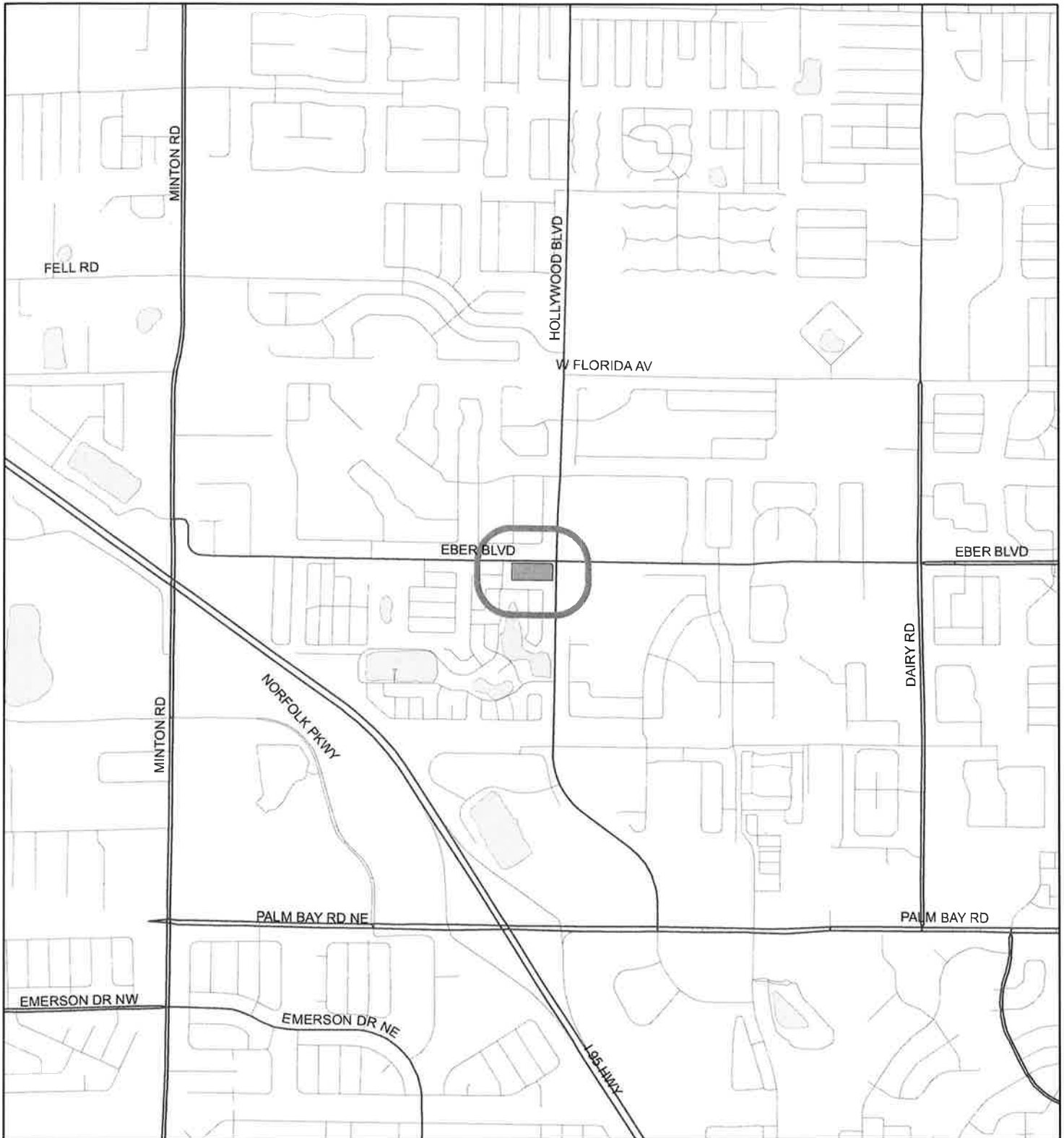
**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. A mapped Florida Scrub Jay polygon is located approximately 170 feet to the east. 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

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



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.

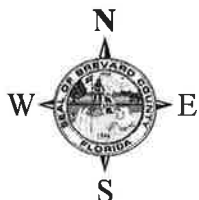
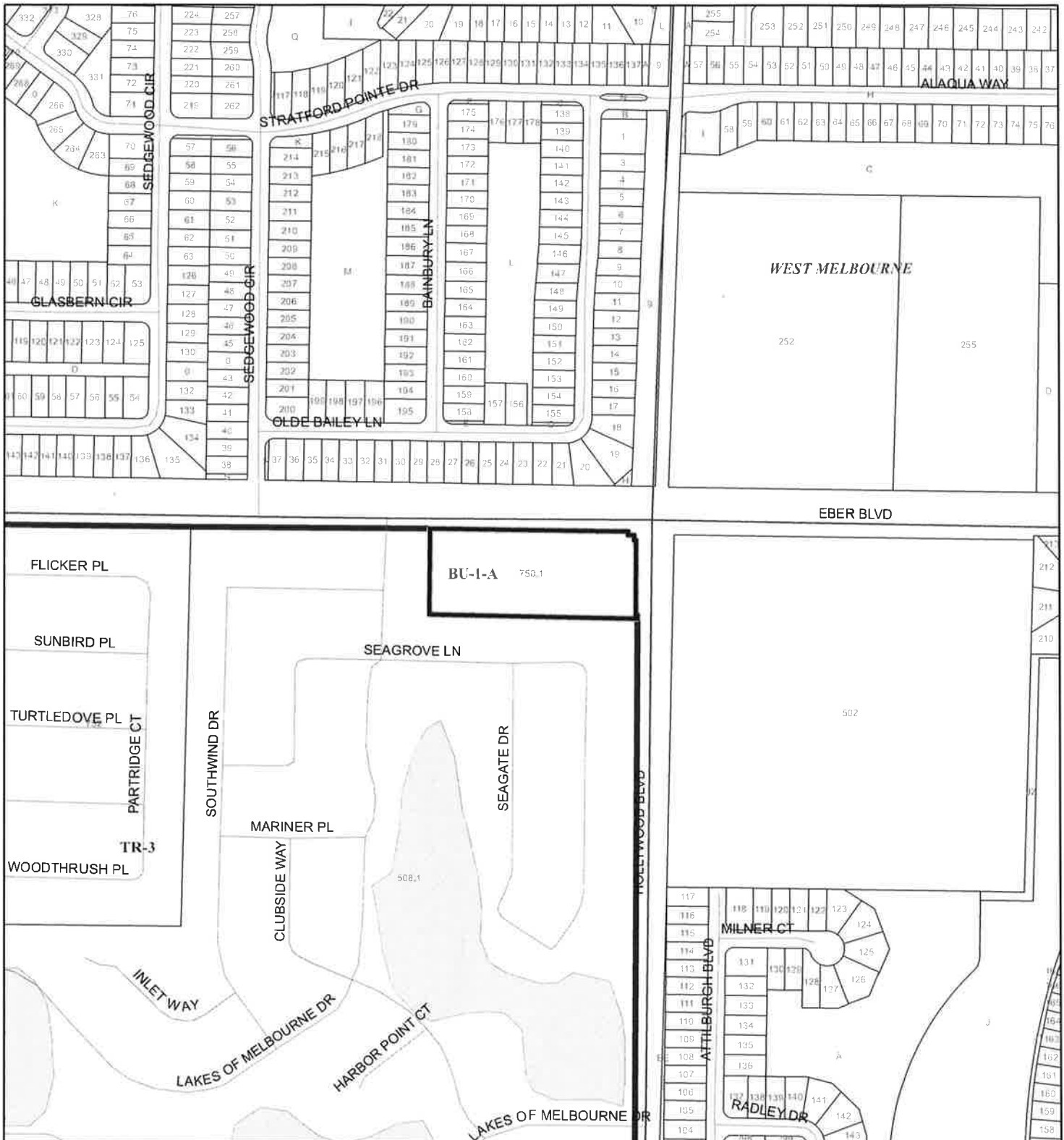
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— Buffer  
■ Subject Property

# ZONING MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



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: 9/4/2020

Subject Property

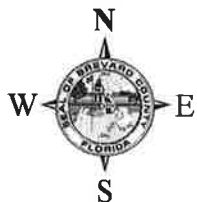
Parcels

Zoning

# FUTURE LAND USE MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

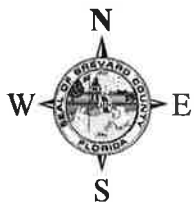
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/4/2020

# PROPOSED FUTURE LAND USE MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

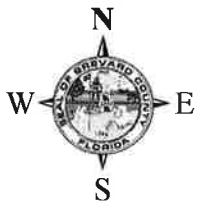
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/4/2020

# AERIAL MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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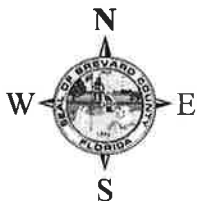
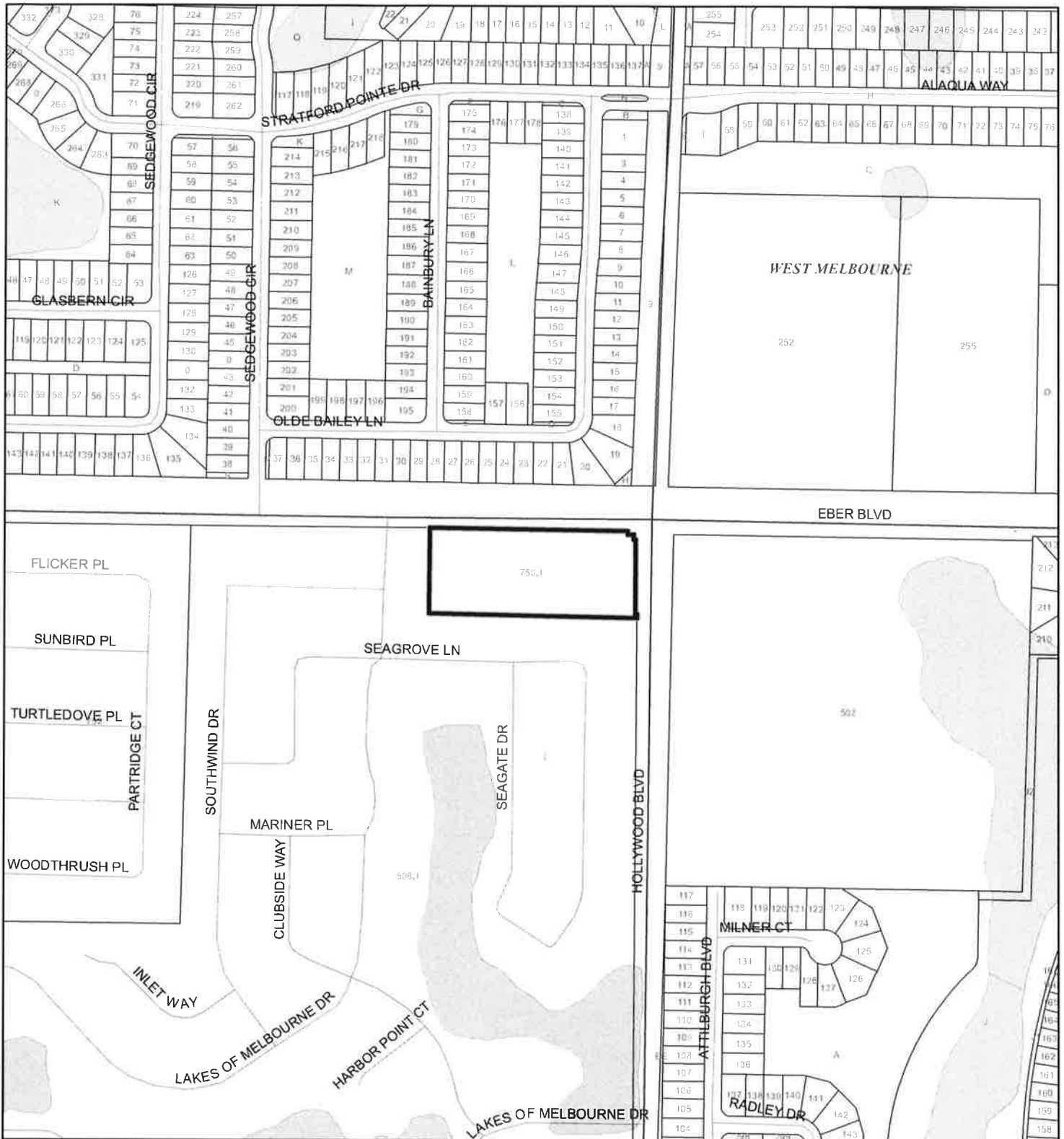
Produced by BoCC - GIS Date: 9/4/2020

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/4/2020

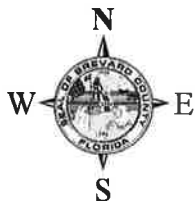
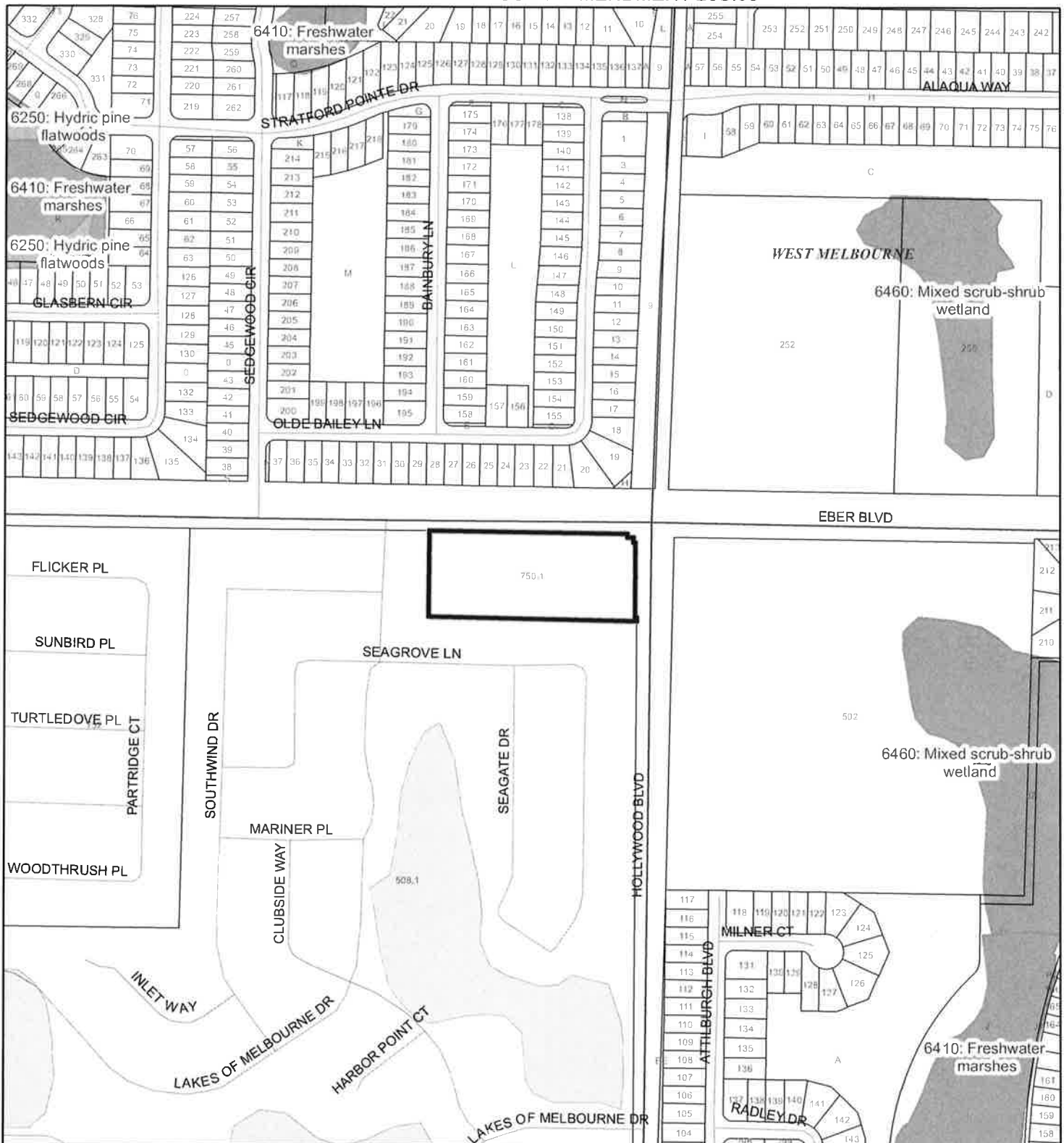
## National Wetlands Inventory (NWI)

Estuarine and Marine Deepwater	Freshwater Pond
Estuarine and Marine Wetland	Lake
Freshwater Emergent Wetland	Other
Freshwater Forested/Shrub Wetland	Riverine
Subject Property	
Parcels	

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/4/2020

## SJRWMD FLUCCS WETLANDS

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

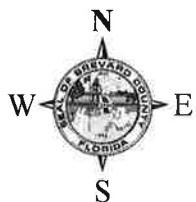
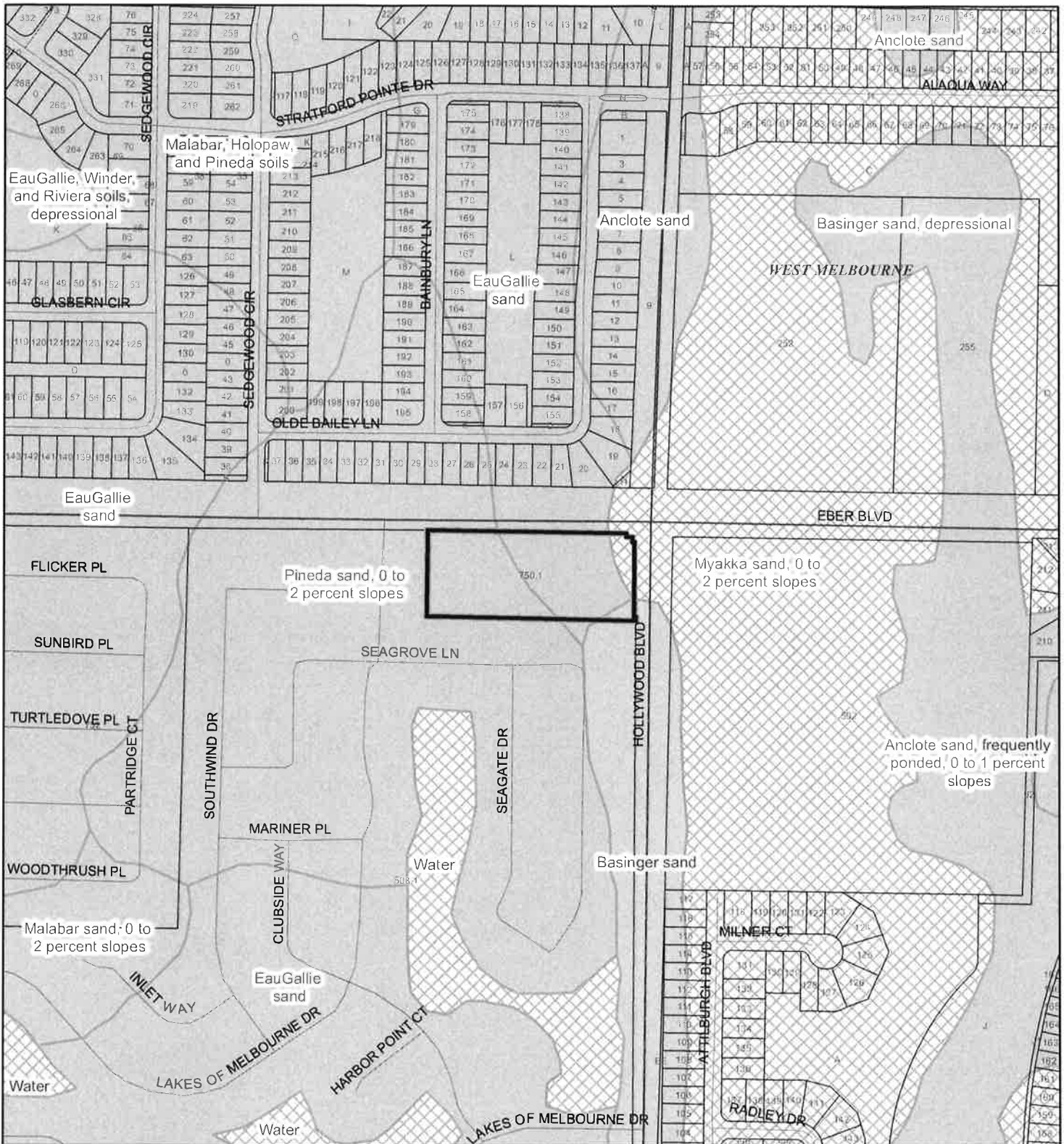
Subject Property

Parcels

# USDA SCSSS SOILS MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/4/2020

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

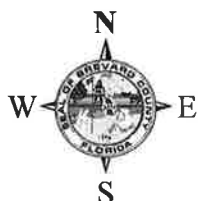
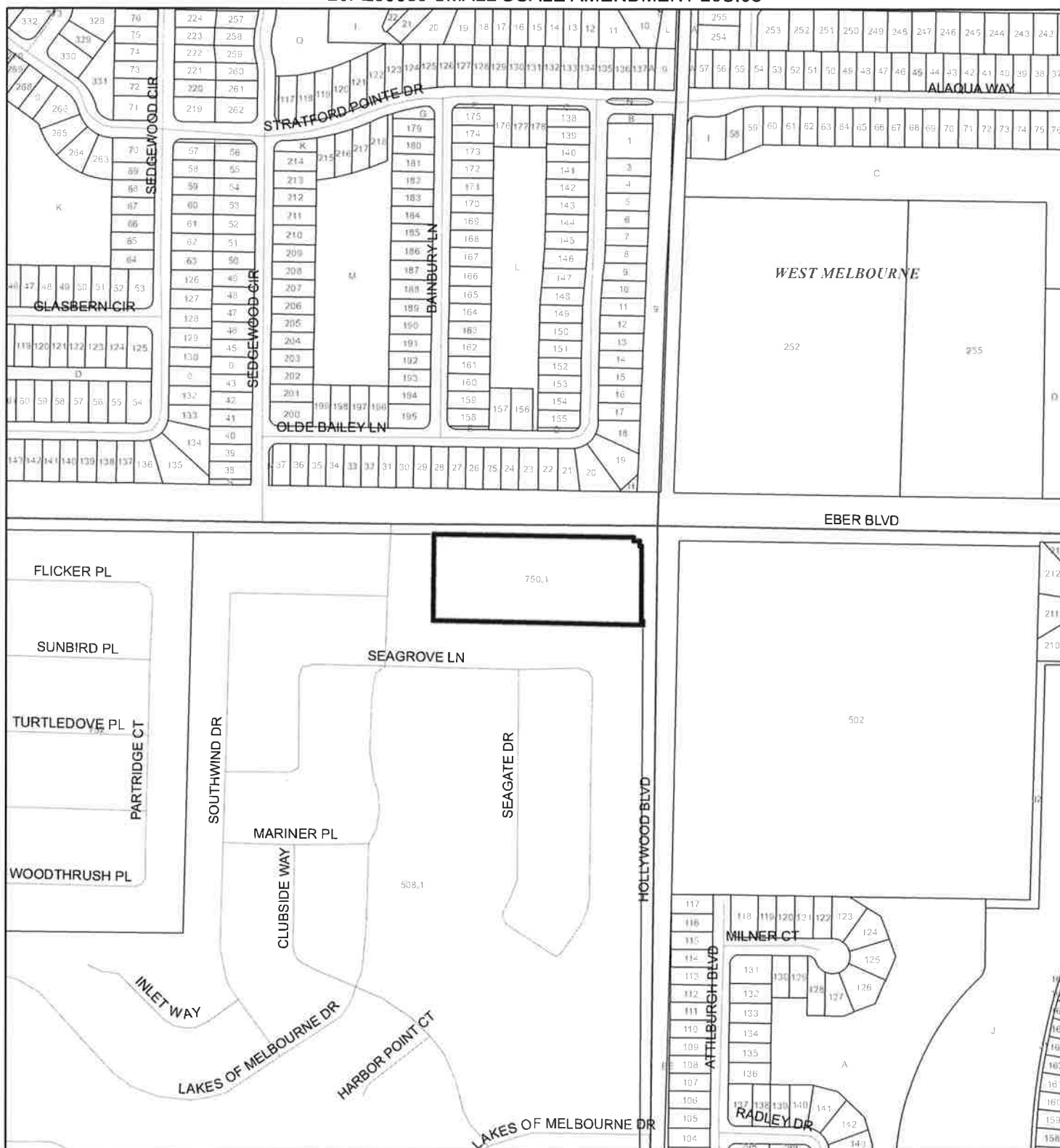
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08

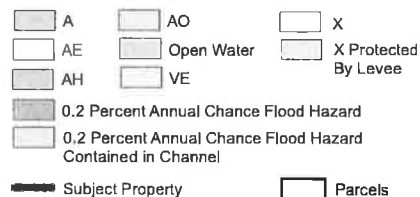


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/4/2020

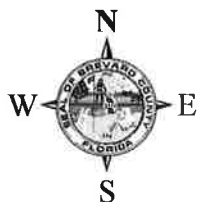
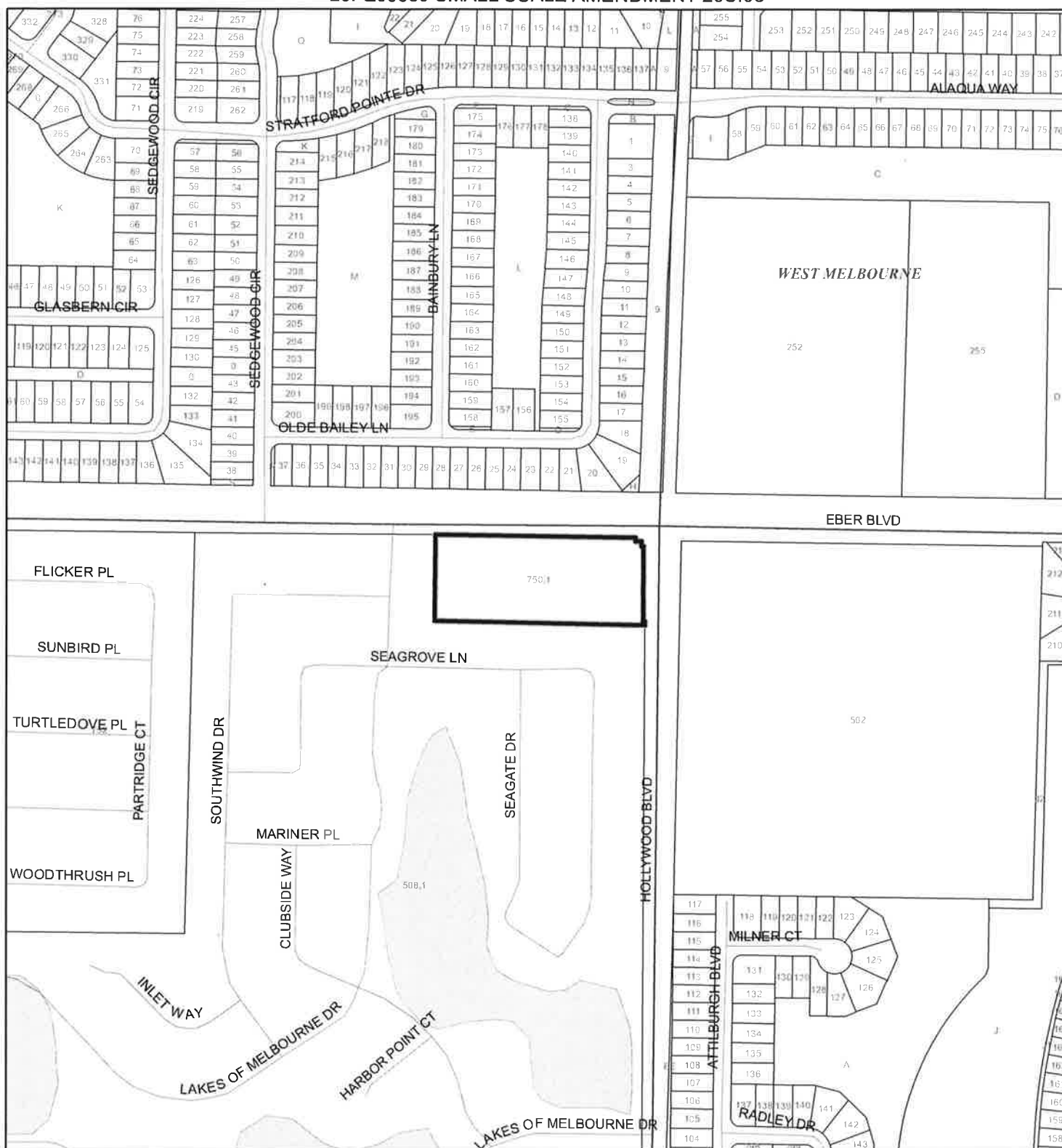
## FEMA Flood Zones



# COASTAL HIGH HAZARD AREA MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 9/4/2020

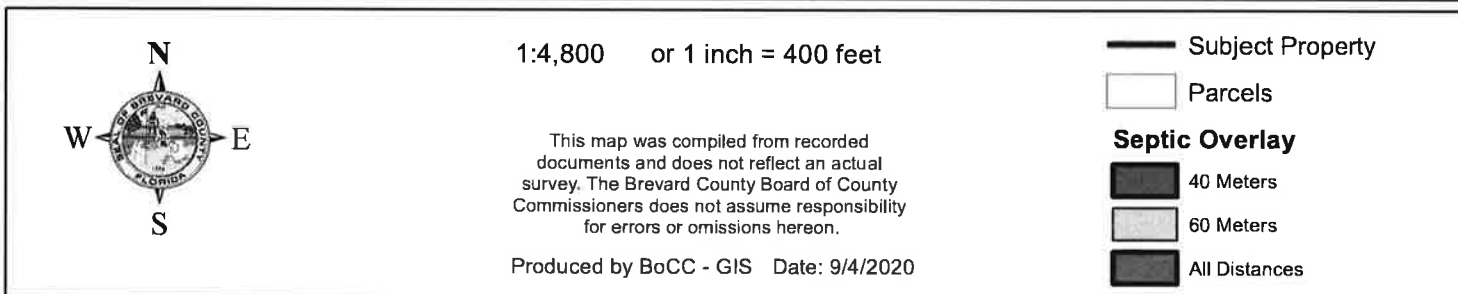
 Subject Property

 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

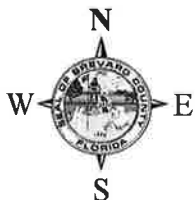
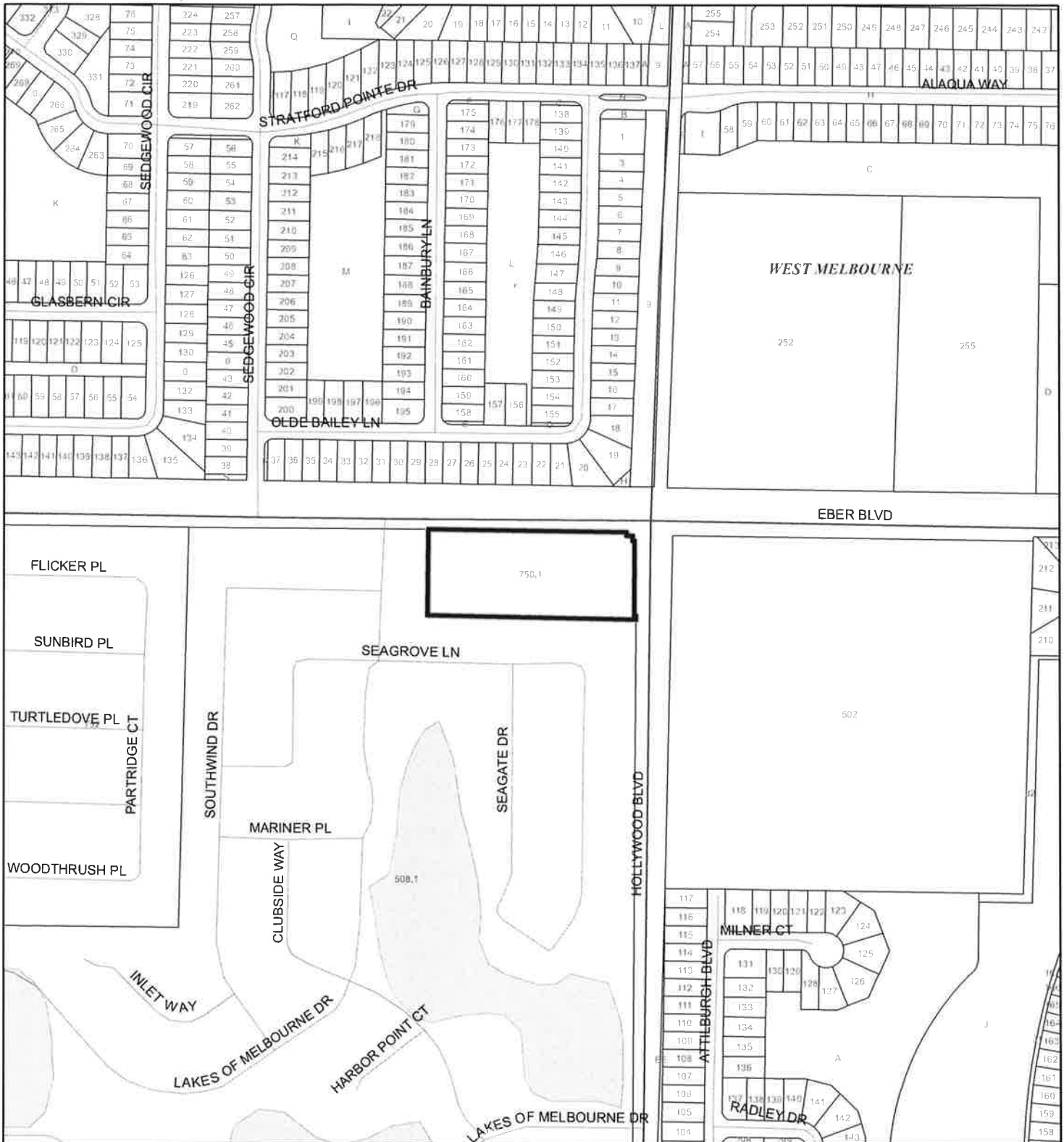
## 20PZ00089 SMALL SCALE AMENDMENT 20S.08



# EAGLE NESTS MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/4/2020

 Subject Property

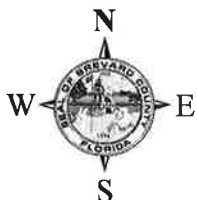
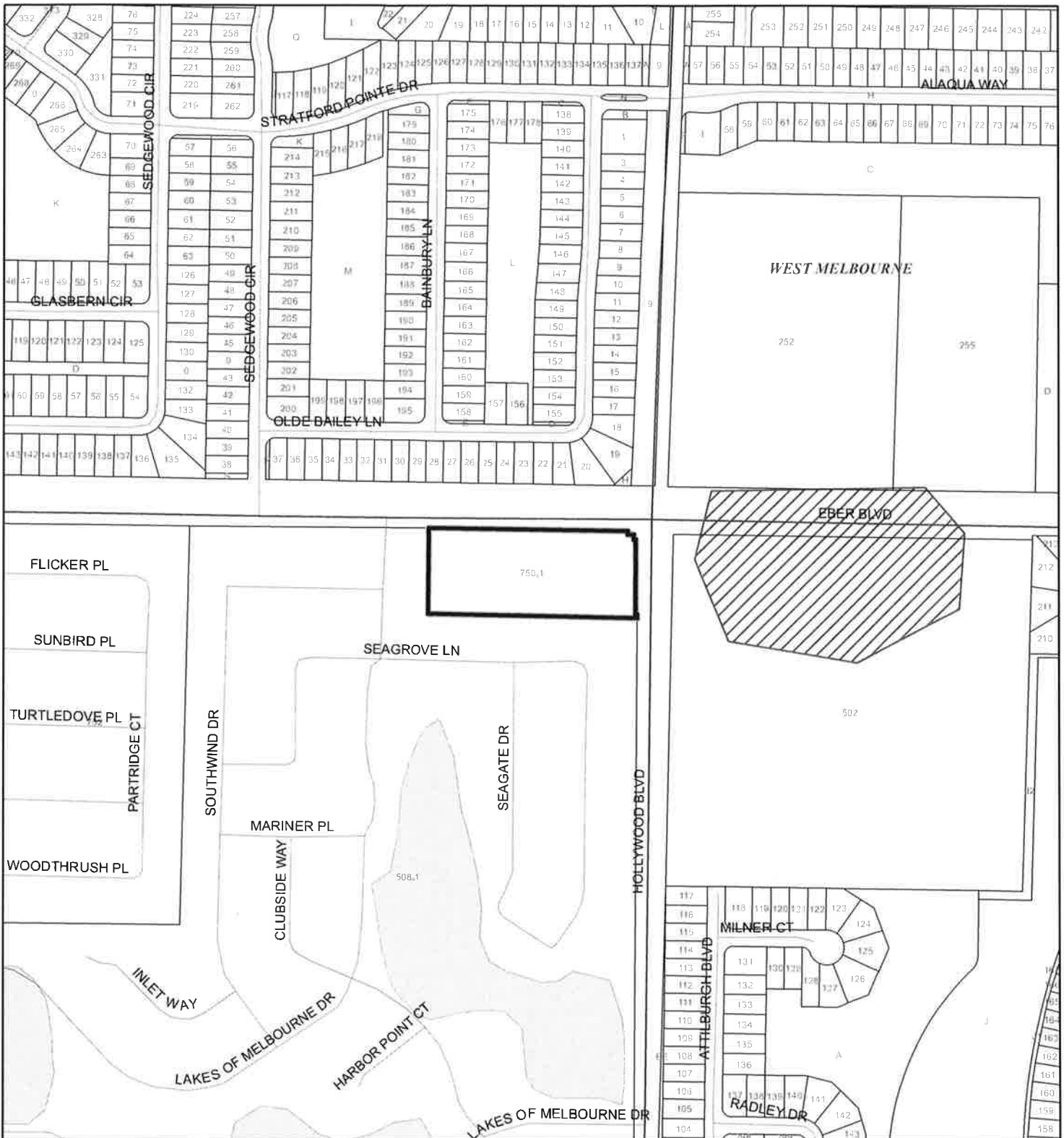
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

FLOR-OHIO, LLC




20PZ00089 SMALL SCALE AMENDMENT 20S.08



1:4,800 or 1 inch = 400 feet

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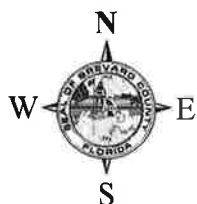
Produced by BoCC - GIS Date: 9/4/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FLOR-OHIO, LLC

20PZ00089 SMALL SCALE AMENDMENT 20S.08



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Produced by BoCC - GIS Date: 9/4/2020

## SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels