



AGENDA REPORT
October 4, 2018

**Public Hearing, Re: Anthony Lopes and Eugene R. Lomando (Scott Knox)
request a change of zoning classification from BU-1 and TR-3, to all BU-1.
(18PZ00077) (District 3)**

SUBJECT:

Public Hearing, Re: Anthony Lopes and Eugene R. Lomando (Scott Knox) request a change of zoning classification from BU-1 (General Retail Commercial) and TR-3 (Mobile Home Park), to all BU-1. The property is 1.96 acres, located on the west side of U.S. Hwy 1, approximately 655 feet south of Garretts Rd. (8480 & 8490 U.S. Hwy 1, Micco) (18PZ00077) (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 the request for a change of zoning classification from BU-1 and TR-3 to all BU-1.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is seeking a change of zoning classification on two parcels from BU-1 (General Retail Commercial and TR-3 (Mobile Home Park), to all BU-1 for the purpose of developing a hotel and restaurant. The eastern portion of each parcel already retains the BU-1 zoning classification and is developed as a 1,944 square-foot restaurant and a duplex.

The Board may wish to consider whether the proposed BU-1 zoning classification is consistent and compatible with the surrounding development.

This request for rezoning from TR-3 and BU-1 to all BU-1 accompanies a request for a change of Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). If the Future Land Use change proposal is not supported by the Board, this zoning request cannot be heard.

On August 6, 2018, the Planning and Zoning Board heard the request and unanimously

recommended approval.

This item was automatically tabled by the applicant from the September 6, 2018, Commission meeting.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **Maps**
- ▢ **FYI Power Point Presentation**
- ▢ **Public Comment**

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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

REZONING REVIEW WORKSHEET

18PZ00077

Commission District # 3

Hearing Dates:

P&Z 08/06/18

BCC 09/06/18

Owner Name: ANTHONY LOPES AND EUGENE R. LOMANDO

Request: BU-1 & TR-3 to all BU-1

Subject Property:

Parcel ID# 30-38-14-00-272; 30-38-14-00-275

Tax Acct.# 3006468; 3006471

Location: West side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd.

Address: 8480 & 8490 U.S. Hwy 1, Micco

Acreage: 1.96 +/-

Consistency with Land Use Regulations

<u>Yes</u>	Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
<u>No**</u>	Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
<u>Yes</u>	Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 & TR-3	All BU-1
Potential*	Duplex and a 1,944 sq. ft. restaurant	17,076 sq. ft. potential development or 7 Hotel units & 1,944 sq. ft. restaurant
Can be Considered under FLU MAP	BU-1 portion Yes is consistent With CC, TR-3 portion NC & RES 2 yes can be considered under Policy 2.13	NO**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.**Requires Small Scale Amendment from NC and RES 2 to CC.

Maximum Development

	ADT	PM PEAK		
Trips from Existing Zoning	43	21	Segment Number	360A
Trips from Proposed Zoning	14,439	870	Segment Name	US Hwy 1 Ind Rvr CL- Micco
Maximum Acceptable Volume (MAV)	41,790	3,781	Acceptable LOS	D
Current Volume	22,750	2,048	Directional Split	0.5
Volume With Proposed Development	37,189	2,918	ITE CODE	
Current Volume / MAV	54.44%	54.44%	853	
Volume / MAV with Proposal	88.99%	77.57%		
Current LOS	C	C		
LOS With Proposal	C	C		
Findings	<input type="checkbox"/> Non-Deficiency		<input checked="" type="checkbox"/> Deficiency	

Proposed Hotel/Restaurant

	ADT	PM PEAK		
Trips from Existing Zoning	43	21	Segment Number	360A
Trips from Proposed Zoning	304	23	Segment Name	US Hwy 1 Ind Rvr CL- Micco
Maximum Acceptable Volume (MAV)	41,790	3,781	Acceptable LOS	D
Current Volume	22,750	2,048	Directional Split	0.5
Volume With Proposed Development	23,054	2,071	ITE CODE	
Current Volume / MAV	54.44%	54.44%	310/932	
Volume / MAV with Proposal	55.17%	55.05%		
Current LOS	C	C		
LOS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicant is seeking a change of Zoning classification on two parcels from General Retail Commercial (BU-1) and Mobile Home Park (TR-3) to all BU-1 for the purpose of developing a hotel and restaurant. The eastern portion of each parcel already retains the BU-1 Zoning classification and is developed as a 1,944 square foot restaurant and a duplex.

August 05, 1965: the subject parcels were one parcel and rezoned (**Z-1786**) from General Use (GU) to General Retail Commercial (BU-1) for a depth of 200 feet west of Highway US 1 and Trailer Park on the remainder of the parcels.

June 05, 1973: a Special Use Permit (**Z-3293**) was approved for a Real Estate Office to be run out of the home.

1979: the parent Parcel was subdivided into the two parcels existing today, Parcel 275 to the north and Parcel 272 to the south.

December 06, 1984: the south parcel #272 was approved for a Conditional Use Permit (**Z-6927**) for the outside sale of Mobile Homes in a BU-1 zoning classification.

February 26, 1996: the south parcel #272 was **denied** a Conditional Use Permit (**DNZ-9681**) for Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification.

August 29, 1996: the south parcel #272 was approved for a Conditional Use Permit (**Z-9763**) for Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification with stipulation that it must be a private club, member parking must be in front of the structure, closing will be midnight on weekdays and 2:00 a.m. on weekends and that the Zoning classification related to the property remain unchanged.

March 06, 2003: the CUP (**Z-6927**) for the outside sale of Mobile Homes in a BU-1 zoning classification was administratively removed, per zoning resolution **Z-10781(50)** and that the Zoning classification related to the property be retained, after the Zoning Regulations were amended to change outside sale of Mobile Homes in a BU-1 zoning classification from a conditional use to a permitted use with conditions.

October 02, 2003: the CUP (**Z-9763**) for the Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification was administratively removed per zoning resolution **Z-10847** and that the zoning classification related to the property be retained.

May 28, 2009: the south parcel #272 was approved for a Conditional Use Permit (**Z-11500**) for Alcoholic Beverages for On-premises Consumption in a BU-1 Zoning classification as accessory to a restaurant only.

A companion application, **18PZ00076** was submitted accompanying this request for Future Land Use designation change on the portion of the parcels with Neighborhood Commercial (NC) and Residential 2 (RES 2) to all Community Commercial (CC) to be consistent with the BU-1 rezoning request.

Land Use Compatibility

The subject property currently retains the Community Commercial (CC), Neighborhood Commercial (NC) and Residential 2 (RES 2) Future Land Use (FLU) designation, but the applicants are seeking all CC in a companion application for a Small Scale Comprehensive Plan Amendment.

FLUE Policies 2.7, 2.8 and 2.15 outline the role of the Comprehensive Plan in the designation of commercial lands.

This request is to change the Zoning classifications from BU-1 and TR-3 to all BU-1 zoning classification. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The request for BU-1 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;
Transient commercial uses;
Tourist commercial uses;
Professional offices;
Personal service establishments;
Retail establishments;
Non-retail commercial uses;
Residential uses;
Institutional uses;
Recreational uses;
Public facilities;
Transitional uses pursuant to Policy 2.14; and
Planned Industrial Park development (as permitted by PIP zoning).

The request for BU-1 Zoning should be evaluated within the context of **Policy 2.8** of the Future Land Use Element, which sets forth locational criteria for Community Commercial land use activities, as follows:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial intersections. Collector/arterial intersections area acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal/ arterial intersections.
- B. Community Commercial complexes should not exceed 40 acres at an intersection.
- C. Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.
- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.
- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

Floor Area Ratios are evaluated during site plan review, but the request for BU-1 Zoning further limits the site's potential floor area.

Given the zoning pattern in the area, **Policy 2.15**, which addressed infill vs. strip commercial development, should also be considered, as follows:

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area. Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial

complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.
- C. A sidewalk or bicycle path shall be required where appropriate (as encouraged by Tables 2.1 and 2.2 of the FLUE) to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The parcels are located on the west side of U.S. Highway 1 (U.S. 1), an urban principal arterial roadway consisting of mostly commercial zoning uses which serve the surrounding neighborhoods, one half mile south of the Micco Road intersection. The east portion of the overall parcels was developed as a 1,944 square foot restaurant and a duplex. Across U.S. Highway 1 (U.S. 1) there is an existing marina. The restaurant and marina serve several neighborhoods and sub-regional areas.

The abutting parcel to the north of the subject property is zoned Mobile Home Park (TR-3) with a developed mobile home park, River Groves Mobile Home Village. There are four mobile home units from this mobile home park abutting the subject property.

The abutting parcels to the west and south of the subject property are zoned Medium-Density Multi-Family Residential (RU-2-10) with an existing condominium development, Summit Cove Condominium located on the parcels.

Within the last 10 years, only one rezoning action has occurred in the area along Highway U.S.1 from Garrets Road to the County line. That zoning action (**Z-11559**) was a change from Single-Family Residential, (RU-1-7) and General Retail Commercial, (BU-1) to Restricted Neighborhood Retail Commercial (BU-1-A) and was approved.

The development potential of the site has been calculated as follows: Under Section 62-1511 (4) of Brevard County Code, maximum hotel/motel development is limited to 30 units per acre in the mainland area, if certain locational parameters are met. As this site fails to meet those criteria, the maximum development potential is regulated by the Comprehensive Plan. Policy 2.13 of the Future Land Use Element clarifies that residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. As the parcels abut surrounding parcels with the Residential 2 (RES 2) Future Land Use designation, this property can anticipate increase the density to up to 4 units per acre, or a total unit count of seven (7) hotel or motel units, as this lot lies outside of the Coastal High Hazard area. If the site is used for other than hotel or motel use, the 1.96 acre site would allow up to 17, 076 square feet of commercial building space allocation (zoning's lot yield formula estimates a 20% threshold of the lot's area as the official estimate for the RP, BU-1-A or BU-1 zoned properties to estimate the building potential of the lot) or up to a one to one floor area ratio (FAR) for development within the CC designated area or 0.75 FAR under the NC FLU designation per Section 62-2110 of Brevard County Code.

A preliminary concurrency analysis indicates that the proposed change in FLU designation would not generate traffic that would cause deficiency of adopted roadway levels of service (LOS). Today, the traffic counts indicate that this section of the U.S. Highway 1 (U.S. 1) corridor is at 54.44% of the maximum acceptable volume (MAV). The highest traffic generating use allowable under within the BU-1 Zoning classification is projected to put the corridor at 88.99% of MAV and is not expected to impact the acceptable LOS.

For Board Consideration

The applicant is seeking a change of Zoning classification on two parcels from General Retail Commercial (BU-1) and Mobile Home Park (TR-3) to all BU-1 for the purpose of developing a hotel and restaurant. The eastern portion of each parcel already retains the BU-1 Zoning classification and is developed as a 1,944 square foot restaurant and a duplex.

The Board may wish to consider whether the proposed BU-1 Zoning classification is consistent and compatible with the surrounding development.

This request for rezoning from TR-3 and BU-1 to all BU-1 accompanies a request for a change of FLU designation from Neighborhood Commercial (NC) to Community Commercial (CC). If the Future Land Use change proposal is not supported by the Board, this zoning request cannot be heard.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 18PZ00077

Zoning Request: BU-1, TR-3 to BU-1

P&Z Board Hearing: 08/06/18

Applicant: Lopes and Lomando

BCC Hearing: 09/06/18

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, County or Local Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 30, Rng. 38, Sec. 14;
Tax ID No. 3006471 & 3006468**

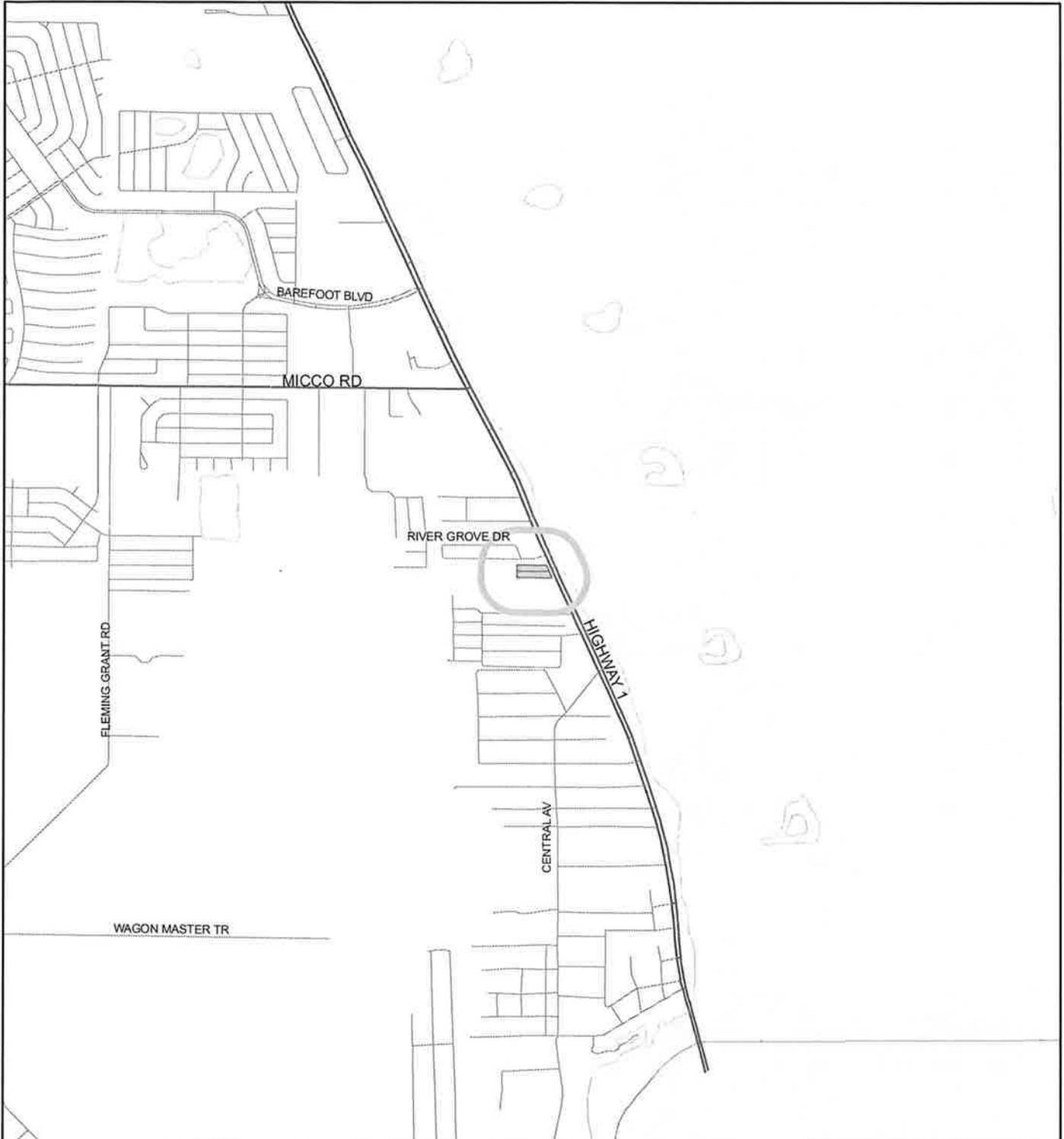
Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large mapped Florida Scrub Jay polygon over the site as shown on the Scrub Jay Occupancy Map. Prior to any plan, permit submittal, or development activity, including land clearing, 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.

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



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

Buffer Distance: 500 feet

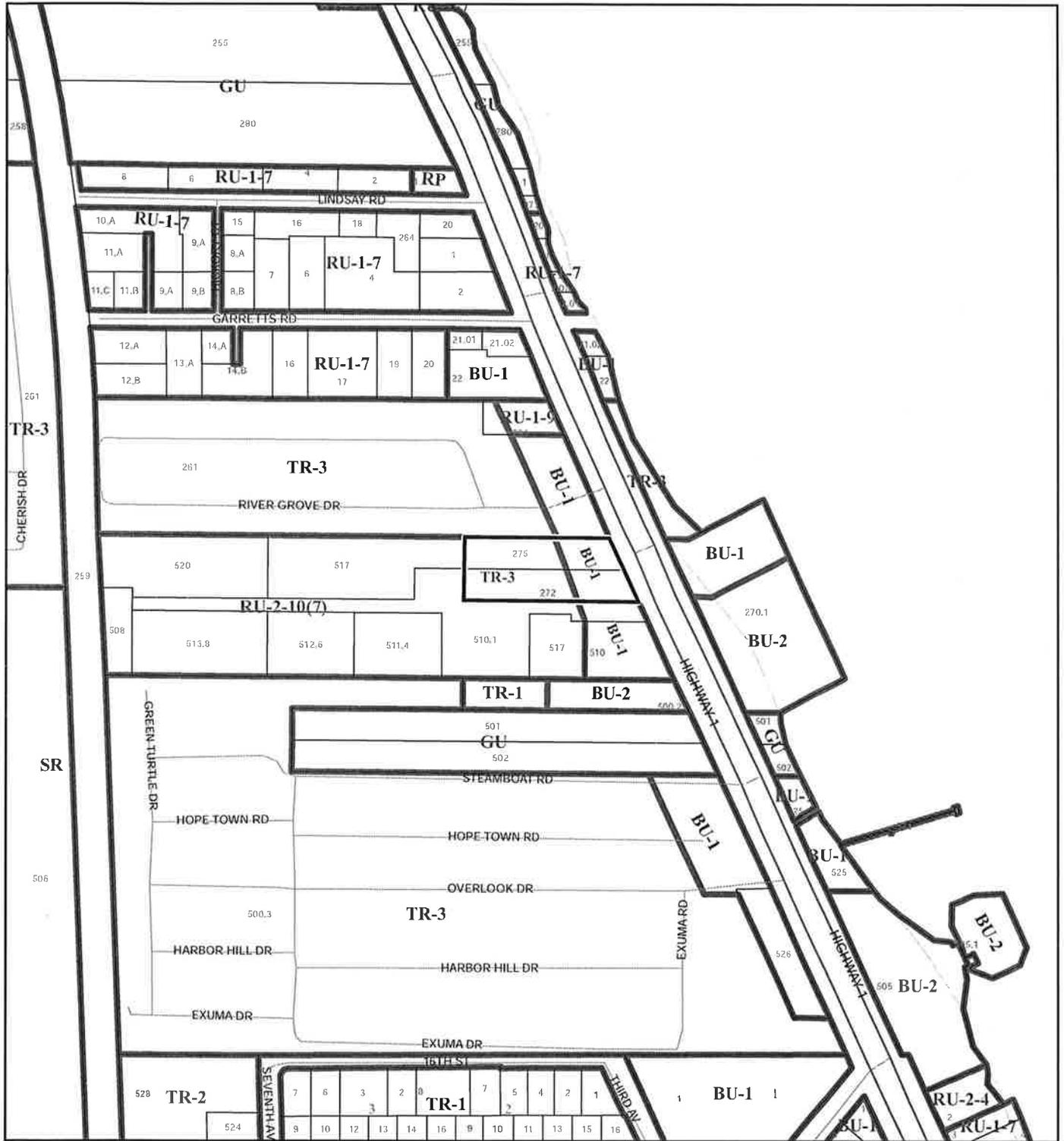
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/14/2018

-  Buffer
-  Subject Property

ZONING MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.
18PZ00077



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

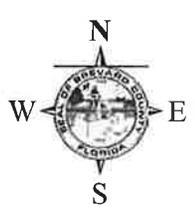
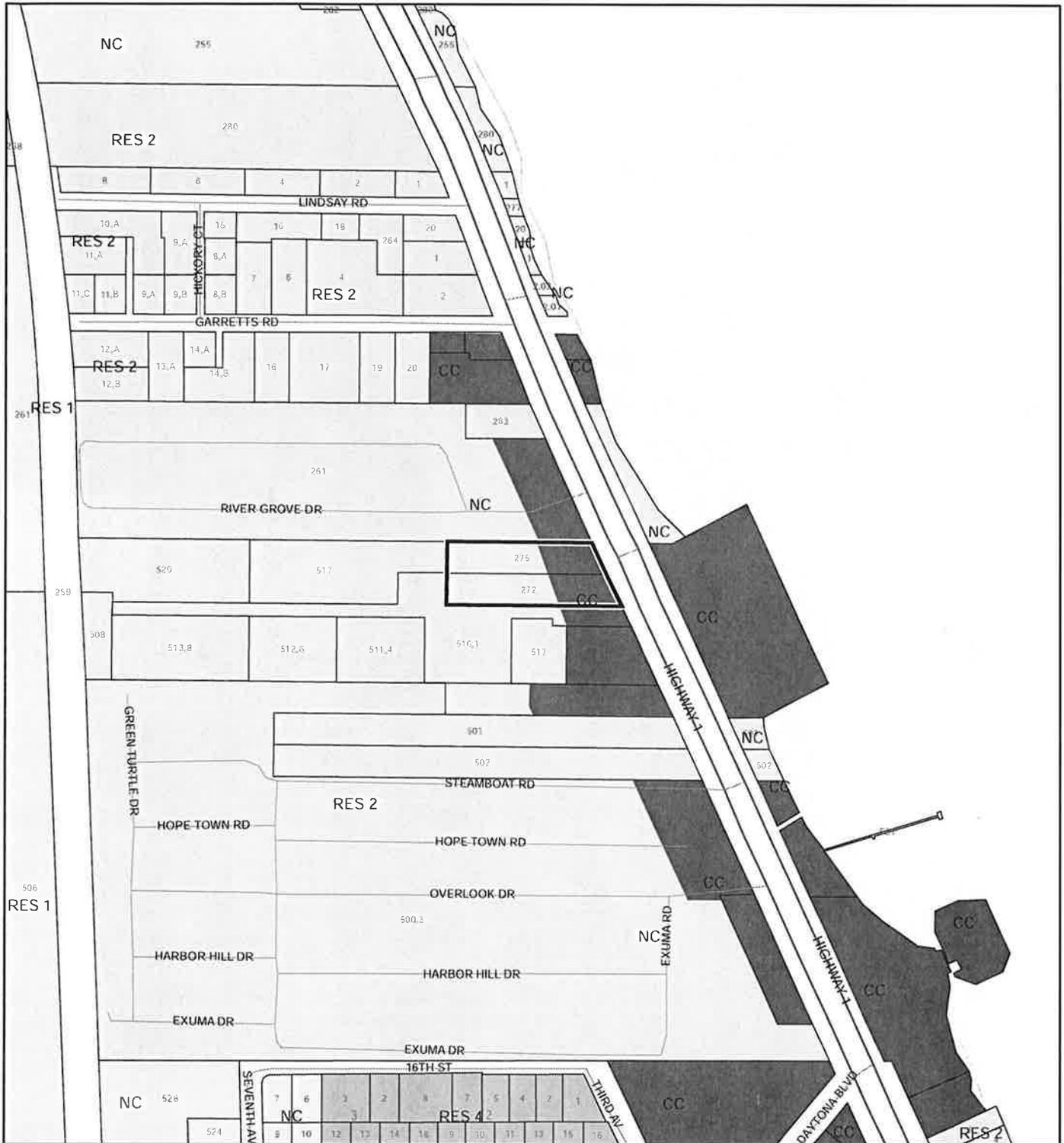
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/14/2018

FUTURE LAND USE MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels

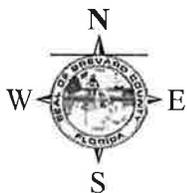
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/14/2018

AERIAL MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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: 6/14/2018

 Subject Property

 Parcels

NWI WETLANDS MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.
18PZ00077



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/14/2018

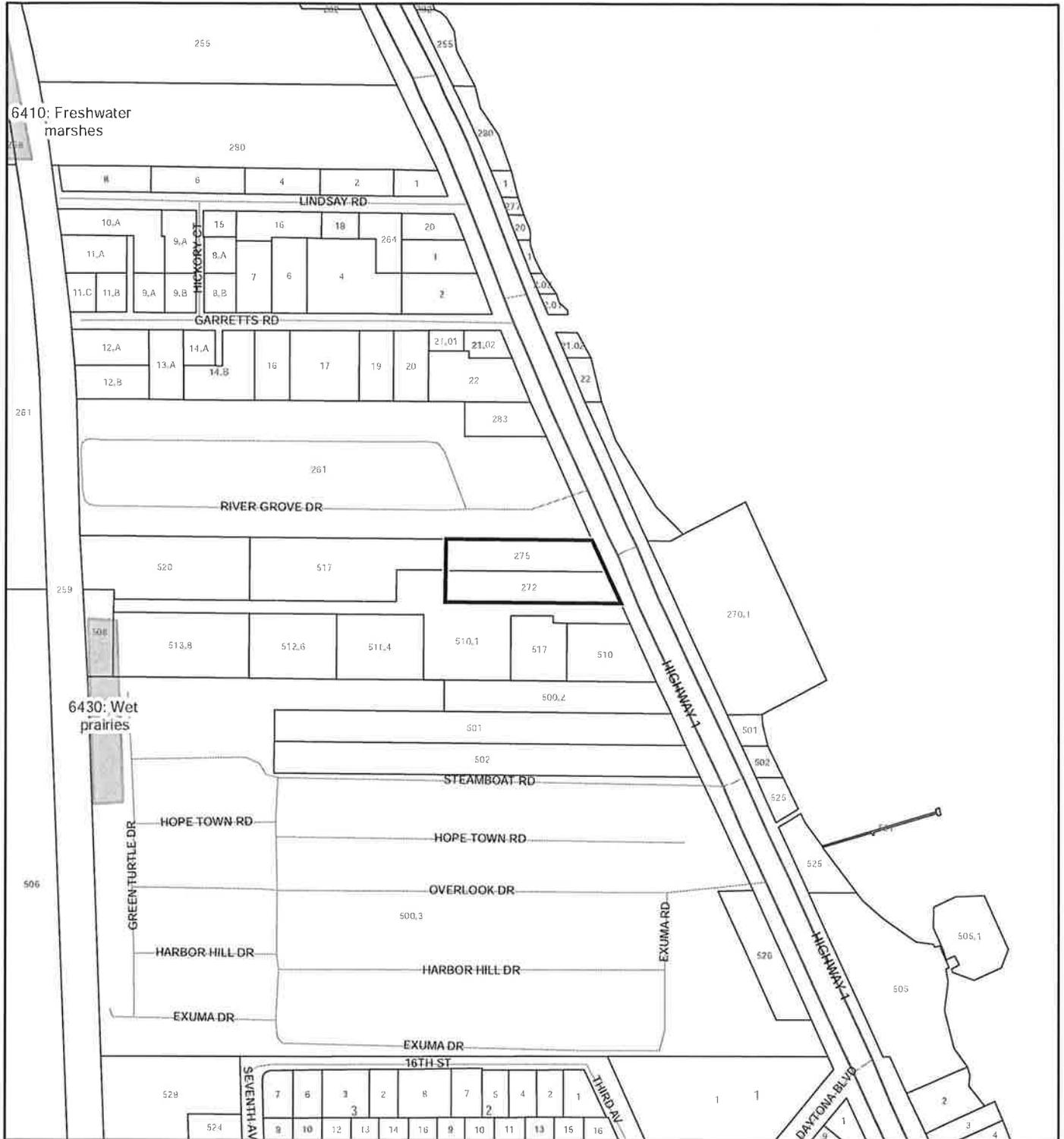
National Wetlands Inventory (NWI)

- | | |
|--|--|
|  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

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/14/2018

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

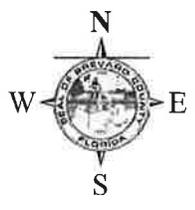
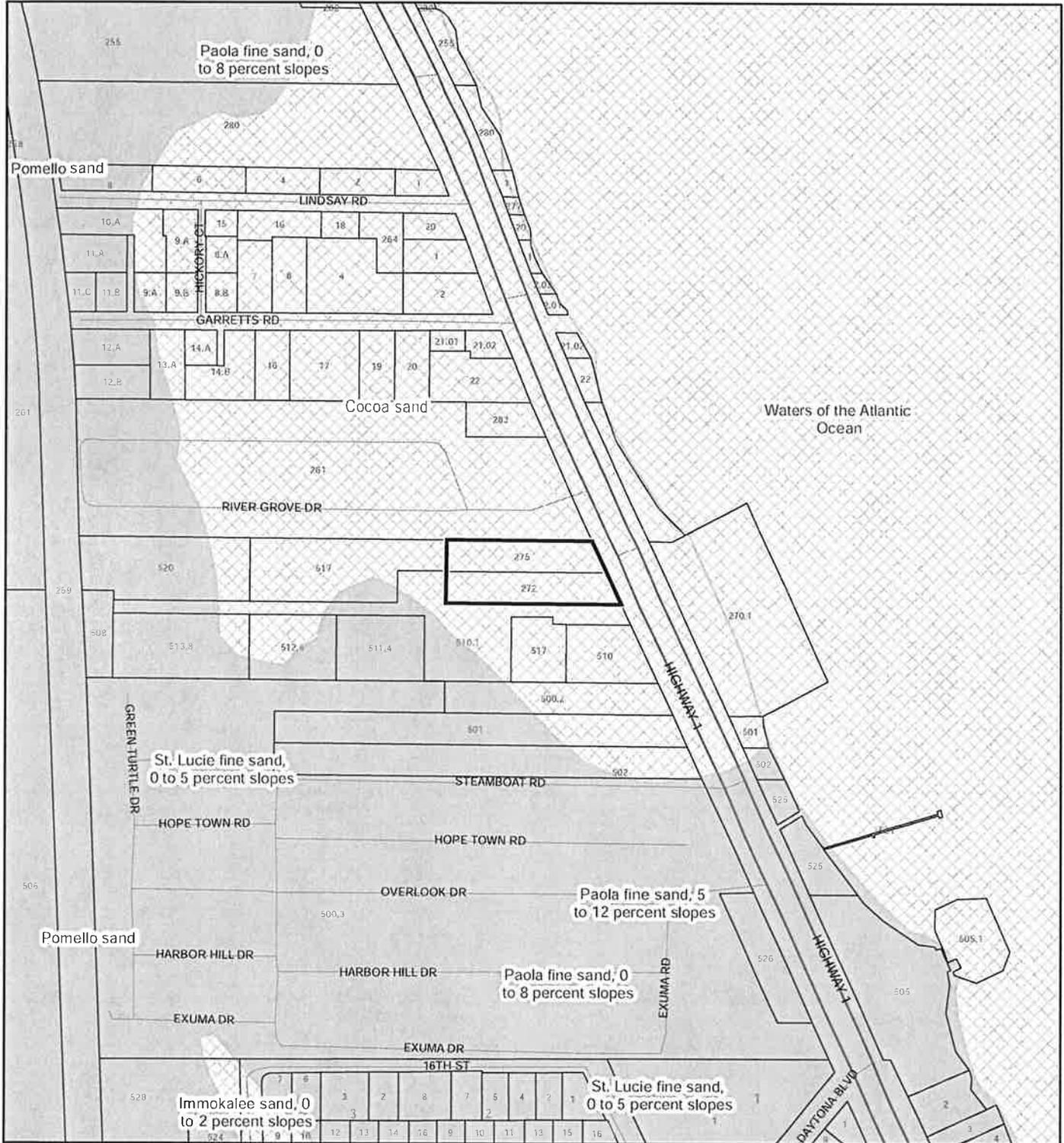
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/14/2018

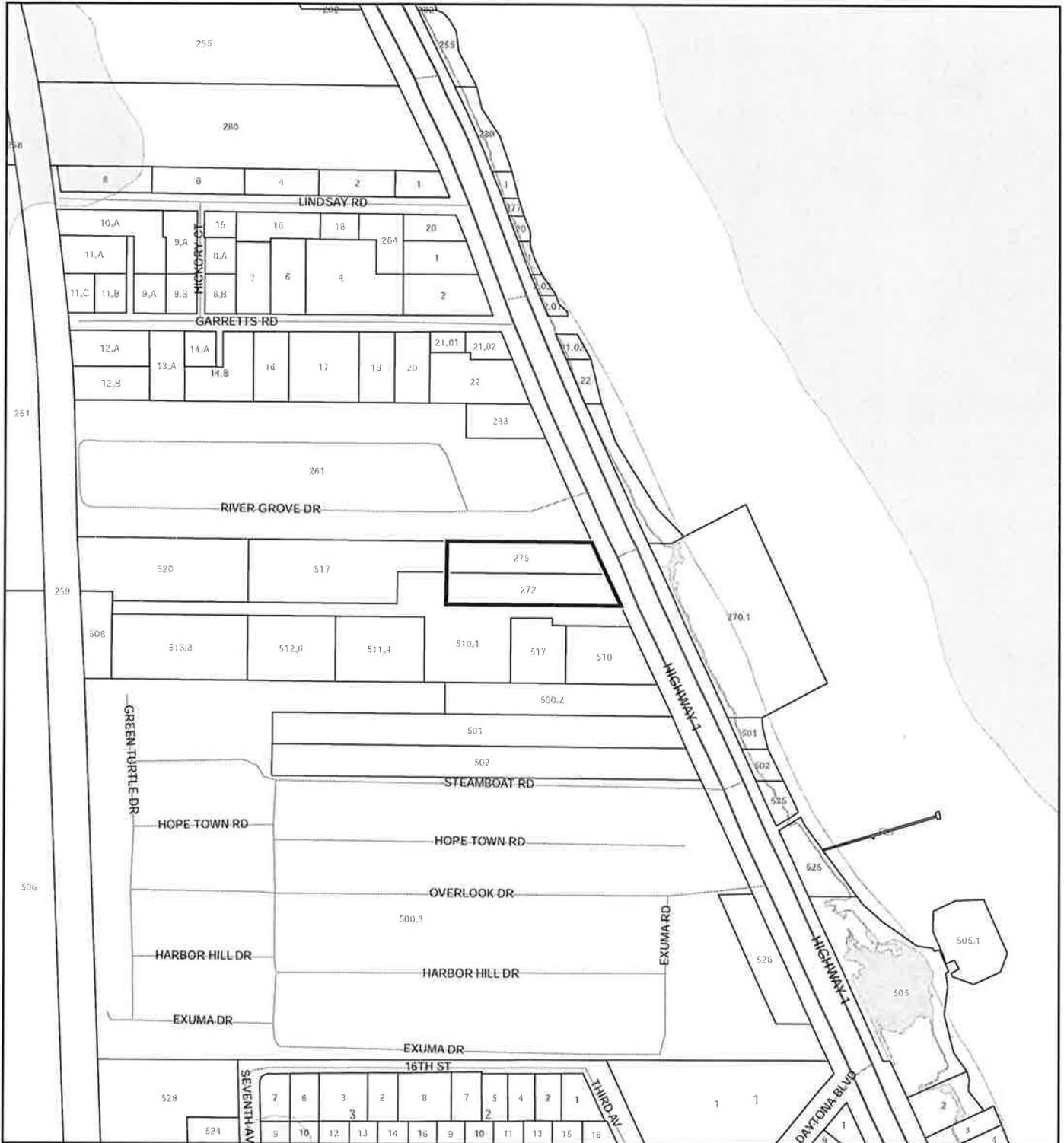
USDA SCSSS Soils

	Aquifer and Hydric		Subject Property
	Aquifer		Parcels
	Hydric		
	None		

FEMA FLOOD ZONES MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/14/2018

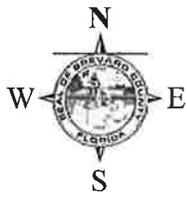
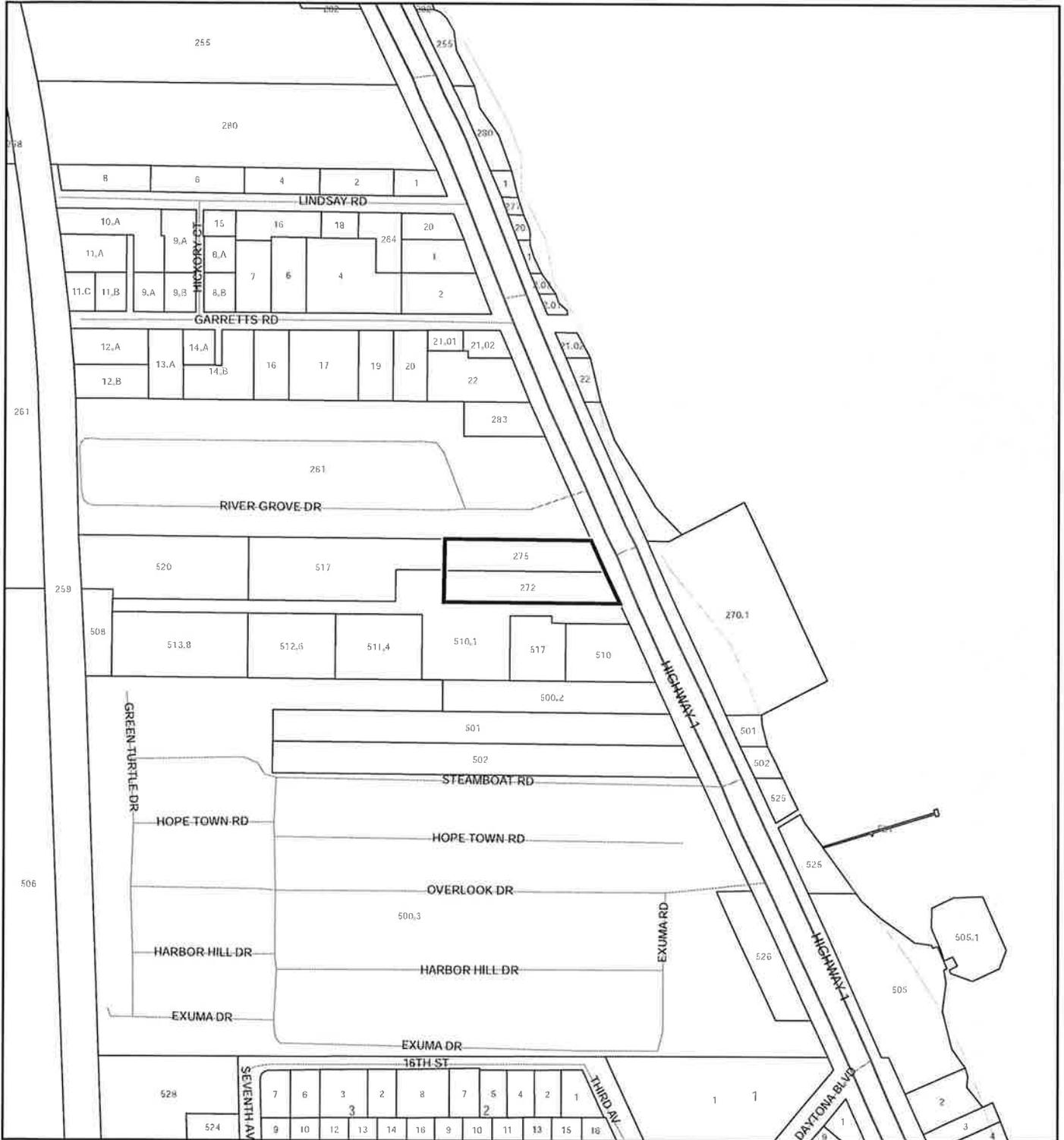
FEMA Flood Zones

- A
- AE
- AH
- AO
- Open Water
- VE
- X
- X Protected By Levee
- 0.2 Percent Annual Chance Flood Hazard
- 0.2 Percent Annual Chance Flood Hazard Contained in Channel
- Subject Property
- Parcels

EAGLE NESTS MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

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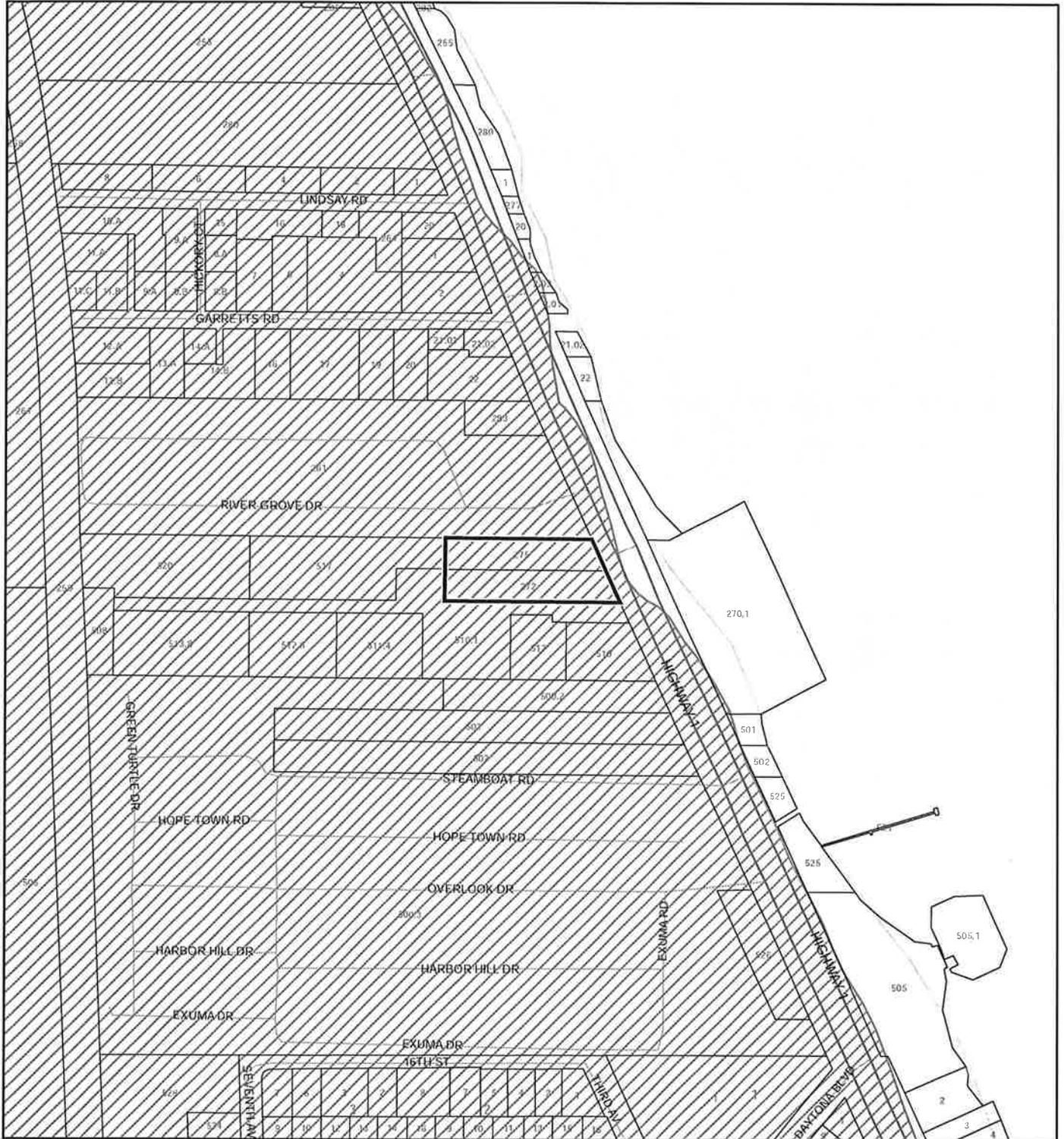
Produced by BoCC - GIS Date: 6/14/2018

-  Subject Property
-  Parcels
-  Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



1:4,800 or 1 inch = 400 feet

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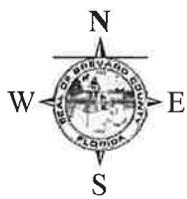
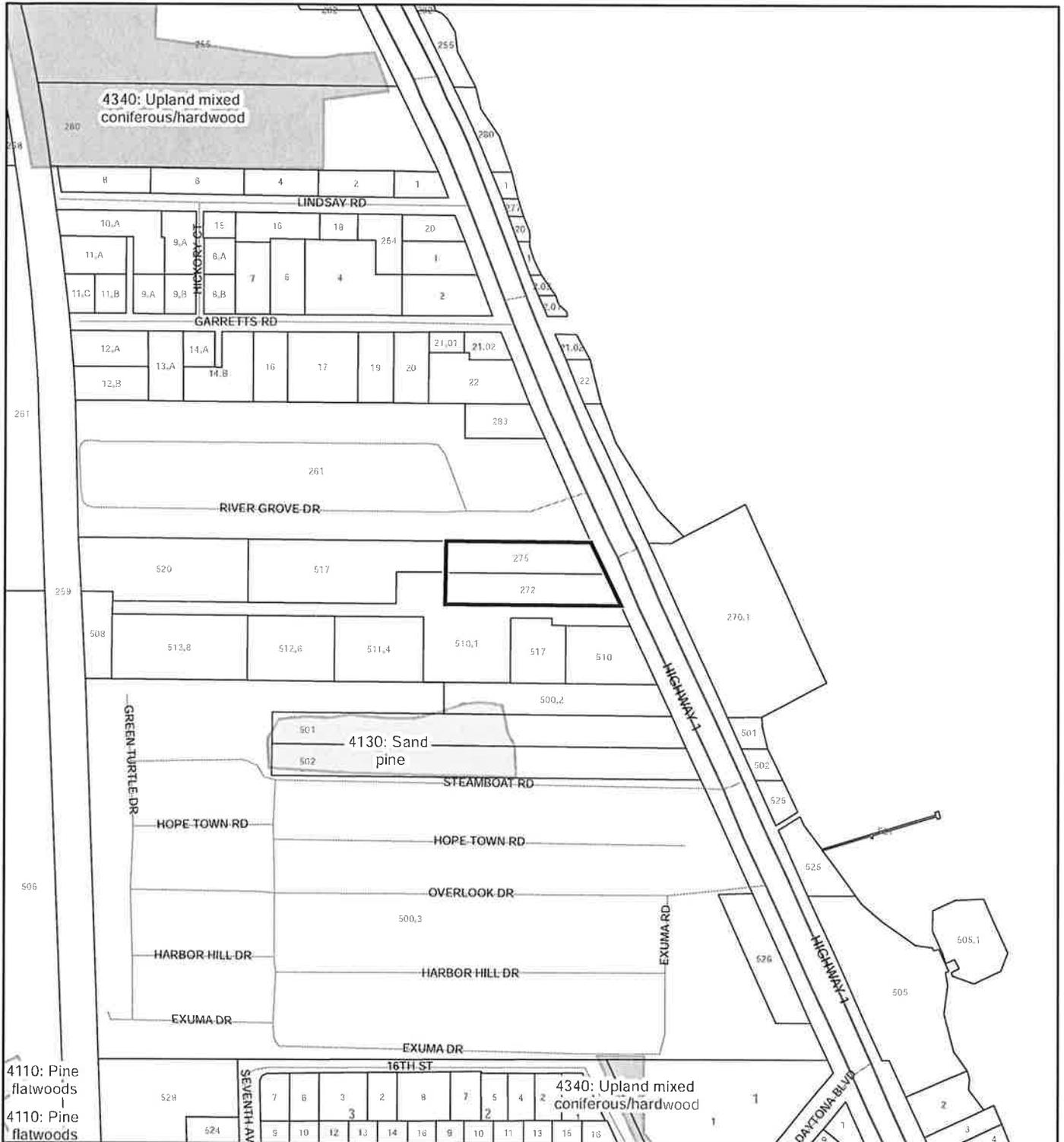
Produced by BoCC - GIS Date: 6/14/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LOPES, ANTHONY AND LOMANDO, EUGENE R.

18PZ00077



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: 6/14/2018

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

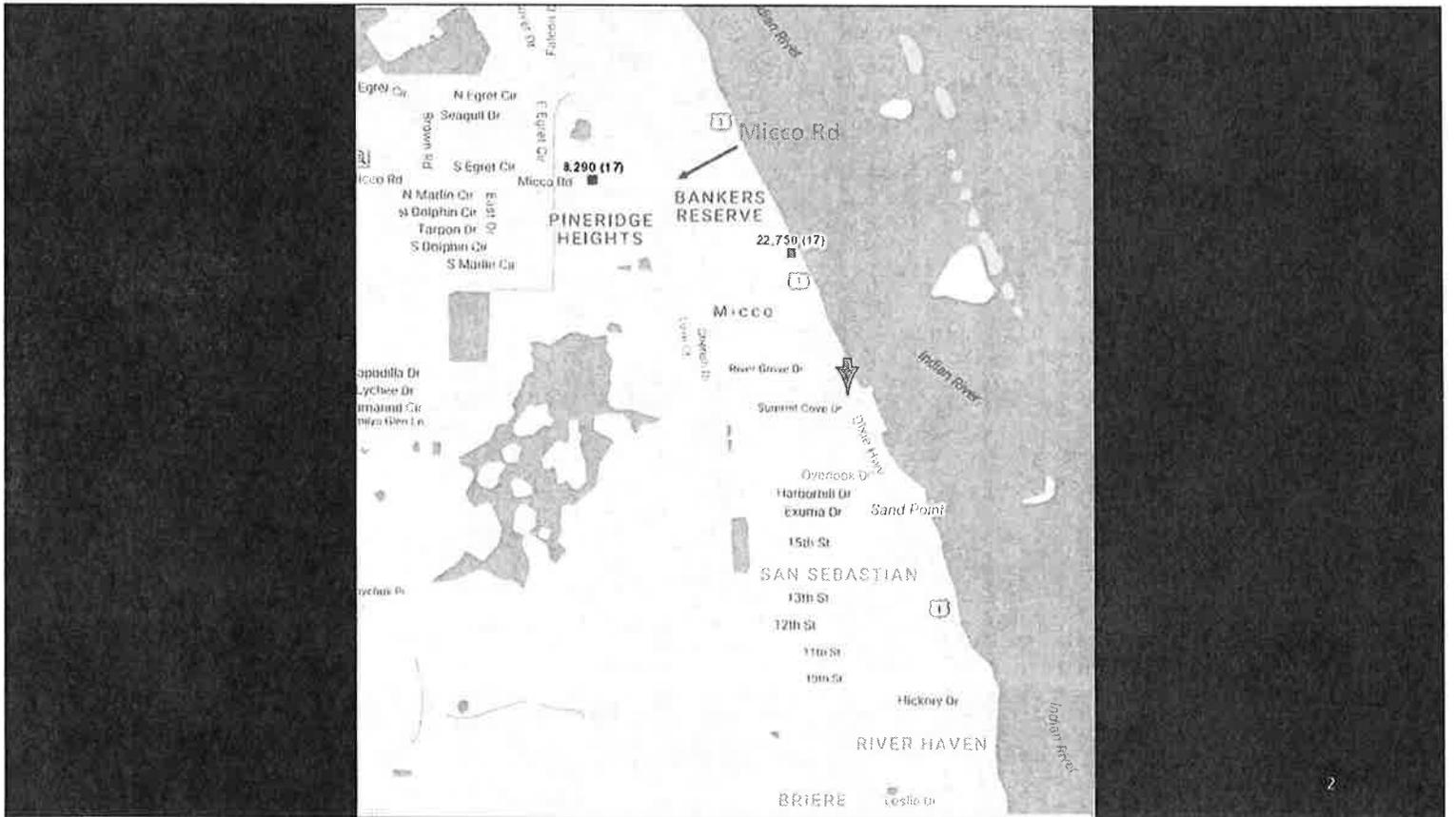
FYI Powerpoint
18PZ00077
Lopes/Lomando
(Submitted by applicant 08/06/18)

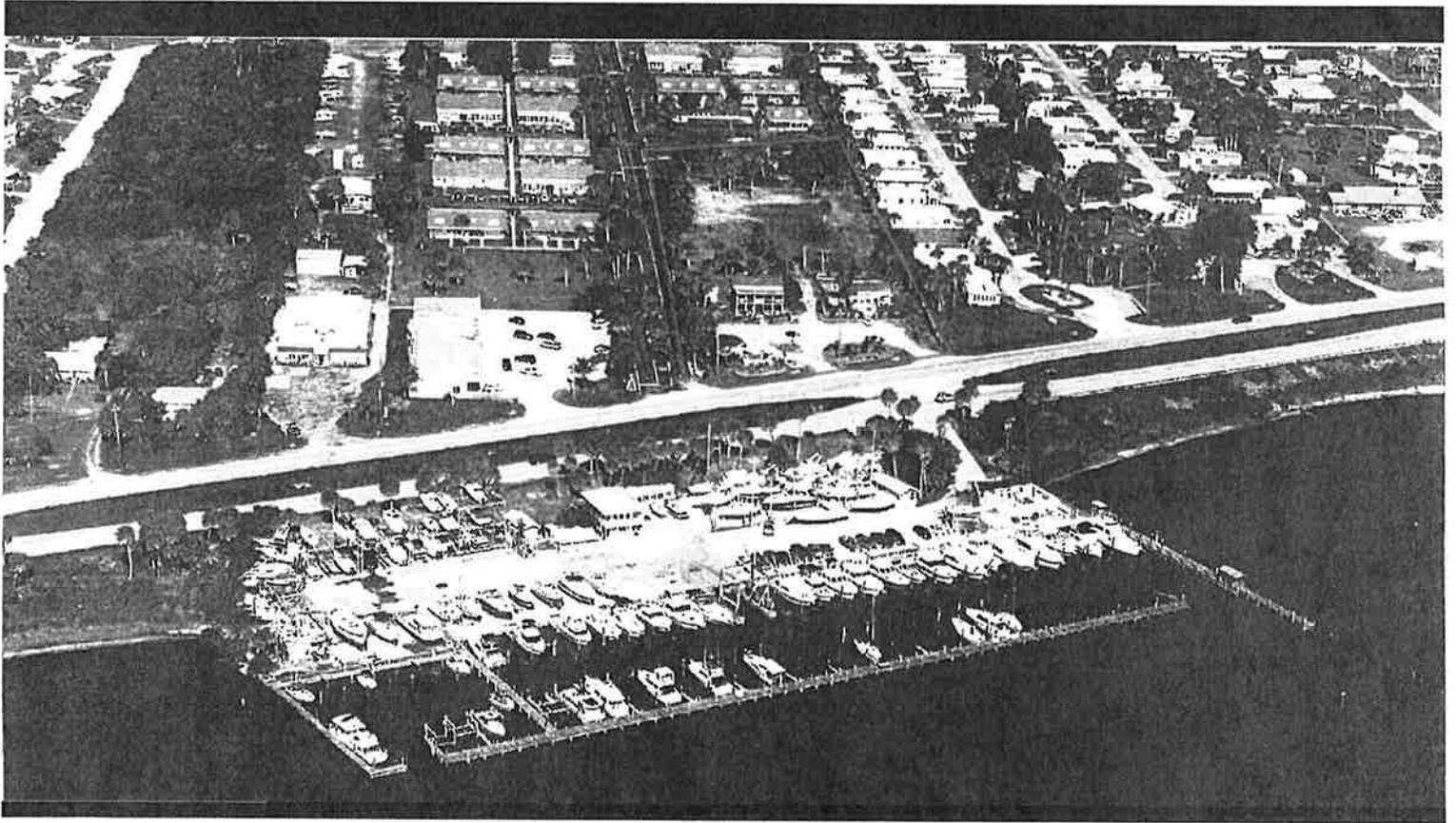
https://www.bcpao.us/PropertySearch/#/bcpao/map/3006615

RESEARCH | EXEMPTIONS | TANGIBLE | FORMS | GENERAL | CONTACTS

OWNERS: ANTHONY LOPES – EUGENE LOMANDO/ IN LOPES FAMILY FOR 38 YRS

1

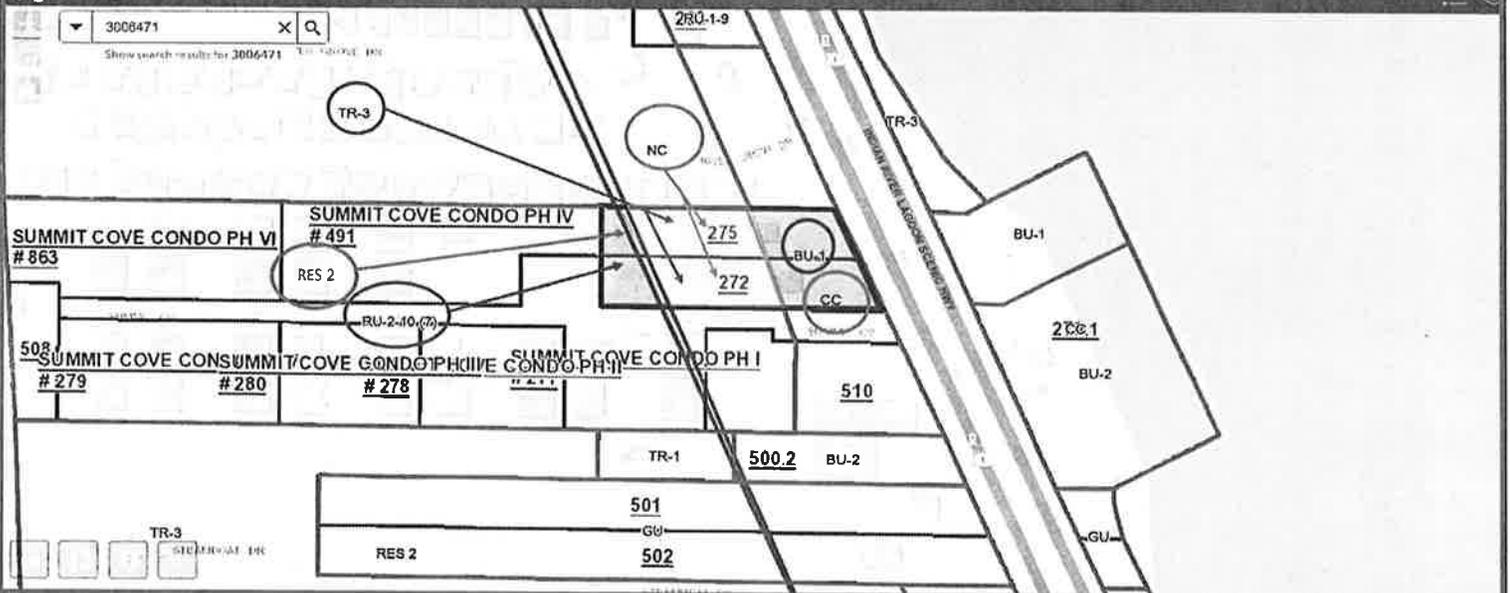




Zoning and Future Land Use

3006471

Show search results for 3006471



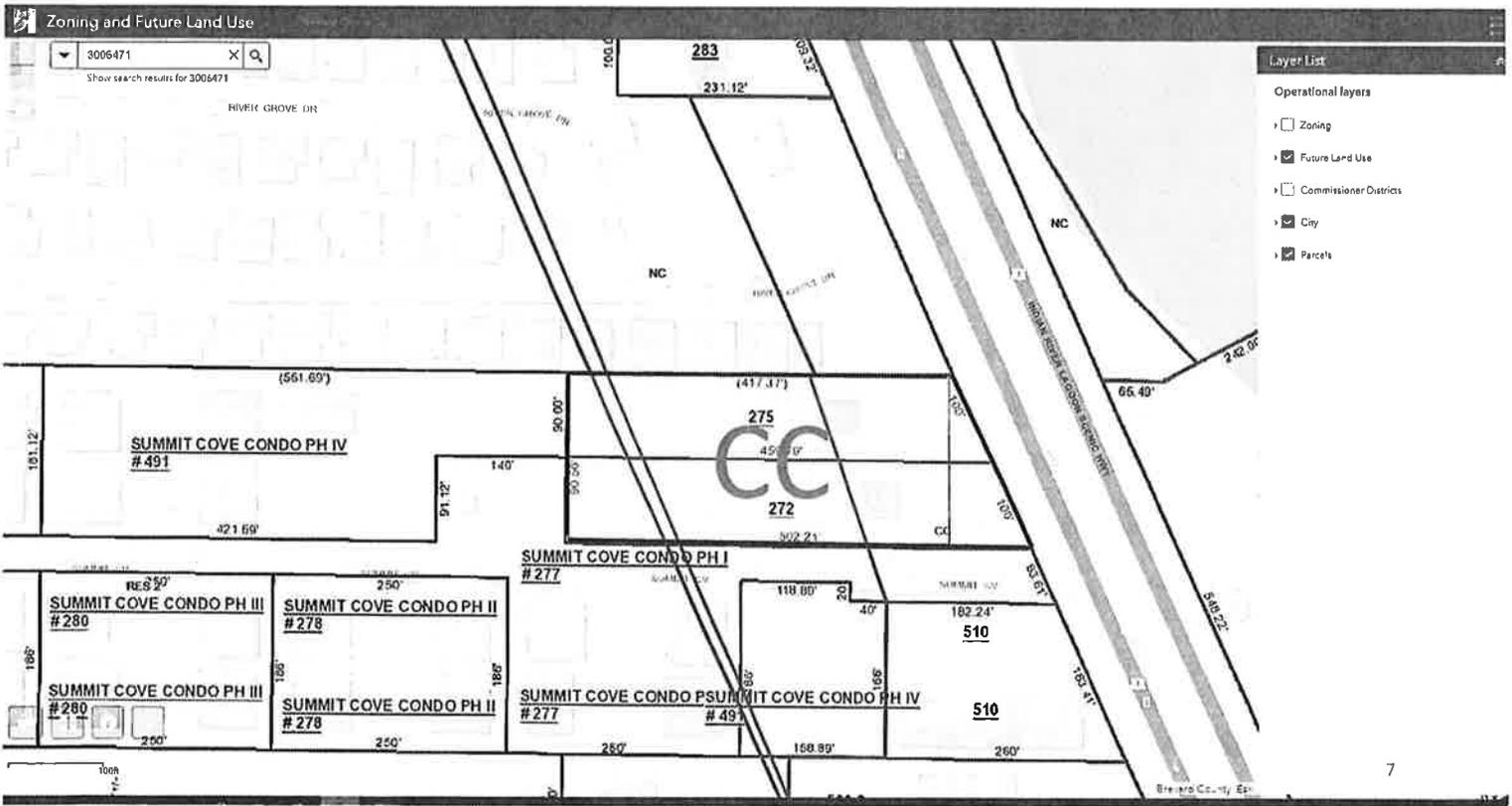
**Board Adjustments to Commercial Future Land Use Boundaries
Policy 2.9**

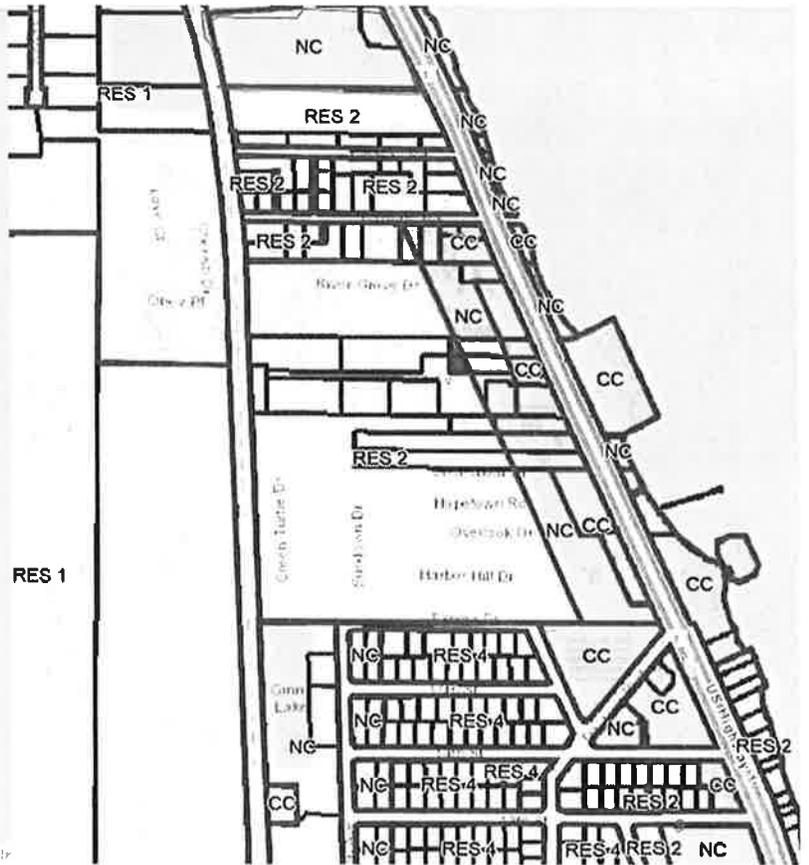
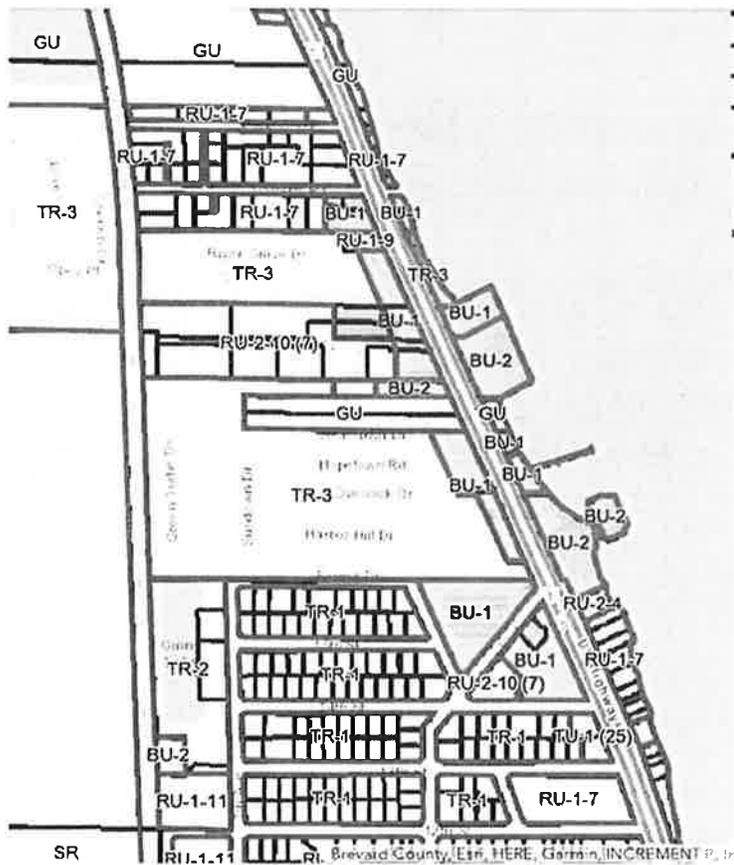
The boundaries of the Neighborhood Commercial and Community Commercial future land use designations are intended to be flexible in their application and may be extended up to 500 feet beyond the limits established on the Future Land Use Map by the Board of County Commissioners, provided that such proposed extensions adhere to the following criteria:

Criteria:

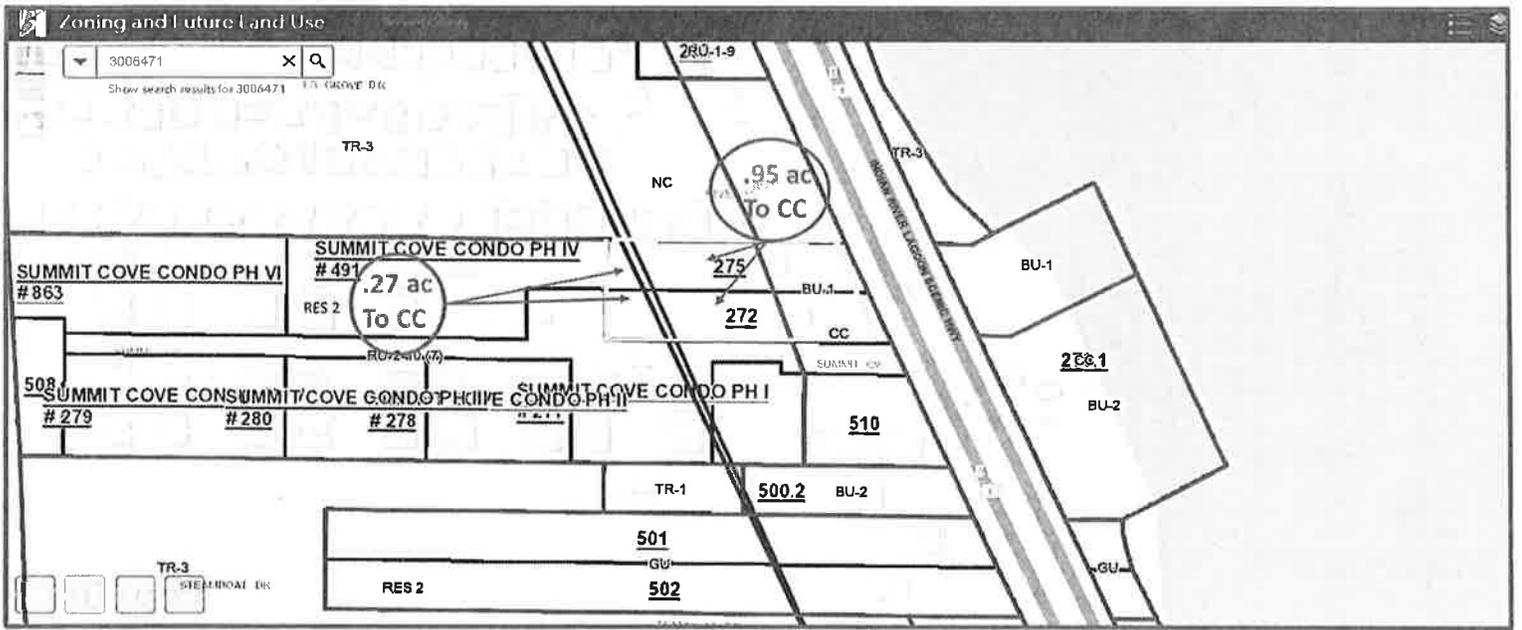
- A. said extension shall not encompass an area greater than one acre in size;
- B. said extension shall only be permitted for properties which are either contiguous to or partly located within the respective Neighborhood Commercial or Community Commercial designation sought by the extension;
- C. said extension does not result in expanding a boundary into established residential areas; and
- D. said extension does not exclusively abut a parcel which was previously granted such an expansion.

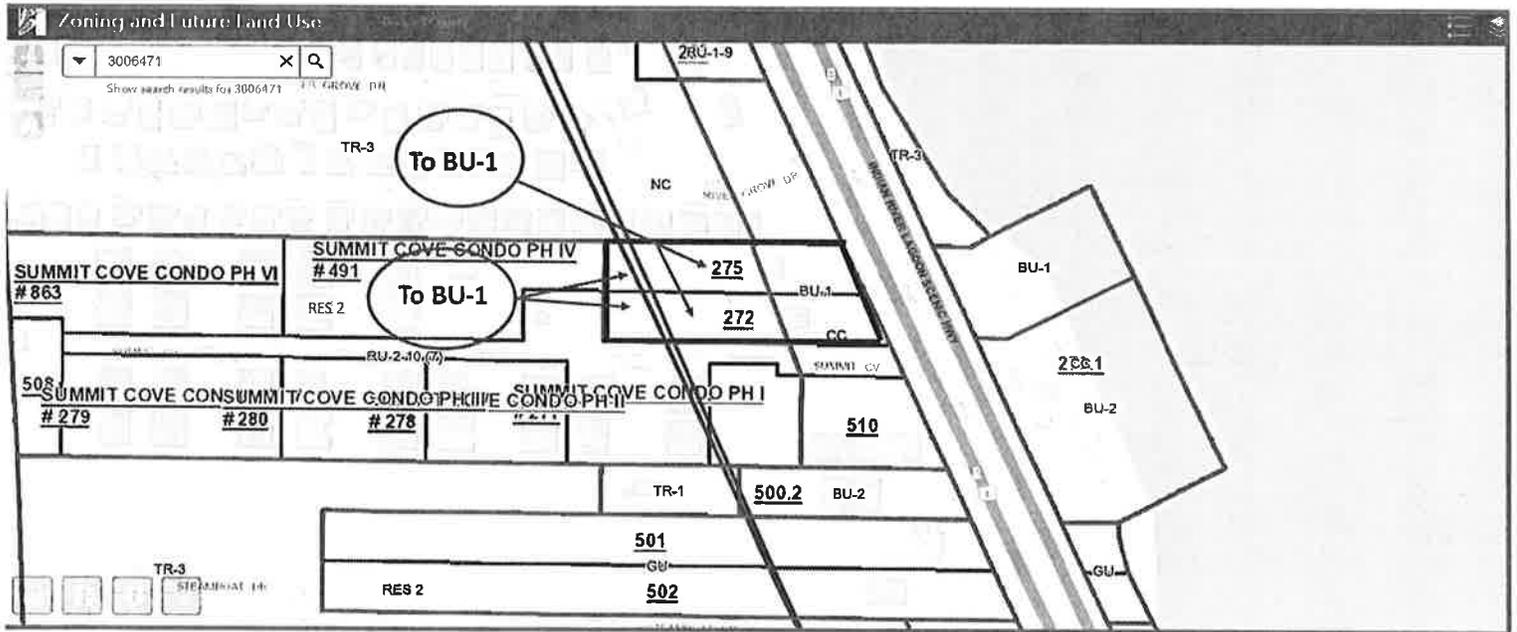
Proposed Land Use CC, Community Commercial over the entire property

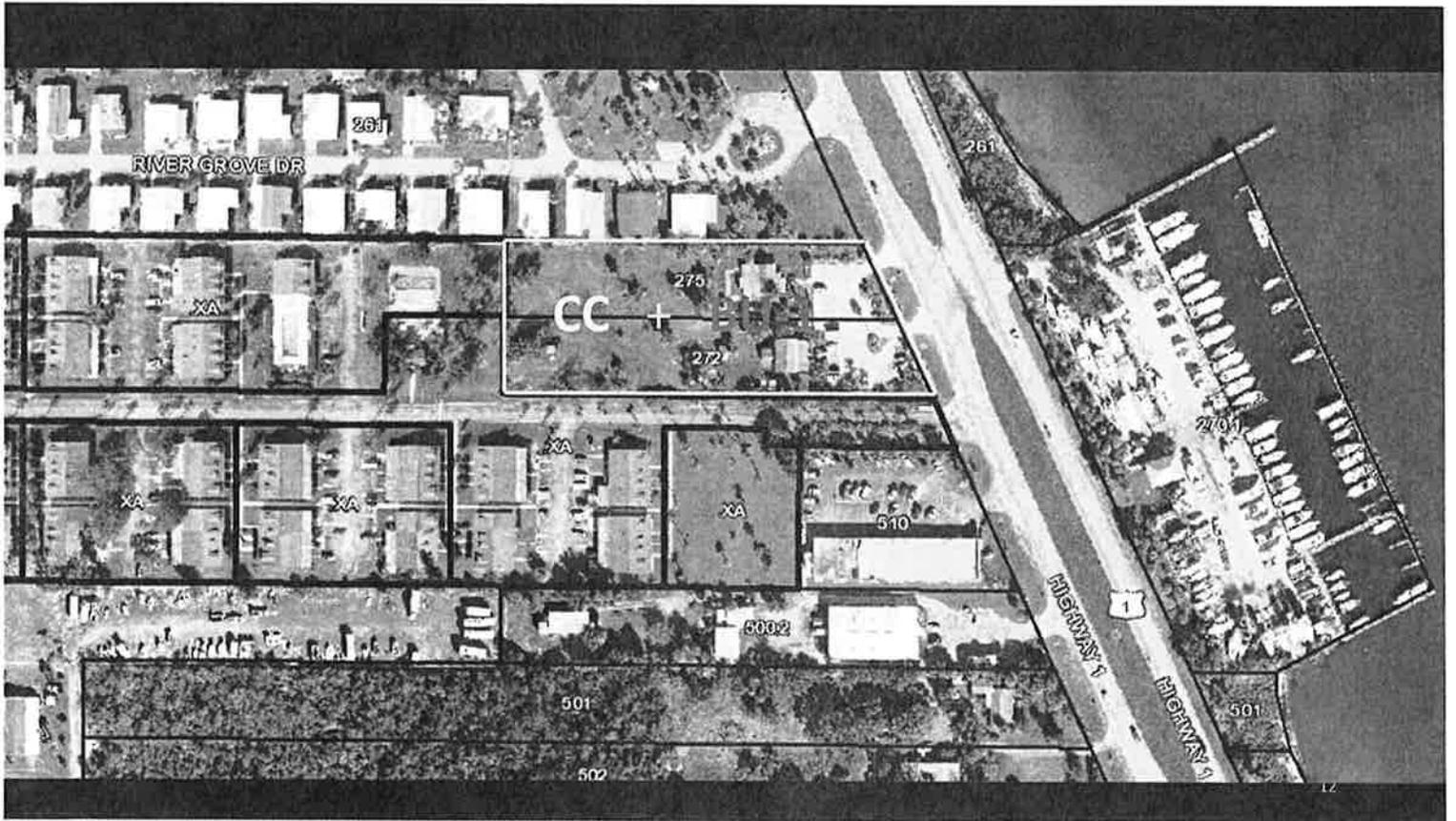




SR RI.1-1.11 RI. Brevard County, Est. HERE, GARRIN, INCREMENT P. 12



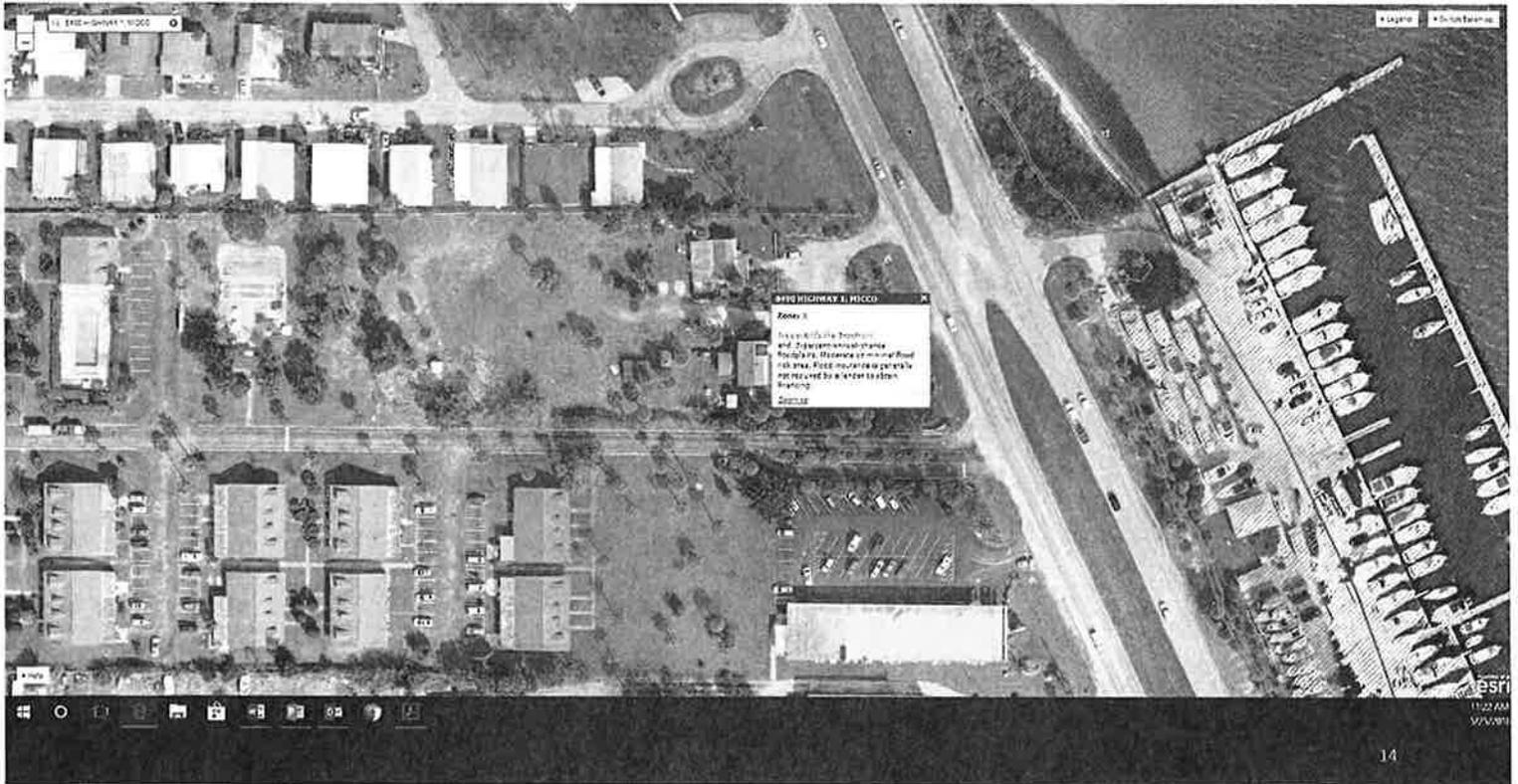


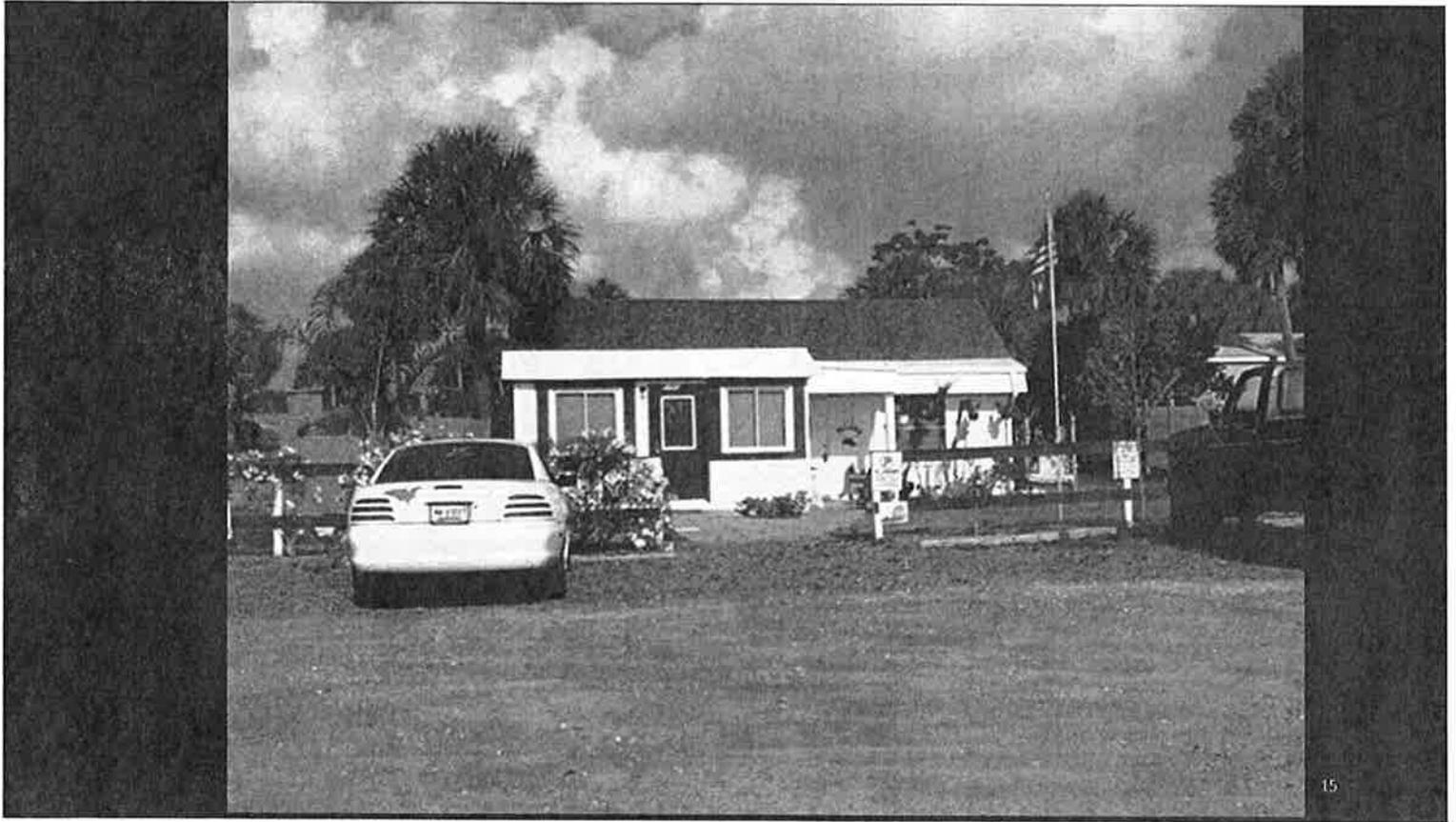




Space Coast Florida
Historical Resources Database
The Official Website for SpaceCoast.com

Flood Zone Map





**Existing Use
Marina Café
Bar & Grill**



Looking West from the property showing significant existing buffering vegetation



Looking
South
from
Property



Looking
North
from the
Property



Looking
East from
the
property
across US 1



Looking
South
from
north
boundary
of the
property



Looking
north
from
south
boundary
of the
property



North
ingress to
property
from US 1



Looking
West to
rear
boundary
of the
property



Looking
southeast
from the
rear of the
property



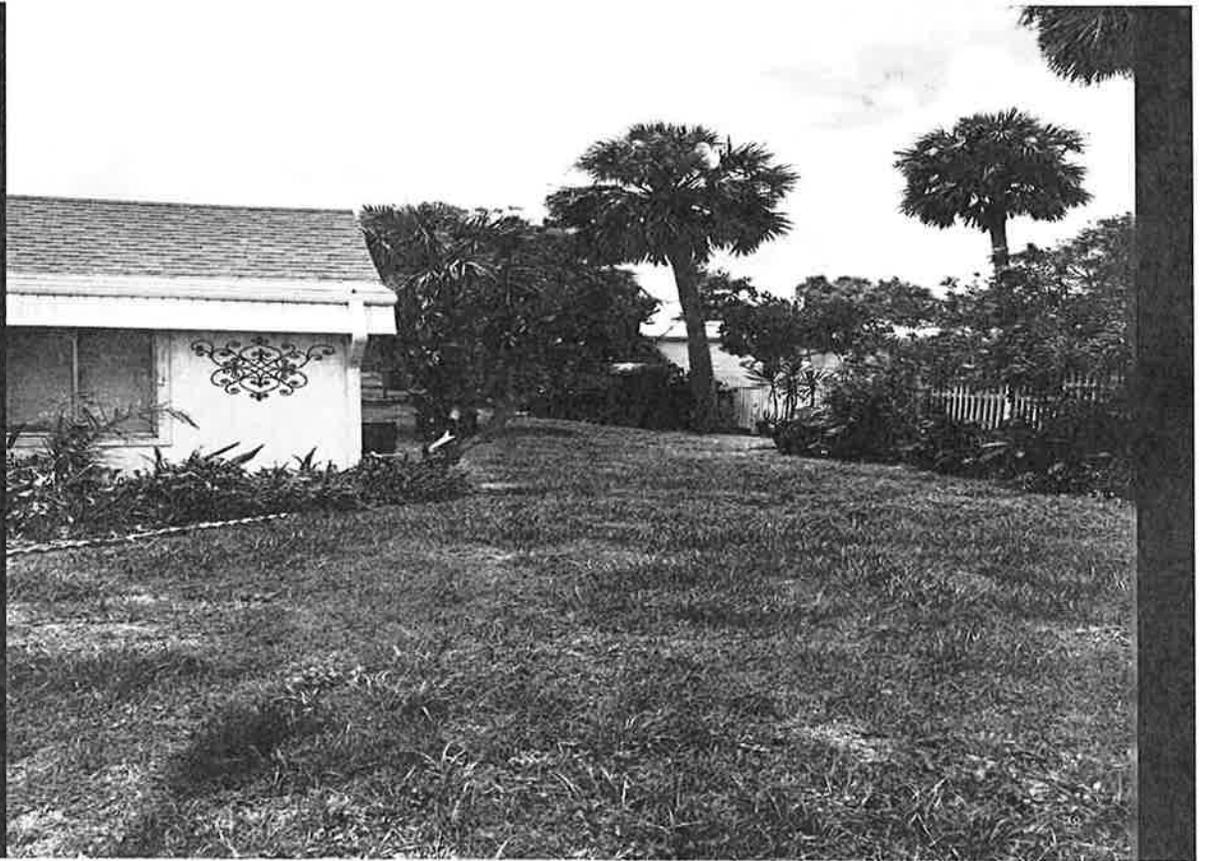
Looking East at strip center and US 1 from rear of the property line abutting nearest Summit Condo unit



Looking
southeast
from rear
of the
property

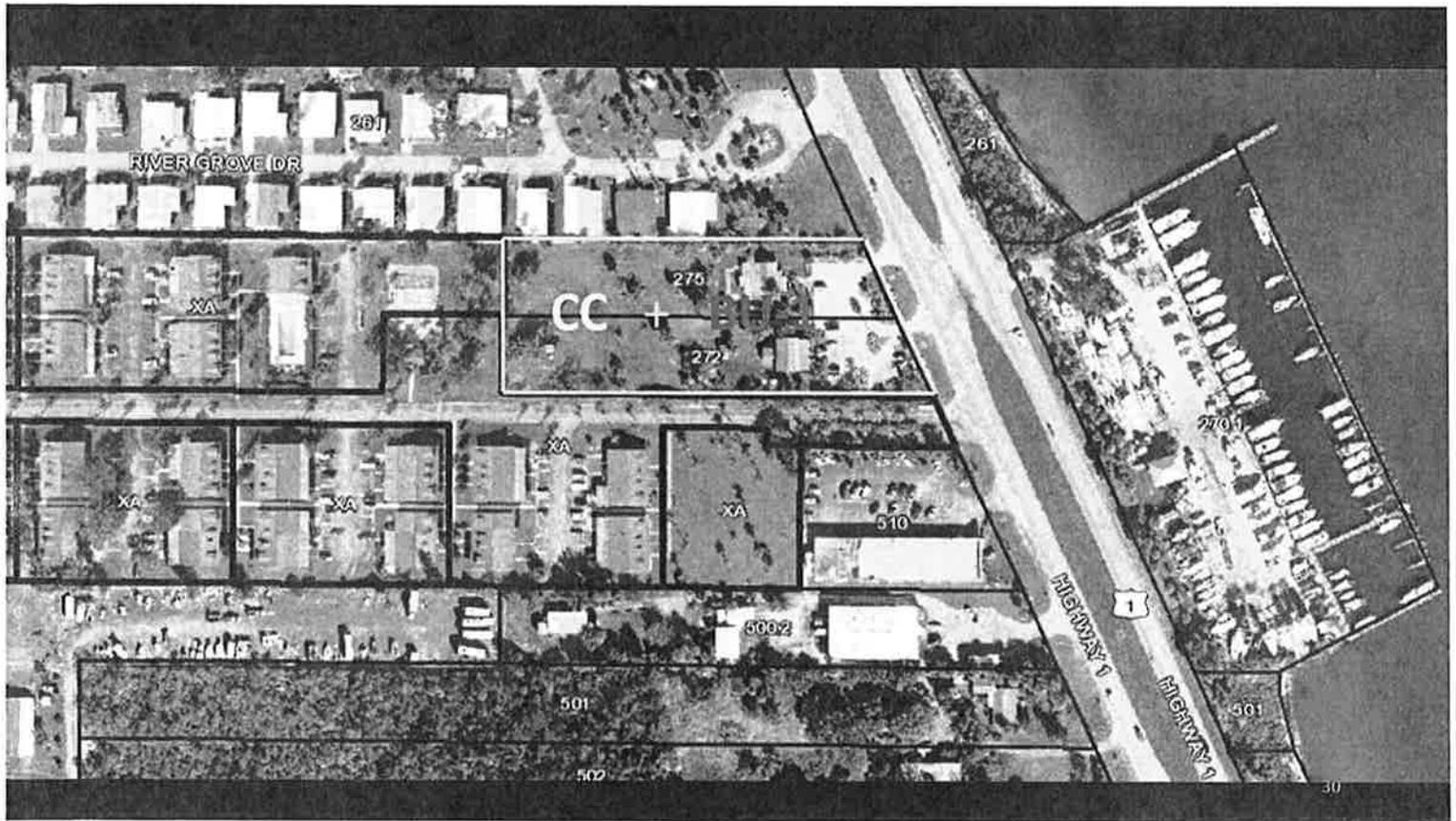


Looking
northwest
from front
of the
property at
nearest
mobile
home



Looking northwest
from rear of the
property at Summit
Cove recreation area





Objection
18PZ00077
Lopes/Lomando

From: Ralph G Buron

Subject ID 18PZ00077

8520 us hwy 1 apt b3

Micco fl. 32976

This relates to the proposed zoning request for the property located on the west side of Garretts RD (8480 and 8490 US HWY 1 Micco)

I would like to voice my opposition for the subject's property being approved for all CC and BU-1 (general retail commercial) and any future additional request for height variances. At the present time the subject property is and has created an intense music and noise disruption during the afternoon hours extending to late in the evenings. The evening vehicular traffic has also resulted in added congestion. The conditional use permit for Alcoholic beverages (z-11500) for BU1 Zoning classification as accessory to the restaurant only, seems to have migrated or has been allowed to be extended for use under a painters tarp next to the entrance of summit cove condo associations drive way. This is less than 33 yards from the first and second row of multifamily condo association located on 10 acers with 84 family units.

Thank you

Ralph G Buron

Ralph G Buron

Brevard County Board of Commissioners
Planning & Development Department

RE: Rezoning 18PZ00077 & 18PZ00076
Proposed Future use as Hotel
Amendment for an additional 35 feet in height

Parcel ID 30-38-14-00-272; 30-38-14-22-275
Address: 8480 & 8490 U.S. Hwy 1 Micco

Objection
18PZ00077
Lopes/Lomando
(Received 10/04/18)

As residents of (#8520 US 1) Summit Cove, we believe rezoning the property that is currently a lunch café will be detrimental to our community. Our community is set back from U.S 1 and quiet and private. A multiple story hotel would affect our quiet enjoyment of the residences as we know it. The proposed hotel would be 24-7 hours of operation, exterior lighting every night -all night, and noise levels may increase at odd hours, litter thrown onto our property and our one lane entrance/exit may be made more difficult. We are also concerned with the more transient hotel clientele so close to our homes. The small close-knit community feel is what attracted us to live here and worry how our property values would hold up with the change proposed. The proposed amendment for an additional 35 feet in height for a new structure is not consistent or compatible with the existing neighborhood.

We had been told the property owners planned a bed and breakfast with a full restaurant. That would seem to conform to the current charm and small town feel we currently enjoy. Now we hear of multiple story structure and parking garage that may lead to our community being another over-developed traffic area and U.S 1 has already increased in traffic flow tremendously in the past few years.

We feel rezoning for a resort right up against our homes it will no longer be a place to enjoy a peaceful, old charm Florida lifestyle as it has been enjoyed to present day.

[Handwritten signature] A-2
[Handwritten signature] B-11

[Handwritten signature]

FAX TO ERIN STARK
321-633-2087

Objection
18PZ00077
Lopes/Lomando
(Received 10/04/18)

Brevard County Board of Commissioners
Planning & Development Department

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Karen Oaks C-9

Lore Jean Johnston Melillo C-7

Robert G. Bunker B-3

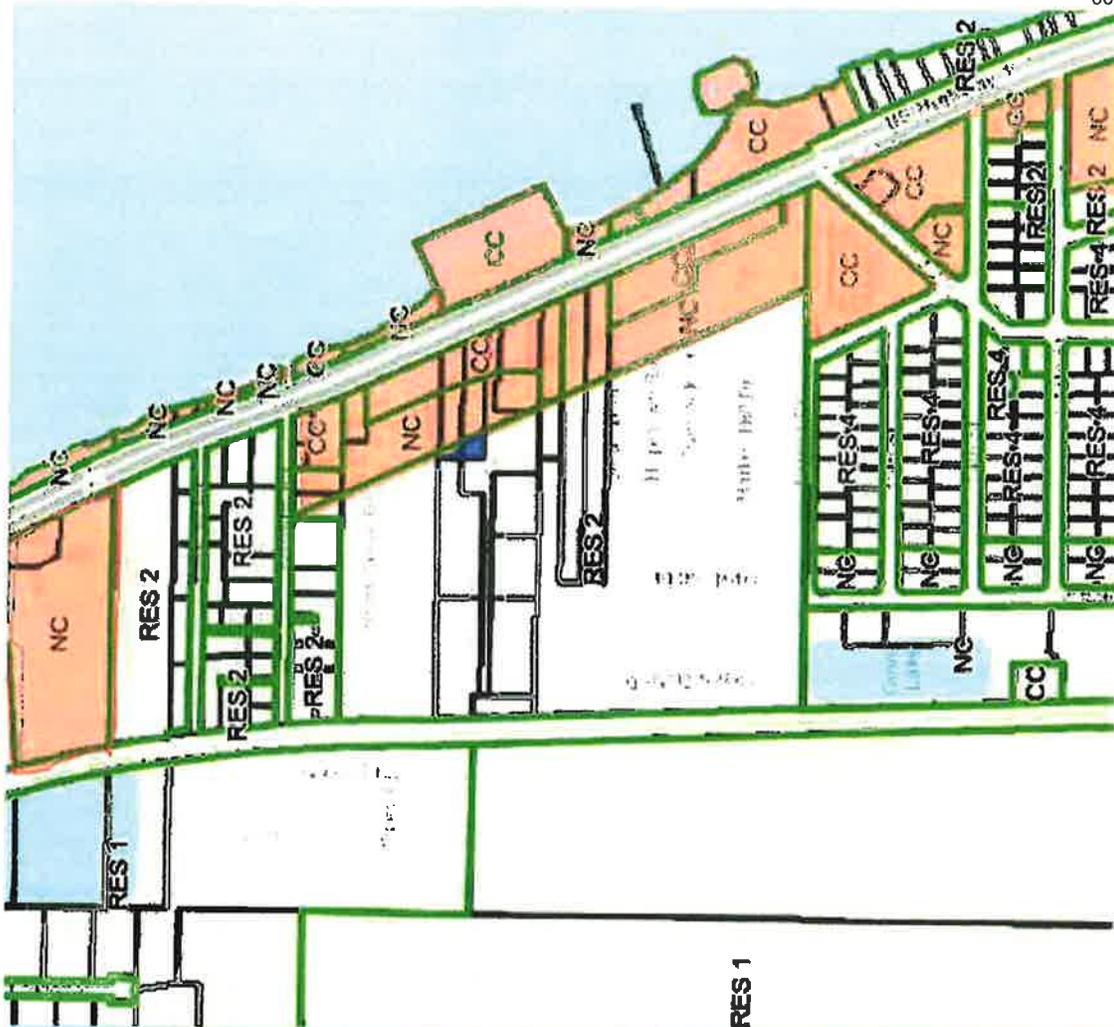
FAX TO ERIN STERK
321-633-2087

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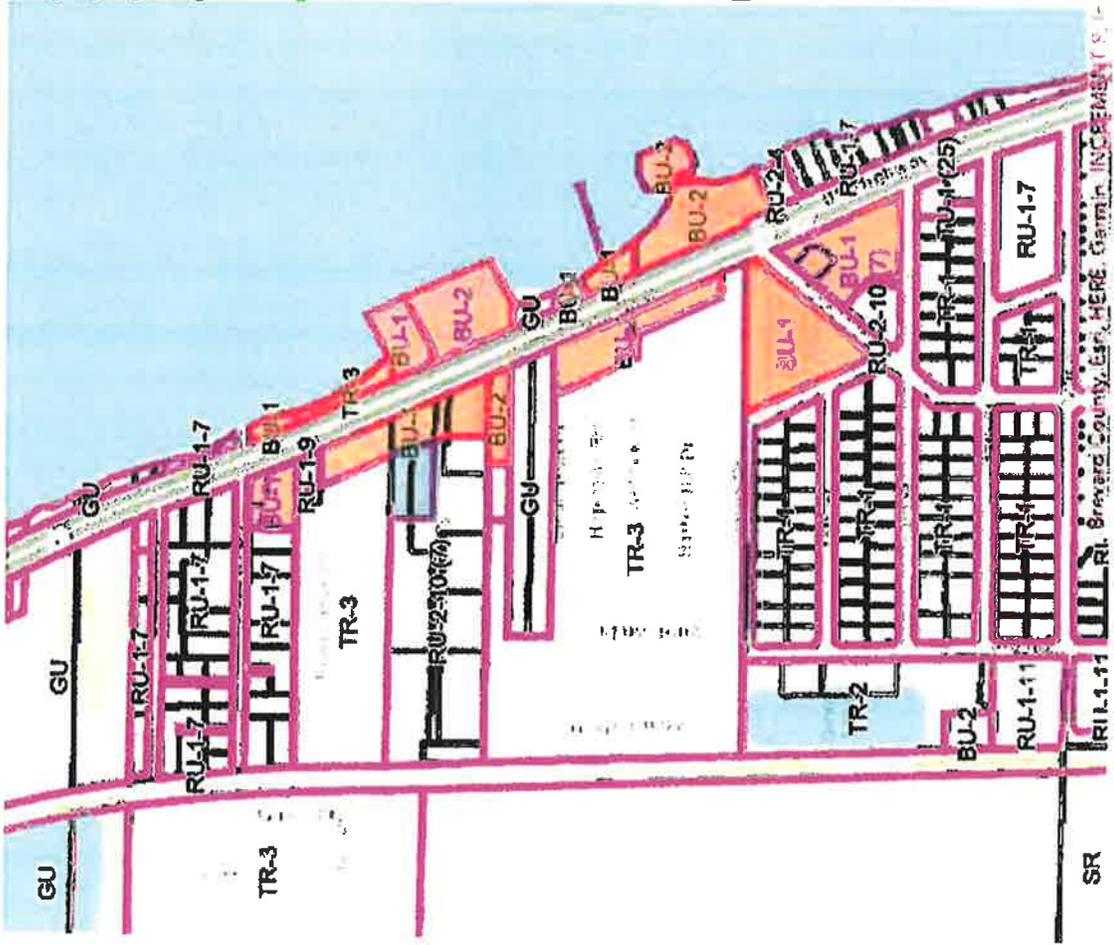
Power Point Presentation	pages 1-31
Request for Official Notice	pages 32-33
Exhibit 1 (Rezoning Worksheet)	pages 34-39
Exhibit 2 (FLU Amendment/Findings of fact)	pages 40-47
Exhibit 3 (9/18 Hearing Transcript)	pages 48-49
Exhibit 4 (Existing Zoning/Landuse Map)	page 50
Exhibit 5 (Charter sec.2.9.3.1)	page 51
Exhibit 6 (FLU Policy 2.8)	page 52-53
Exhibit 7 (FLU Policy 2.9)	page 54
Exhibit 8 (FLU Glossary P.XV-29)	page 55
Mr. Lopes Sworn Statement	page 56
9/18 Hearing Transcript	pages 57-58

RESEARCH | EXEMPTIONS | TANGIBLE | FORMS | CENTRAL | CONTACTS





RES 1

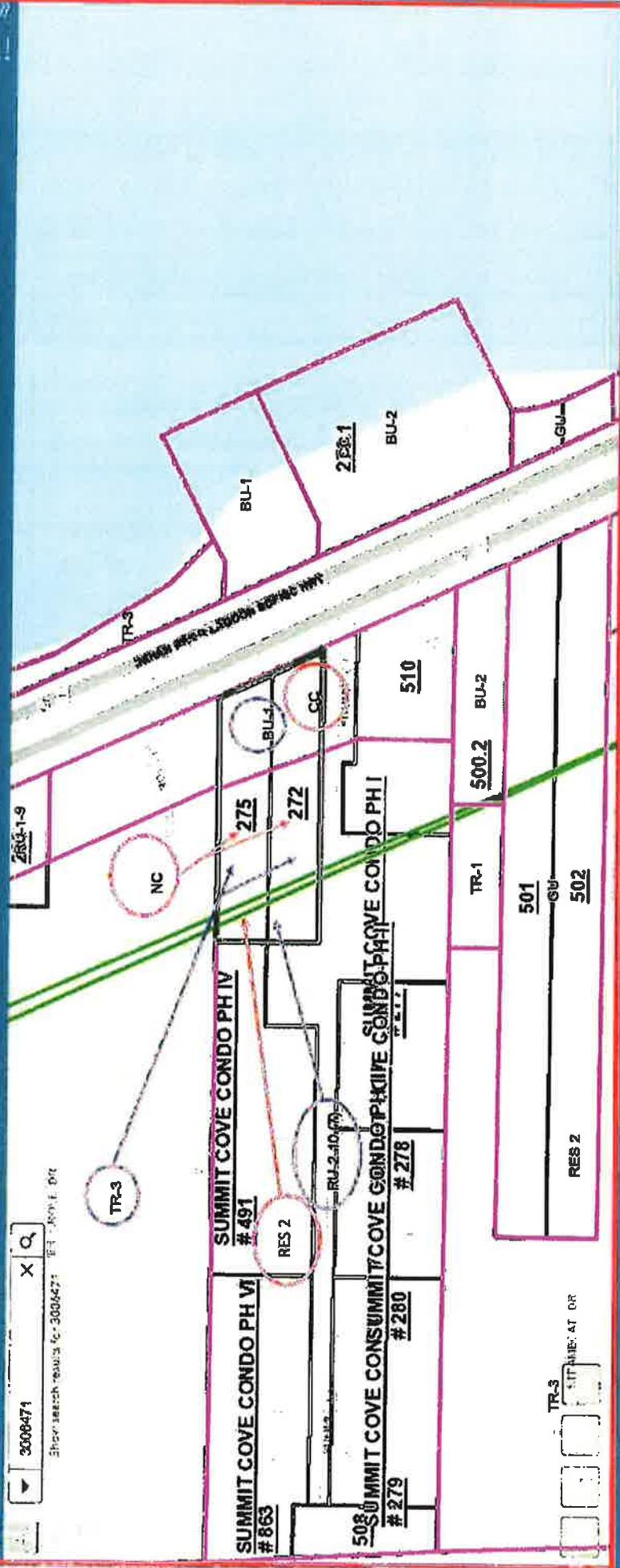


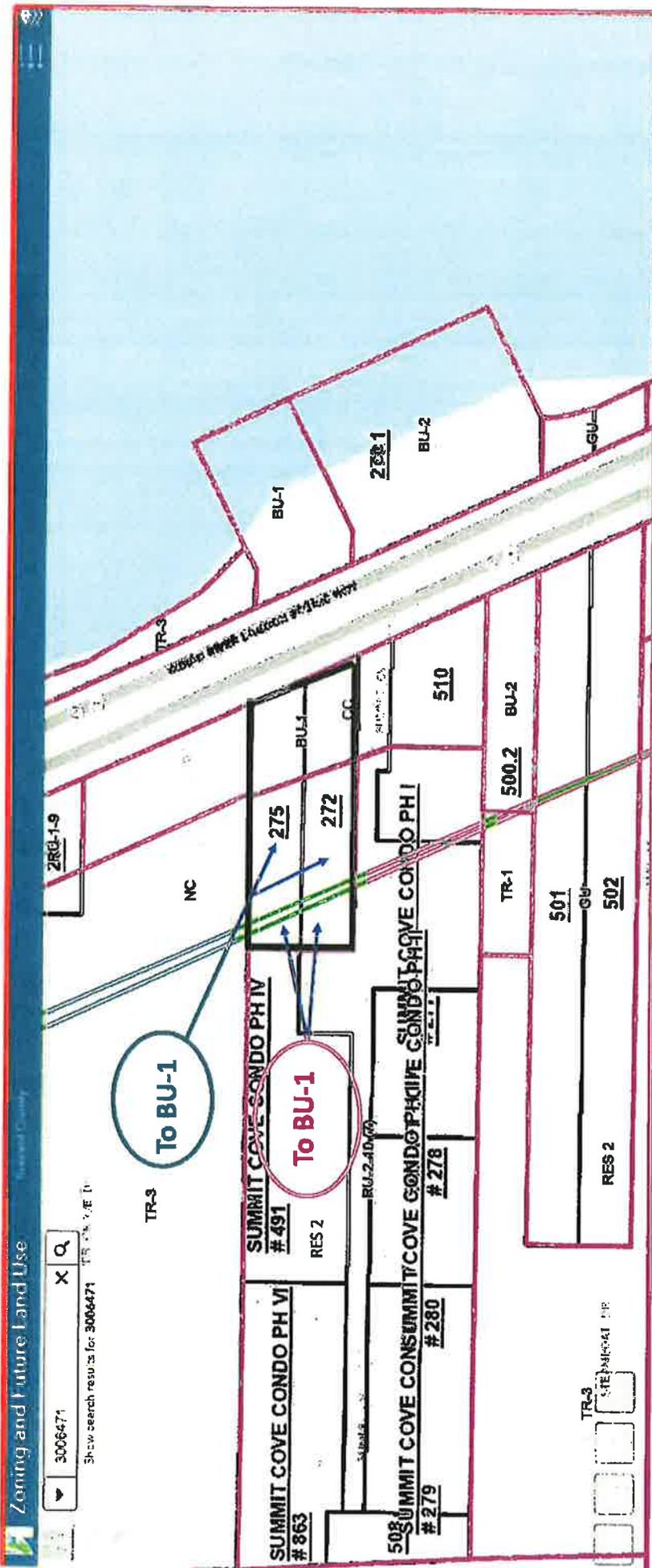
SR

Zoning and Future Land Use

3006471 X Q

Show search results for 3006471 in 3006471





Zoning and Future Land Use

3006471 X Q

Show search results for 3006471

To BU-1

To BU-1

TR-3

RES 2

501

500.2

510

278-1

278-2

278-3

278-4

278-5

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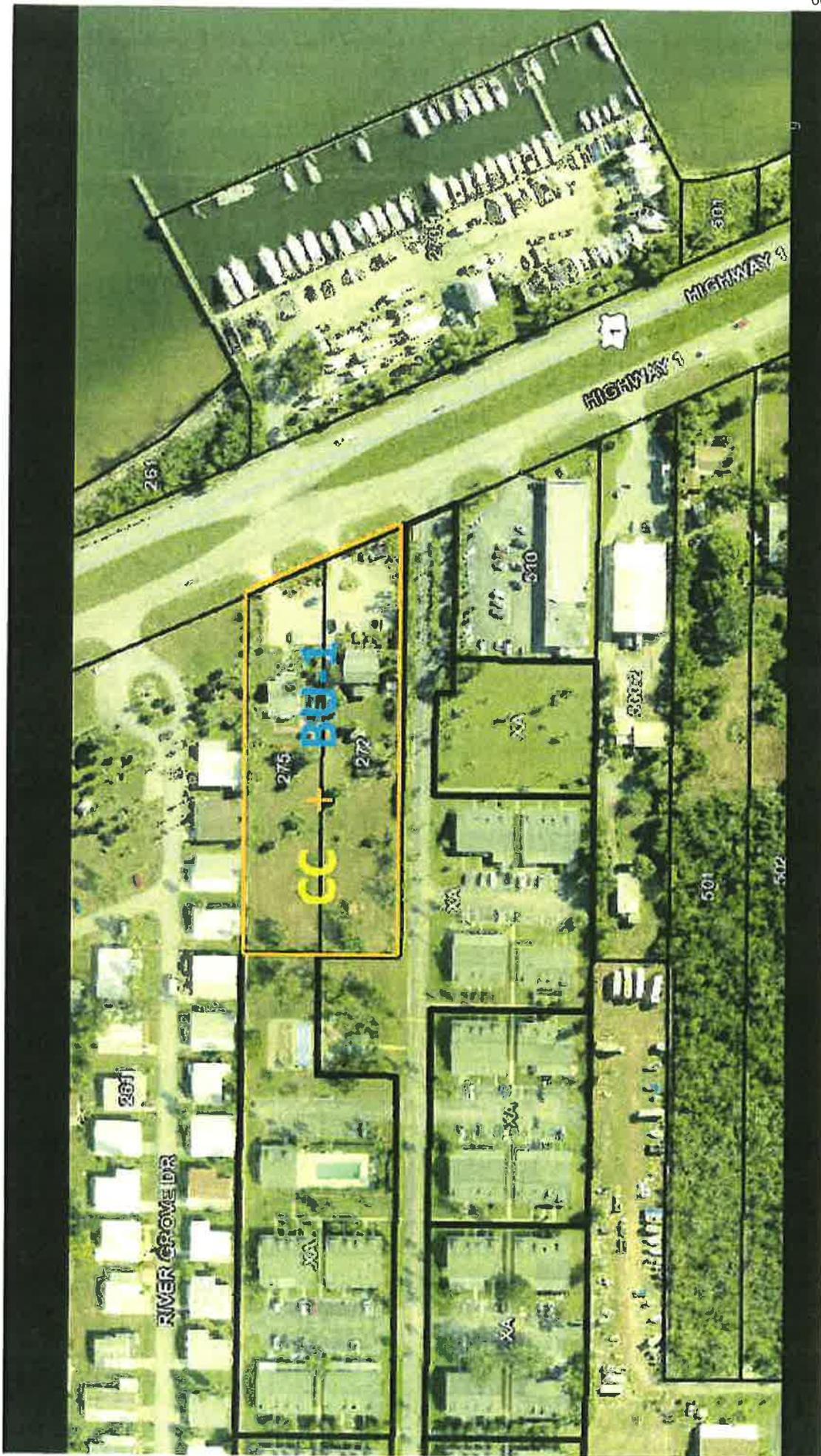
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278-143

278-144

278-145

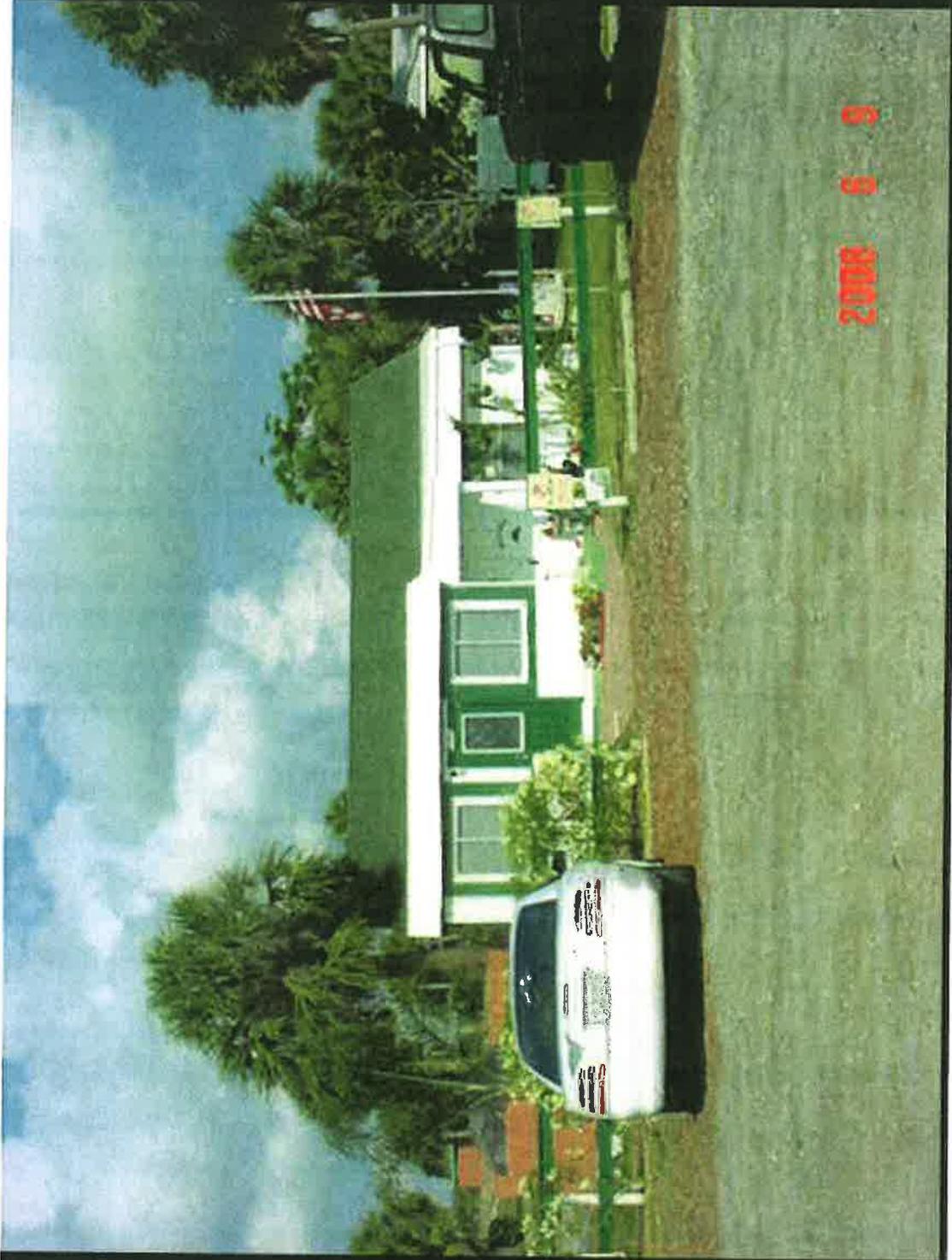




Space Coast Florida
Narasimhan | Space
City Administrator

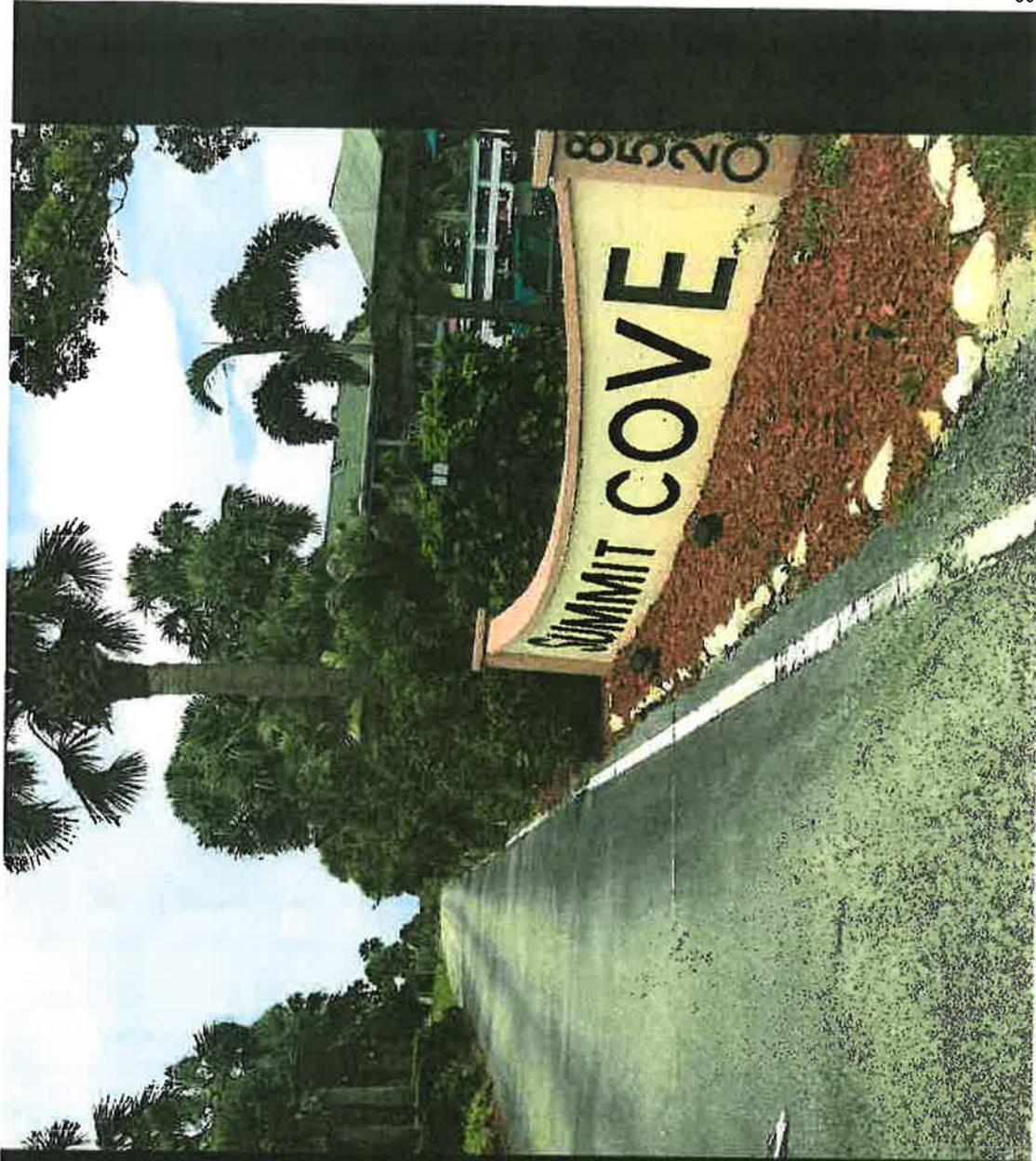
Flood Zone Map







**Looking West from the
property showing
significant existing
buffering vegetation**



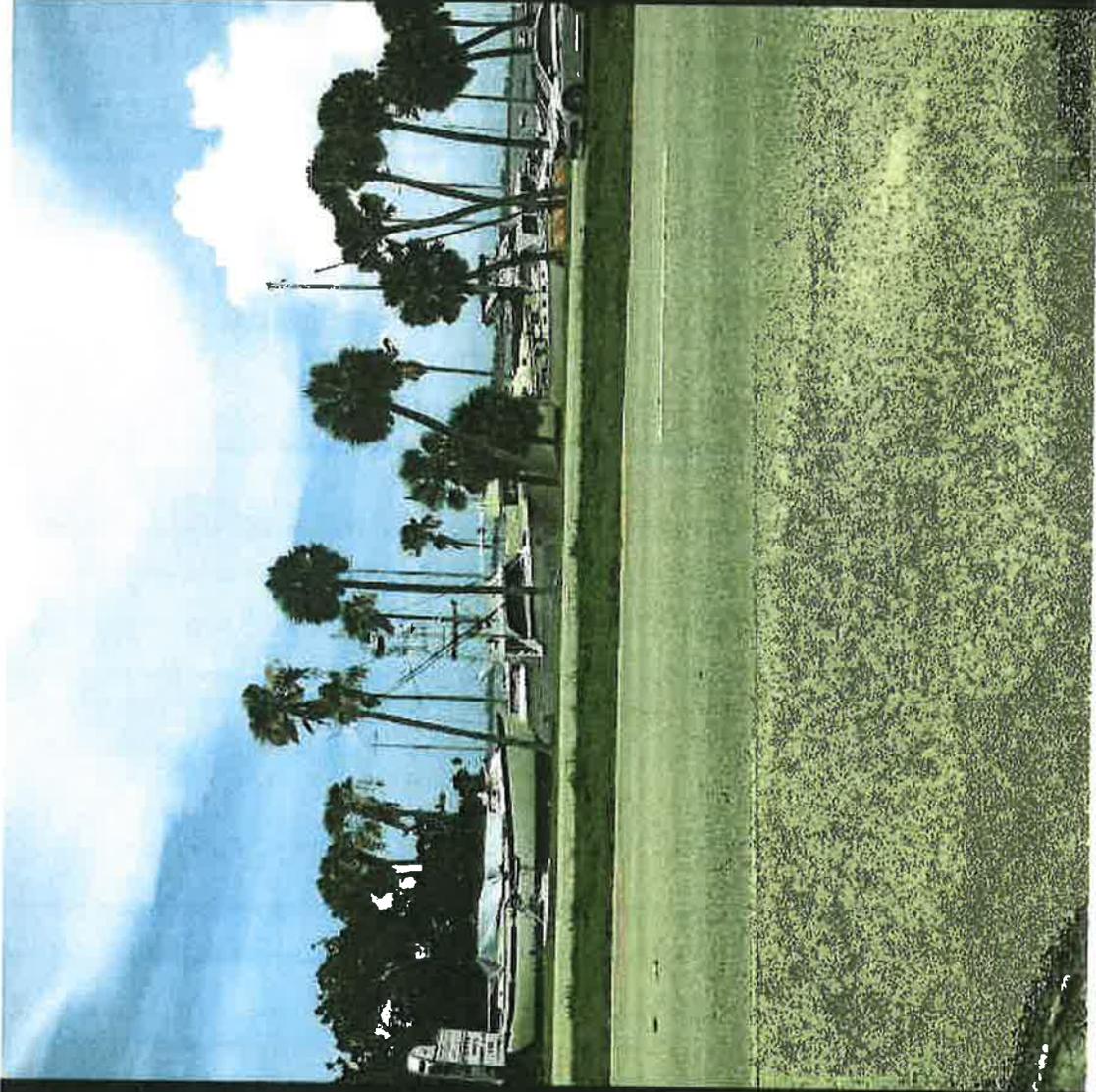
**Looking
South
from
Property**



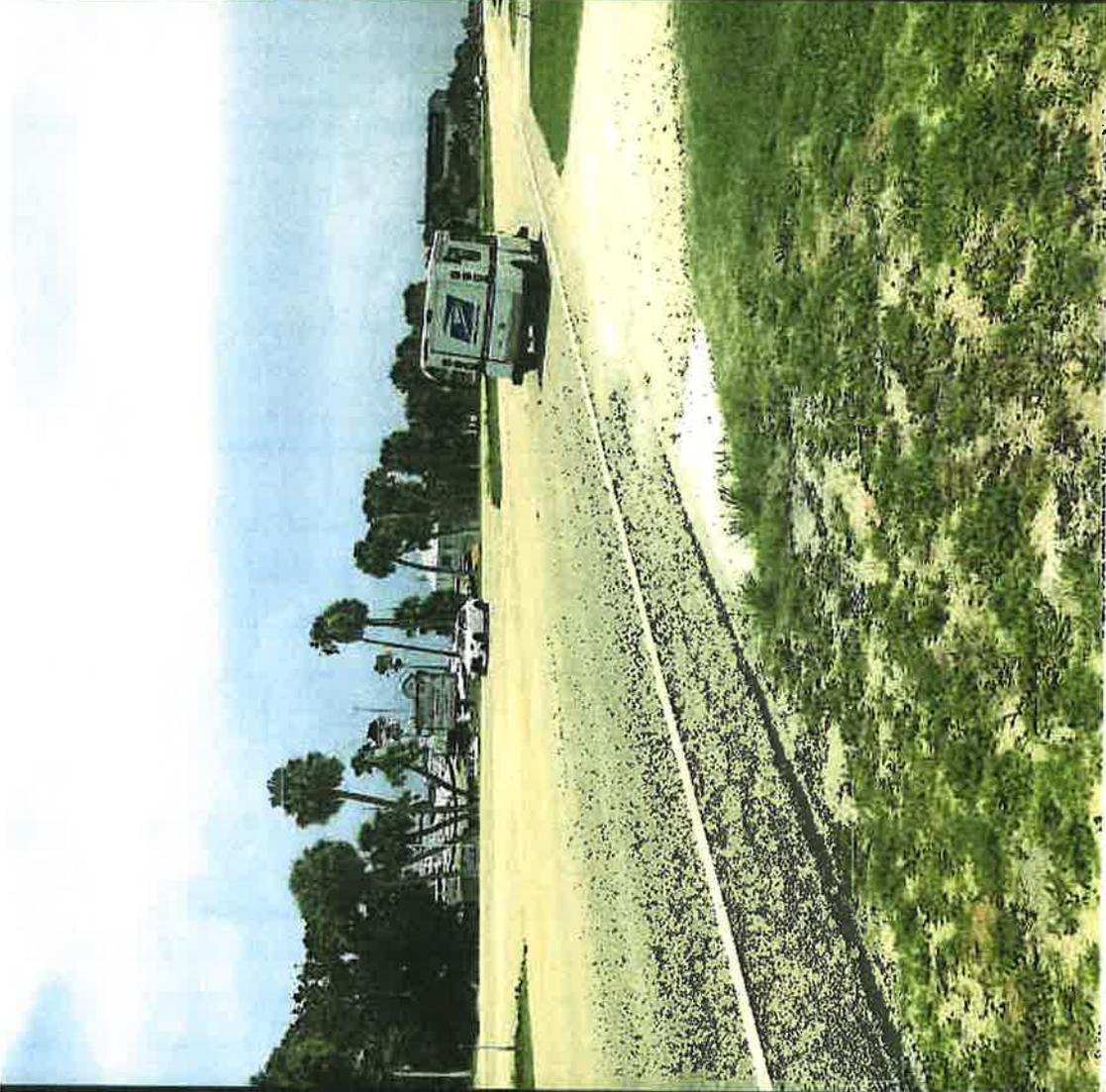
**Looking
North
from the
Property**



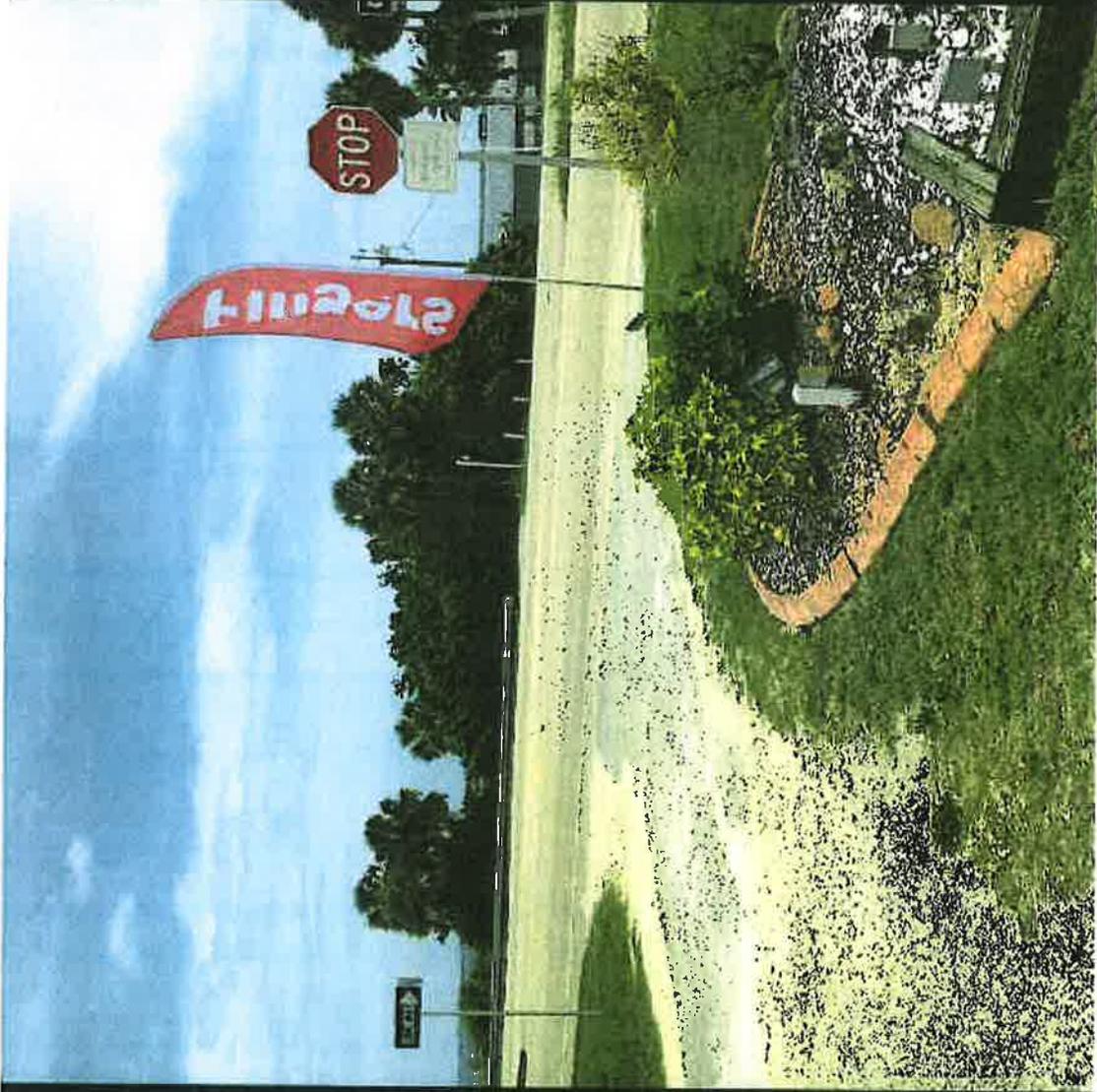
**Looking
East from
the
property
across US 1**



**Looking
South
from
north
boundary
of the
property**

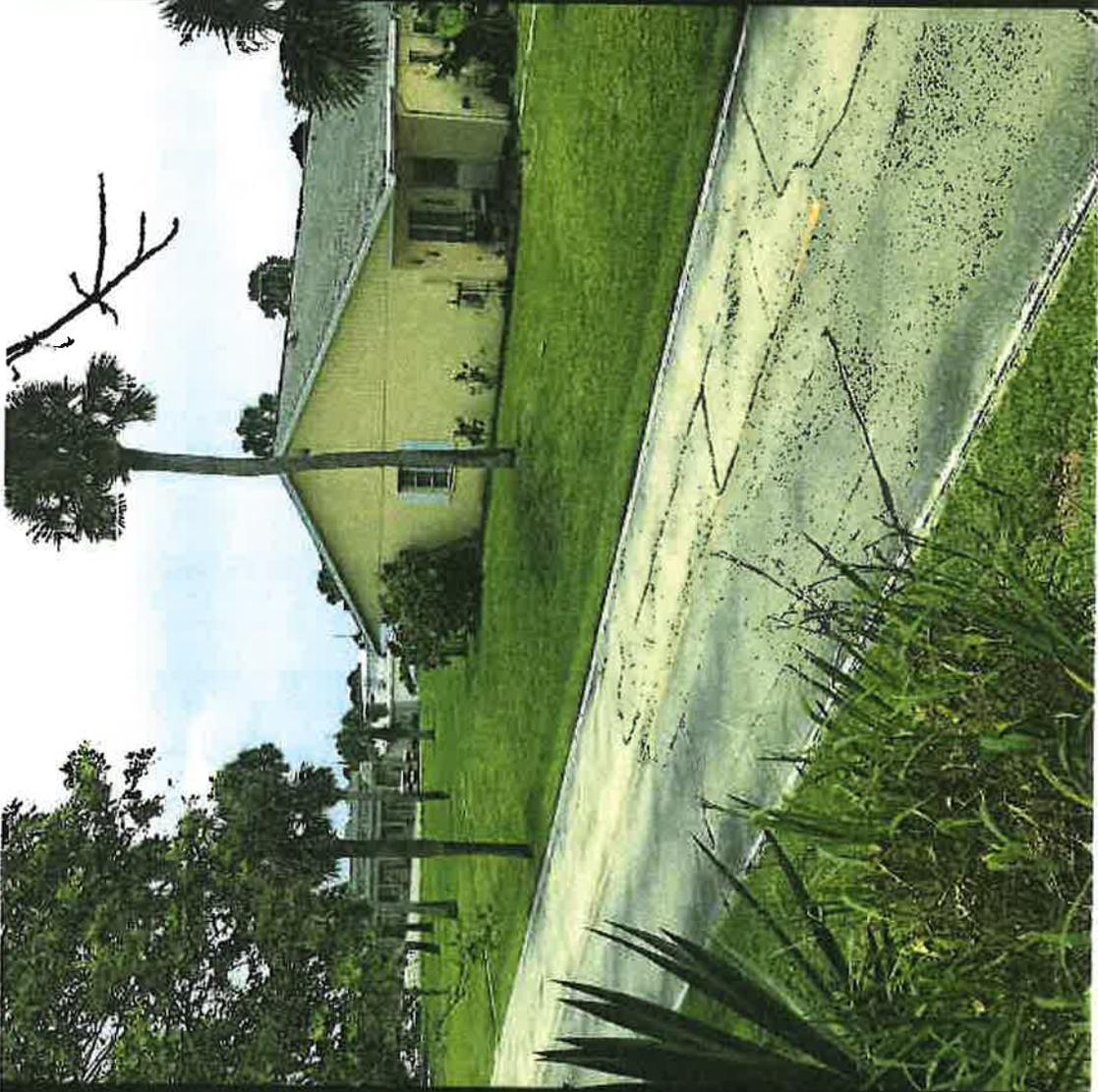


**North
ingress to
property
from US 1**



**Looking
West to
rear
boundary
of the
property**





Looking southeast from the rear of the property

**Looking East at strip
center and US 1
from rear of the
property line
abutting nearest
Summit Condo unit**



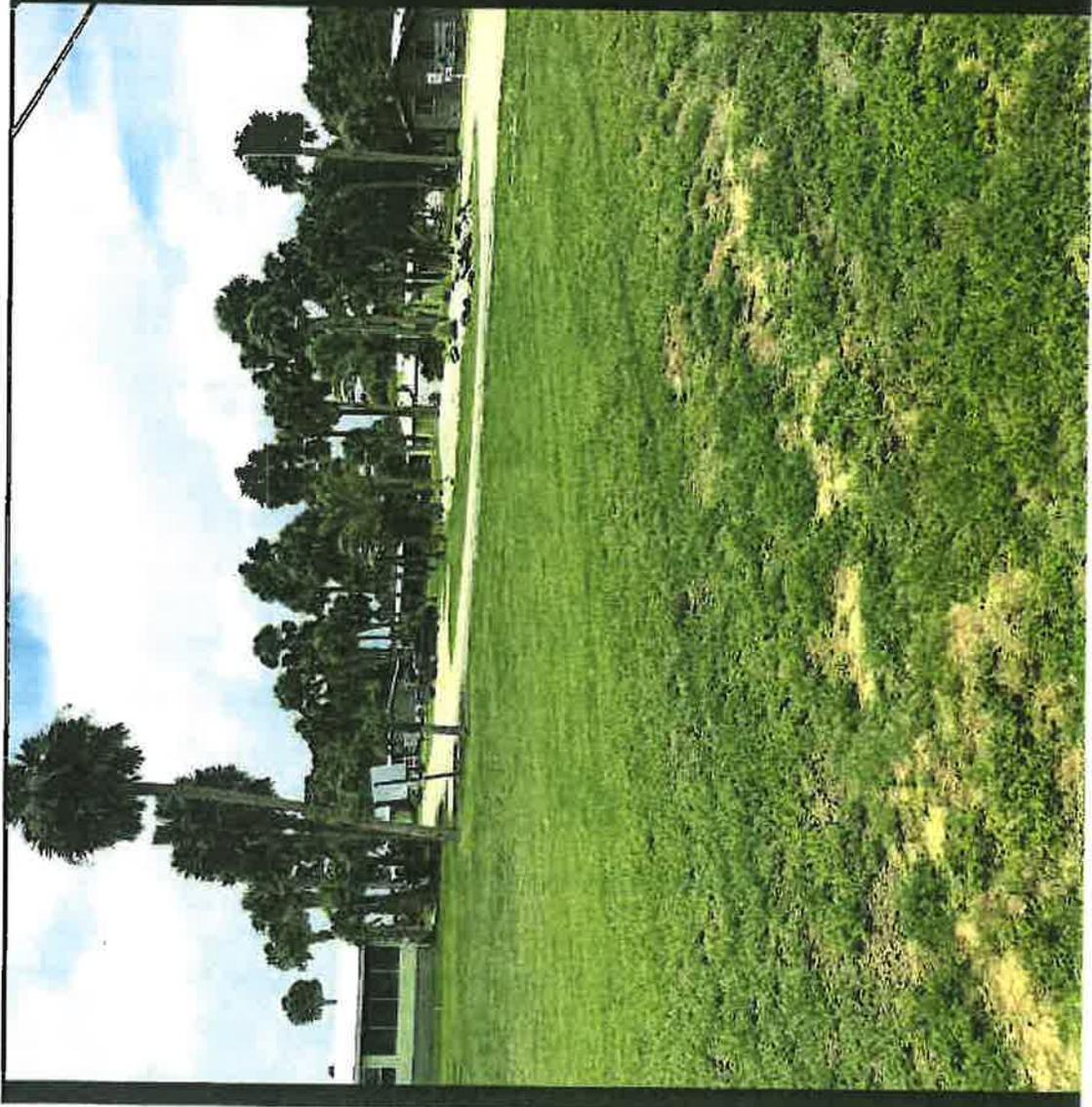
**Looking
southeast
from rear
of the
property**



**Looking
northwest
from front
of the
property at
nearest
mobile
home**

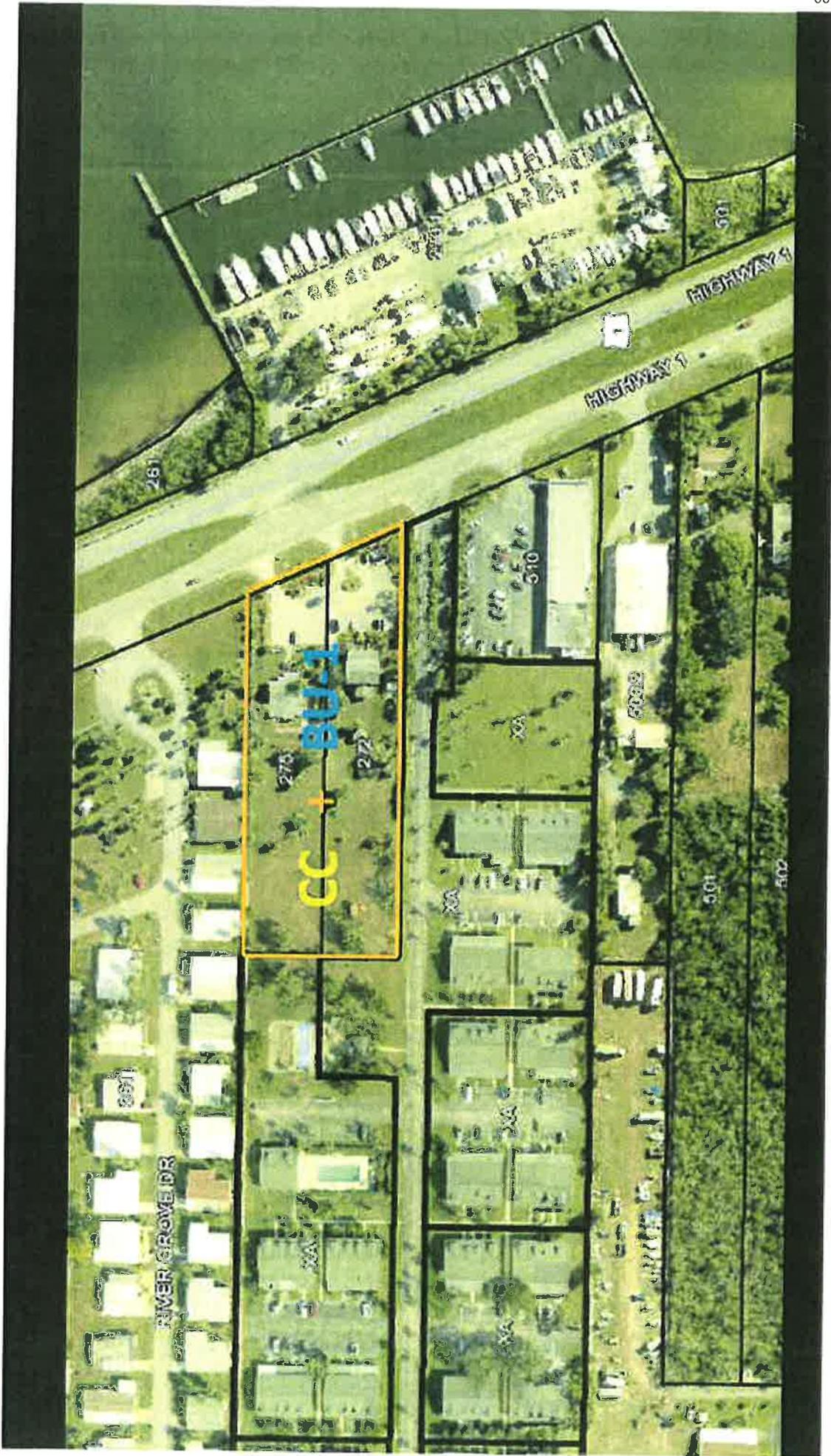


Abutting vacant property to the north zoned BU-1



**Looking northwest
from rear of the
property at Summit
Cove recreation area**





shelters are identified by two categories: general, multipurpose and special needs. Private shelters consist of structures privately owned.

Shoreline means the point where the water meets the land at any point in time.

Shoreline Protection Buffer - a setback established from the mean or ordinary high water line or sub-aquatic line whichever the applicant chooses. Within the Shoreline Protection Buffer, passive recreation, hunting, fish and wildlife management open space, nature trails and limited amounts and types of shoreline access facilities shall be allowed. The amounts and types of development allowed within the shoreline protection buffer and other development restrictions are listed in Conservation Element Policies 3.3, 3.4, and 3.5

Short Shoot - The area between the primary (road) and the blade of a sagress

Should - expresses obligation, mandatory action necessary unless it can be clearly demonstrated that:

- a. Site application will be contrary to the public interest
- b. The public values being protected are insignificant and a strict application will result in an excessive hardship to the project;
- c. Site application will place an excessive hardship on the project, and an alternative action is available which is equal to or superior than the original requirements in reaching the policy's objective; and
- d. The activity is not financially feasible for the local government.

Significant Adverse Impacts means that within the sphere of influence of a proposed boating facility, boat or injury to manmade or destruction of manmade facilities that can be reasonably expected to occur as a result of the construction, expansion, or increase in powerboat densities and activities associated with boating facility.

Significant Manatee Habitat Features - each of the following five habitat features is considered significant as described.

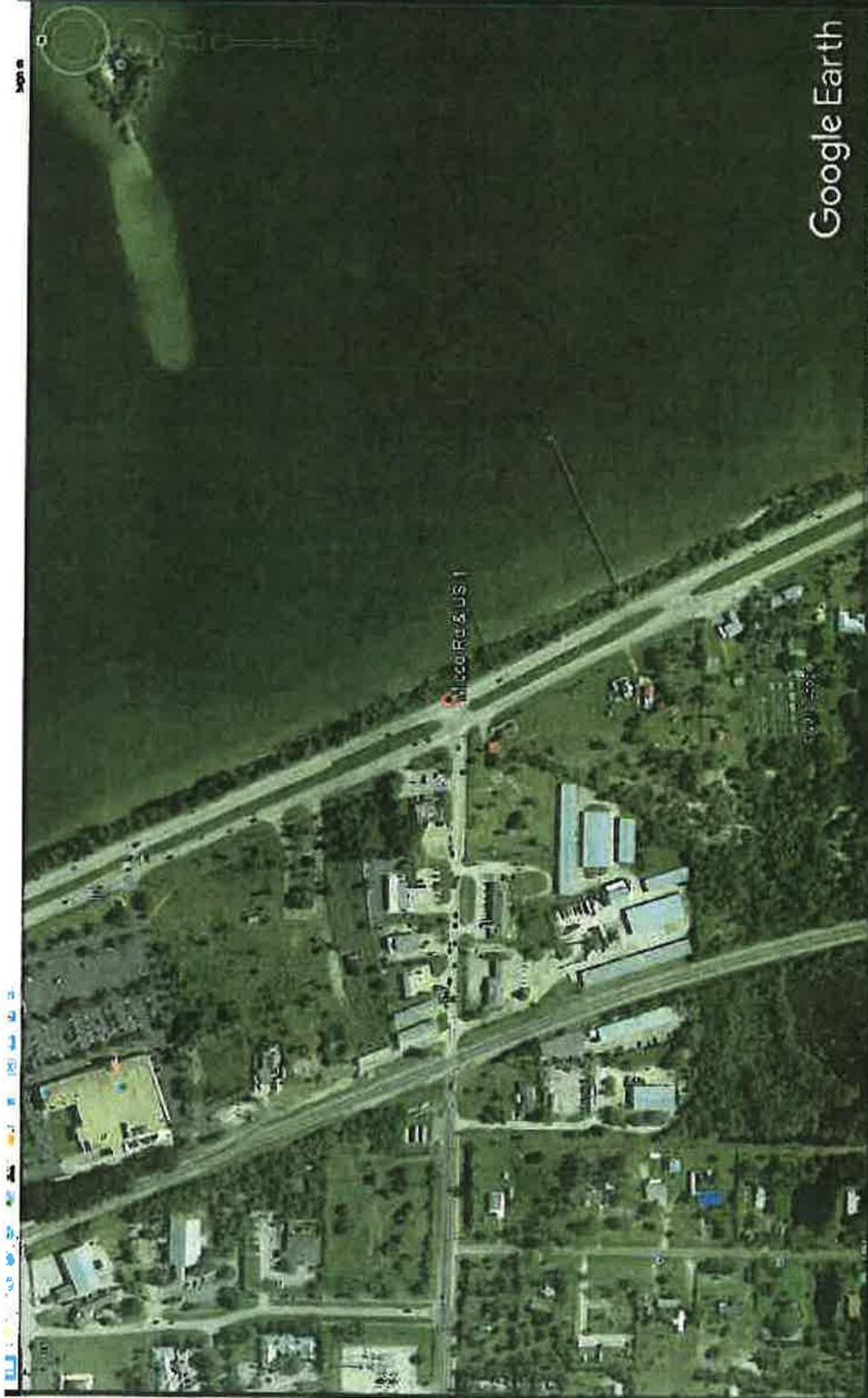
1. **Sagress** - 5% or more sagress present on the proposed project site is considered significant.
2. **Manatee Abundance** - five (5) or more observations/ sightings within a 5 mile radius of the site. If more than one survey falls within the 5-mile radius, the number of manatees observed will be summed for each survey, divided by the number of sightings and then the normalized value will be summed.
3. **Significant Manatee Mortality** - the number of manatee mortality within a 5 mile radius, divided by the total number of manatee mortalities in Brevard County. A value of .025 or higher is considered significant.
4. **Manatee Freshwater Sources/Charging/Calving/Feeding/Resting Area** is within a 1/2 mile of the proposed site.

Micco Rd. and US 1 Intersection Existing Land uses



Micco Rd and US 1 land uses

30



Google Earth

BEFORE THE BREVARD COUNTY COMMISSION**IN RE: REZONING APPLICATION OF ANTHONY LOPES AND EUGENE LOMANDO****CASE NO: 18PZ00077****REQUEST FOR ADMINISTRATIVE OR OFFICIAL NOTICE**

The Applicants, ANTHONY LOPES and EUGENE LOMANDO, by and through their undersigned attorney, hereby request the Brevard County Board of County Commissioners, sitting in its capacity as a quasi-judicial Board in this rezoning application case, hereby requests the Board to take administrative or official notice of the following documents presented to the Board in this case for inclusion in the record:

1. All facts and matters set forth in the Rezoning Review Worksheet in this case, attached hereto as Exhibit 1, also referred to as "Staff Comments," which has been prepared by County Planning and Development Department staff and delivered to the Board of County Commissioners.
2. All facts and matters set forth in the document entitled Future Land Use Map Series Plan Amendment, Findings of Fact(Exhibit B)," attached hereto as Exhibit 2, which has been prepared by County Planning and Development Department staff and delivered to the Board of County Commissioners.
3. The Clerk to the Board's verbatim transcription of testimony by Anthony Lopes and Doug Hillman delivered at the public hearing on agenda item H.3. entitled "Ordinance R: General Tourist Commercial TU-1 Code Revision to Eliminate Hotel Density" at the Board of County Commissioners Zoning Meeting held on September 18, 2018, attached as Exhibit 3 hereto.
4. The portion of the Brevard County online zoning and land use base map showing Applicant's 1.96 acre combined property as parcel numbers 272 and 275, a copy of which attached hereto as Exhibit 4, said base map appearing at the following webpage:
<http://www.arcgis.com/apps/webappviewer/index.html?id=8401fea35fda4415aa48f0dfc861cedc&extent=-9060424.6779%2C3250925.5042%2C-8913665.5836%2C3321171.1332%2C102100>
5. Section 2.9.3.1. of the Brevard County Charter, as published on Municode.com at webpage, copy of which is attached hereto as Exhibit 5

https://library.municode.com/fl/brevard_county/codes/code_of_ordinances?nodeId=PTICH_AR_T2LEBRBOCOCO_S2.1CO

6. Policy 2.8 of the Future Land Use Element in the Brevard County attached hereto as Exhibit 6, entitled "Locataional and Development Criteria for Community Commercial" published as page XI-12 on the webpage <https://www.brevardfl.gov/docs/default-source/planning-and-development/chapter-11-future-land-use.pdf?sfvrsn=2>
7. Policy 2.15 of the Future Land Use Element in the Brevard County attached hereto as Exhibit 7 entitled "Strip Commercial Development," published as page XI-18 at the webpage <https://www.brevardfl.gov/docs/default-source/planning-and-development/chapter-11-future-land-use.pdf?sfvrsn=2>
8. Page XV-29 of the Glossary to the Furuter Land Use Element in the Brevard " County Comprehensive Plan, a copy os which is attached hereto as Exhibit 8, which is published on the webpage <https://www.brevardfl.gov/docs/default-source/planning-and-development/comprehensive-plan-glossary6b1884f0e17a6fe79a60ff01009b44fb.pdf?sfvrsn=2>



Scott L. Knox, Esq.
Widerman Malek PL
1900 West New Haven Ave.
Melbourne, FL 32904

REZONING REVIEW WORKSHEET

18PZ00077

Commission District # 3

Hearing Dates: P&Z 08/06/18

BCC 09/06/18

Owner Name: ANTHONY LOPES AND EUGENE R. LOMANDO

Request: BU-1 & TR-3 to all BU-1

Subject Property:

Parcel ID# 30-38-14-00-272; 30-38-14-00-275

Tax Acct.# 3006468; 3006471

Location: West side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd.

Address: 8480 & 8490 U.S. Hwy 1, Micco

Acreage: 1.98 +/-

Consistency with Land Use Regulations

Yes
No**
Yes

Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
 Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
 Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

Zoning	CURRENT BU-1 & TR-3	PROPOSED All BU-1
Potential*	Duplex and a 1,944 sq. ft. restaurant	17,076 sq. ft. potential development or 7 Hotel units & 1,944 sq. ft. restaurant
Can be Considered under FLU MAP	BU-1 portion Yes is consistent With CC, TR-3 portion NC & RES 2 yes can be considered under Policy 2.13	NO**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Requires Small Scale Amendment from NC and RES 2 to CC.

Maximum Development

	ADT	PM PEAK	Segment Number	300A
Type from Existing Zoning	43	81	Segment Name	US Hwy 1 Int Rvr Cl- Micco
Type from Proposed Zoning	14,499	870	Acceptable LOS	D
Maximum Acceptable Volume (MAV)	41,799	3,791	Directional Split	6.5
Current Volume	32,790	2,048	ITE CODE	
Volume With Proposed Development	37,189	2,916	803	
Current Volume / MAV	54.64%	54.44%	310832	
Volume / MAV with Proposal	89.09%	77.57%	Findings	
Current LOS	C	C	a Non-Deficiency	
LOS With Proposal	C	C	b Deficiency	

Proposed Hotel/Restaurant

	ADT	PM PEAK	Segment Number	300A
Type from Existing Zoning	43	81	Segment Name	US Hwy 1 Int Rvr Cl- Micco
Type from Proposed Zoning	354	22	Acceptable LOS	D
Maximum Acceptable Volume (MAV)	41,799	3,791	Directional Split	6.5
Current Volume	32,790	2,048	ITE CODE	
Volume With Proposed Development	23,984	2,871	803	
Current Volume / MAV	54.44%	54.44%	310832	
Volume / MAV with Proposal	57.17%	55.09%	Findings	
Current LOS	C	C	a Non-Deficiency	
LOS With Proposal	C	C	b Deficiency	



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 (18PZ00077)
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Background & Purpose of Request

The applicant is seeking a change of Zoning classification on two parcels from General Retail Commercial (BU-1) and Mobile Home Park (TR-3) to all BU-1 for the purpose of developing a hotel and restaurant. The eastern portion of each parcel already retains the BU-1 Zoning classification and is developed as a 1,944 square foot restaurant and a duplex.

August 05, 1965: the subject parcels were one parcel and rezoned (Z-1786) from General Use (GU) to General Retail Commercial (BU-1) for a depth of 200 feet west of Highway US 1 and Trailer Park on the remainder of the parcels.

June 05, 1973: a Special Use Permit (Z-3293) was approved for a Real Estate Office to be run out of the home.

1979: the parent Parcel was subdivided into the two parcels existing today, Parcel 275 to the north and Parcel 272 to the south.

December 06, 1984: the south parcel #272 was approved for a Conditional Use Permit (Z-6927) for the outside sale of Mobile Homes in a BU-1 zoning classification.

February 26, 1996: the south parcel #272 was denied a Conditional Use Permit (DNZ-9661) for Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification.

August 29, 1996: the south parcel #272 was approved for a Conditional Use Permit (Z-9763) for Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification with stipulation that it must be a private club, member parking must be in front of the structure, closing will be midnight on weekdays and 2:00 a.m. on weekends and that the Zoning classification related to the property remain unchanged.

March 06, 2003: the CUP (Z-6927) for the outside sale of Mobile Homes in a BU-1 zoning classification was administratively removed, per zoning resolution Z-10781(50) and that the Zoning classification related to the property be retained, after the Zoning Regulations were amended to change outside sale of Mobile Homes in a BU-1 zoning classification from a conditional use to a permitted use with conditions.

October 02, 2003: the CUP (Z-9763) for the Alcoholic Beverages for On-premises Consumption in a BU-1 zoning classification was administratively removed per zoning resolution Z-10847 and that the zoning classification related to the property be retained.

May 28, 2009: the south parcel #272 was approved for a Conditional Use Permit (Z-11500) for Alcoholic Beverages for On-premises Consumption in a BU-1 Zoning classification as accessory to a restaurant only.

A companion application, 18PZ00076 was submitted accompanying this request for Future Land Use designation change on the portion of the parcels with Neighborhood Commercial (NC) and Residential 2 (RES 2) to all Community Commercial (CC) to be consistent with the BU-1 rezoning request.

Land Use Compatibility

The subject property currently retains the Community Commercial (CC), Neighborhood Commercial (NC) and Residential 2 (RES 2) Future Land Use (FLU) designation, but the applicants are seeking all CC in a companion application for a Small Scale Comprehensive Plan Amendment.

FLUE Policies 2.7, 2.8 and 2.15 outline the role of the Comprehensive Plan in the designation of commercial lands.

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This request is to change the Zoning classifications from BU-1 and TR-3 to all BU-1 zoning classification. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The request for BU-1 zoning should be evaluated within the context of Policy 2.7 of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;
 Transient commercial uses;
 Tourist commercial uses;
 Professional offices;
 Personal service establishments;
 Retail establishments;
 Non-retail commercial uses;
 Residential uses;
 Institutional uses;
 Recreational uses;
 Public facilities;
 Transitional uses pursuant to Policy 2.14; and
 Planned Industrial Park development (as permitted by PIP zoning).

The request for BU-1 Zoning should be evaluated within the context of Policy 2.8 of the Future Land Use Element, which sets forth locational criteria for Community Commercial land use activities, as follows:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial intersections. Collector/arterial intersections area acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal/ arterial intersections.
- B. Community Commercial complexes should not exceed 40 acres at an intersection.
- C. Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.
- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.
- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

Floor Area Ratios are evaluated during site plan review, but the request for BU-1 Zoning further limits the site's potential floor area.

Given the zoning pattern in the area, Policy 2.15, which addressed infill vs. strip commercial development, should also be considered, as follows:

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area. Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial

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 (18PZ00077)
 08/06/18 PZ // 09/06/18 BCC

- complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.
- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.
 - C. A sidewalk or bicycle path shall be required where appropriate (as encouraged by Tables 2.1 and 2.2 of the FLUE) to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The parcels are located on the west side of U.S. Highway 1 (U.S. 1), an urban principal arterial roadway consisting of mostly commercial zoning uses which serve the surrounding neighborhoods, one half mile south of the Micco Road intersection. The east portion of the overall parcels was developed as a 1,944 square foot restaurant and a duplex. Across U.S. Highway 1 (U.S. 1) there is an existing marina. The restaurant and marina serve several neighborhoods and sub-regional areas.

The abutting parcel to the north of the subject property is zoned Mobile Home Park (TR-3) with a developed mobile home park, River Groves Mobile Home Village. There are four mobile home units from this mobile home park abutting the subject property.

The abutting parcels to the west and south of the subject property are zoned Medium-Density Multi-Family Residential (RU-2-10) with an existing condominium development, Summit Cove Condominium located on the parcels.

Within the last 10 years, only one rezoning action has occurred in the area along Highway U.S.1 from Garrets Road to the County line. That zoning action (Z-11559) was a change from Single-Family Residential, (RU-1-7) and General Retail Commercial, (BU-1) to Restricted Neighborhood Retail Commercial (BU-1-A) and was approved.

The development potential of the site has been calculated as follows: Under Section 62-1611 (4) of Brevard County Code, maximum hotel/motel development is limited to 30 units per acre in the mainland area, if certain locational parameters are met. As this site fails to meet those criteria, the maximum development potential is regulated by the Comprehensive Plan. Policy 2.13 of the Future Land Use Element clarifies that residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. As the parcels abut surrounding parcels with the Residential 2 (RES 2) Future Land Use designation, this property can anticipate increase the density to up to 4 units per acre, or a total unit count of seven (7) hotel or motel units, as this lot lies outside of the Coastal High Hazard area. If the site is used for other than hotel or motel use, the 1.96 acre site would allow up to 17, 076 square feet of commercial building space allocation (zoning's lot yield formula estimates a 20% threshold of the lot's area as the official estimate for the RP, BU-1-A or BU-1 zoned properties to estimate the building potential of the lot) or up to a one to one floor area ratio (FAR) for development within the CC designated area or 0.75 FAR under the NC FLU designation per Section 62-2110 of Brevard County Code.

A preliminary concurrency analysis indicates that the proposed change in FLU designation would not generate traffic that would cause deficiency of adopted roadway levels of service (LOS). Today, the traffic counts indicate that this section of the U.S. Highway 1 (U.S. 1) corridor is at 54.44% of the maximum acceptable volume (MAV). The highest traffic generating use allowable under within the BU-1 Zoning classification is projected to put the corridor at 88.99% of MAV and is not expected to impact the acceptable LOS.

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(18PZ00077)
08/06/18 PZ // 09/06/18 BCC

For Board Consideration

The applicant is seeking a change of Zoning classification on two parcels from General Retail Commercial (BU-1) and Mobile Home Park (TR-3) to all BU-1 for the purpose of developing a hotel and restaurant. The eastern portion of each parcel already retains the BU-1 Zoning classification and is developed as a 1,944 square foot restaurant and a duplex.

The Board may wish to consider whether the proposed BU-1 Zoning classification is consistent and compatible with the surrounding development.

This request for rezoning from TR-3 and BU-1 to all BU-1 accompanies a request for a change of FLU designation from Neighborhood Commercial (NC) to Community Commercial (CC). If the Future Land Use change proposal is not supported by the Board, this zoning request cannot be heard.

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 (18PZ00077)
 08/06/18 PZ // 09/06/18 BCC

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 18PZ00077

Zoning Request: BU-1, TR-3 to BU-1

P&Z Board Hearing: 08/06/18

Applicant: Lopes and Lomando

BCC Hearing: 09/06/18

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, County or Local Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 30, Rng. 38, Sec. 14;
 Tax ID No. 3006471 & 3006468**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large mapped Florida Scrub Jay polygon over the site as shown on the Scrub Jay Occupancy Map. 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.

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

*Small Scale Plan Amendment 18S.07 (18PZ00076)
Township 30, Range 38, Section 14*

Property Information

Owner / Applicant: Anthony Lopes and Eugene R. Lomando

Adopted Future Land Use Map Designation: NC, and RES 2

Requested Future Land Use Map Designation: all CC

Acreage: 1.96 acres **Tax Account #:** a portion of 3006468 & 3006471

Site Location: West side of U.S. Hwy 1, approx. 655 ft. south of Garretts Rd.

Current Zoning: BU-1 & TR-3

Requested Zoning: all BU-1

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	River Grove Mobile Home Village	TR-3	RES 2 and NC
South	Summit Cove Condo	RU-2-10 (7)	RES 2 and NC
East	Marina Cafe	BU-1	CC
West	Summit Cove Condo	RU-2-10 (7)	RES 2

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on a portion of two (2) parcels of land totaling .27 acres of Residential 2 (RES 2) and .95 acres of Neighborhood Commercial (NC) to Community Commercial (CC) on a portion of the two (2) greater 1.96 acre parcels of land. The remaining .74 acre piece of the greater parcels already retains the CC Future Land Use designation. The subject parcels are located within unincorporated Brevard County in Micco, on the west side of U.S. 1 approximately 655' south of Garretts Road.

The subject portions of the greater two (2) parcels abut River Grove Mobile Home Village to the north, the Marina Cafe to the east across U.S. 1 and the Summit Cove Condominium Complex to the south and west. The two (2) parcels of land each have three (3) Future Land Use designations with Community Commercial (CC) to the east fronting on U.S. 1, which is currently developed as a restaurant.



The reason there are three (3) different land use designations is due to various County wide initiatives from 1988 to 2001. In 1988 the County adopted the Brevard County Comprehensive Plan to include a Future Land Use Map and a Residential Density Map. During an Evaluation and Appraisal Review (EAR) of the Comprehensive Plan in 2001, the Future Land Use Map and the Residential Density Map were combined to create a single map. During this Plan update, CC Future Land Use was designated along the County's major corridors to include this section of U.S. 1. In addition, the newly designated land uses were created based upon the underlying zoning. This Countywide Comprehensive Plan Amendment created situations where a parcel of land had more than one Future Land Use designation.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the Zoning classification from Mobile Home Park (TR-3) to General Retail Commercial (BU-1).

Environmental Resources

Note: The Natural Resources Management Office will provide a detailed analysis at the time of the future for rezoning for of the following environmental factors: Wetlands, Floodplains, Aquifer Recharge, and Endangered or Threatened Species. Applicants are encouraged to contact the Brevard County Natural Resources Management Office concerning environmental considerations prior to planning and development. Any future development will be subject to Brevard County's land development regulations.

Historic Resources

There is one resource group of historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources. At the time of site plan review, the applicant will be required to submit a description of the ground disturbing activities to the Compliance and Review Division of the Florida Department of State Division of Historical 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.

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;

If developed together with the remainder of the Community Commercial (CC) portion of the parcels to the east, the site will have frontage on U.S. 1, an urban principal arterial roadway.

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

The subject portions of the overall parcels are adjacent to the developed Community Commercial (CC) portion to the east which has frontage along the U.S. 1 corridor. The majority the Future Land Use designations along the U.S. 1 corridor are Neighborhood Commercial (NC) and Community Commercial (CC). The existing commercial uses are restaurants, marinas, a storage facility, retail and professional offices with the remainder being vacant. There are two marinas along the east side of the U.S. 1 corridor, with the remainder of the properties having residential single-family houses or vacant land.

To the north, south and west the area is predominantly Residential 2 (RES 2) and Neighborhood Commercial (NC) and developed as a mobile home village and condominiums. However, along the U.S. 1 corridor the majority of the properties are developed as Community Commercial (CC) and Neighborhood Commercial (NC).

C. Existing commercial development trend in the area;

This section of the U.S. 1 corridor has both Neighborhood Commercial (NC) and Community Commercial (CC) Future Land Use designations. U.S. 1 is an urban principal arterial roadway consisting of community commercial uses which serve the surrounding neighborhoods. The east portion of the overall parcels was developed as a restaurant. Across U.S. 1 there is an existing marina. The restaurant and marina serve several neighborhoods and the region.

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

There is a new interchange proposed at Interstate 95 (I-95) just north of Micco Road. Anticipate that travel patterns will change once the new interstate connectivity is provided.

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

The subject parcel is not served with a potable water supply. There are no existing Brevard County Utilities sewer lines that run adjacent to this property.

If developed with the .74 acre portion of the overall parcel currently retaining the Community Commercial (CC) Future Land Use designation, there would be direct access to U.S. 1 and potential trips generated are not anticipated to affect Level of Service standards for this urban principle arterial road.

The preliminary transportation concurrency analysis indicates that the section of U.S. 1 from Micco Road to First Street has a maximum acceptable volume (MAV) of 41,790. Brevard County defers to the Space Coast Transportation Planning Organization's (TPO's) traffic count program, which indicates that in 2016 the roadway's trips were at 57.85% of the MAV. With this Future Land Use change to Community Commercial (CC), the subject parcel at its highest use would increase the Maximum Acceptable Volume (MAV) to 95.24%. Currently, this section of U.S. 1 has a Level of Service (LOS) of C. The Future Land Use change to Community Commercial (CC) would create a Level of Service (LOS) of D. This segment of U.S. 1 has a maximum Acceptable Level of Service (LOS) of D.

The Board should take note of the potential for certain land uses to result in extreme trip generation such as automobile washing and sales and convenience stores with or without gasoline pumps.

F. Spacing from other commercial activities;

The subject parcel is adjacent to commercially developed land to the east, which is a .74 acre portion of the two overall parcels that has been developed as a restaurant. Along the U.S. 1 corridor to the north and south are developed commercial properties and to the east there is a restaurant and two marinas within close proximity to the site.

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

The Future Land Use designation change from Residential 2 (RES 2) and Neighborhood Commercial (NC) to Community Commercial (CC) is proposed on a 1.22 acre portion of the combined two (2) 1.96 acre parcels of land. The remaining eastern portion of the overall parcels is a .74 acre piece that currently has a Community Commercial (CC) Future Land Use designation. Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan, Community Commercial development is intended to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.

Along the U.S.1 corridor, Community Commercial (CC) land uses extend to a depth of approximately 200 feet off of each side of the right-of-way, which was delineated as a part of the development of the Future Land Use Map in 2002. The depth of these two parcels is set back approximately 460 feet in depth for the U.S. 1 corridor right-of-way line. There are several parcels to the south with a Community Commercial (CC) land use depth of approximately 400 feet deep off of the U.S. 1 right-of-way on parcels approximately 1,176 feet deep.

H. 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).

I. Integration of open space; and

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

J. Impacts upon strip commercial development.

This area of the U.S. 1 corridor is comprised of Neighborhood Commercial (NC) and Community Commercial (CC) land uses. The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for Community Commercial (CC) property. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern.

**Activities Permitted In Community Commercial (CC) Future Land Use Designations
Policy 2.7**

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

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;

- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has indicated that the proposed use will include hotel and restaurant.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

The subject parcels combined are less than 10 acres and there are no principal arterial/principal arterial intersections located within close proximity to this site.
- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject combined parcels are 1.96 total acres in size with .74 acres already having the Community Commercial (CC) Future Land Use designation. The subject parcel is not located at an intersection.

There is limited access to an intersection both to the north and south of the subject site. The nearest intersection to the north is approximately one half mile at the signalized intersection of Micco Road and U.S. 1. Micco Road is the southernmost signalized intersection in Brevard County lying approximately 1.4 miles north of the County line.

The F.E.C. Railroad is approximately 1,000 feet west with very limited connectivity with U.S. 1.
- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The subject parcel is less than 10 acres and is not within five (5) miles of a community commercial cluster.
- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

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

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

This portion of the two subject parcels has the potential for 54,143 square feet of commercial development. Combined with the existing .74 acre portion of the property that currently has a Future Land Use designation of Community Commercial, the total potential square footage of the site is approximately 85,377. The FAR is regulated through the land development regulations at the time of site plan review.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation.

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate exchange from the U.S. 1 corridor.

Policy 2.15 of the Future Land Use Element Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

Criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross-access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.

The subject portions of the overall parcels do not have frontage on a roadway. These portions of the overall site, if developed together with the remainder of the Community Commercial (CC) portions of the parcels, would have frontage on U.S. 1, an urban principal arterial roadway.

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.

When developed with a community commercial use, the site plan associated with it will be reviewed for setbacks, landscape and buffering as part of that review to meet the current Land Development Regulations at the time of development.

The Board may wish to consider whether any buffers would serve to decrease any perceived encroachment on surrounding residential property.

- C. A sidewalk or bicycle path shall be required where appropriate, as encouraged by Tables 2.1 and 2.2 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and non-vehicular access into the site.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Residential 2 (RES 2) and Neighborhood Commercial (NC) to Community Commercial (CC) on 1.22 acres of the total 1.98 acres on two parcels. A portion of the parcels closest to US-1 already retains the CC FLU designation. This area of unincorporated Brevard County is comprised of mainly NC and CC development along U.S. 1, a principal north/south arterial roadway in the Micco area.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not generate traffic that would cause deficiency of adopted roadway levels of service, but that certain potential commercial land uses could come very close to doing so. Today, the traffic counts indicate that this section of the U.S. 1 corridor is at 58% of the maximum acceptable volume (MAV).

The Board may wish to consider whether the Community Commercial Future Land Use designation is consistent and compatible with the surrounding commercial and residential development.

This request is accompanied by a companion proposal for a change of Zoning classification from Mobile Home Park (TR-3) to General Retail Commercial (BU-1).

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review**

SUMMARY

Item #: 18PZ00076 FLU Request: CC, NC & RES-2 to CC P&Z Board Hearing: 08/06/18	Applicant: Lopes and Lomando BCC Hearing: 09/06/18
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This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, County or Local Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp 30, Rng. 38, Sec. 14;
Tax ID No. 3006471 & 3006468**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large mapped Florida Scrub Jay polygon over the site as shown on the Scrub Jay Occupancy Map. 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.

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Verbatim of Anthony Lopes and Doug Hillman

Item H.3., Ordinance, Re: General Tourist Commercial TU-1 Code Revision to Eliminate Hotel Density

Zoning Meeting, Brevard County

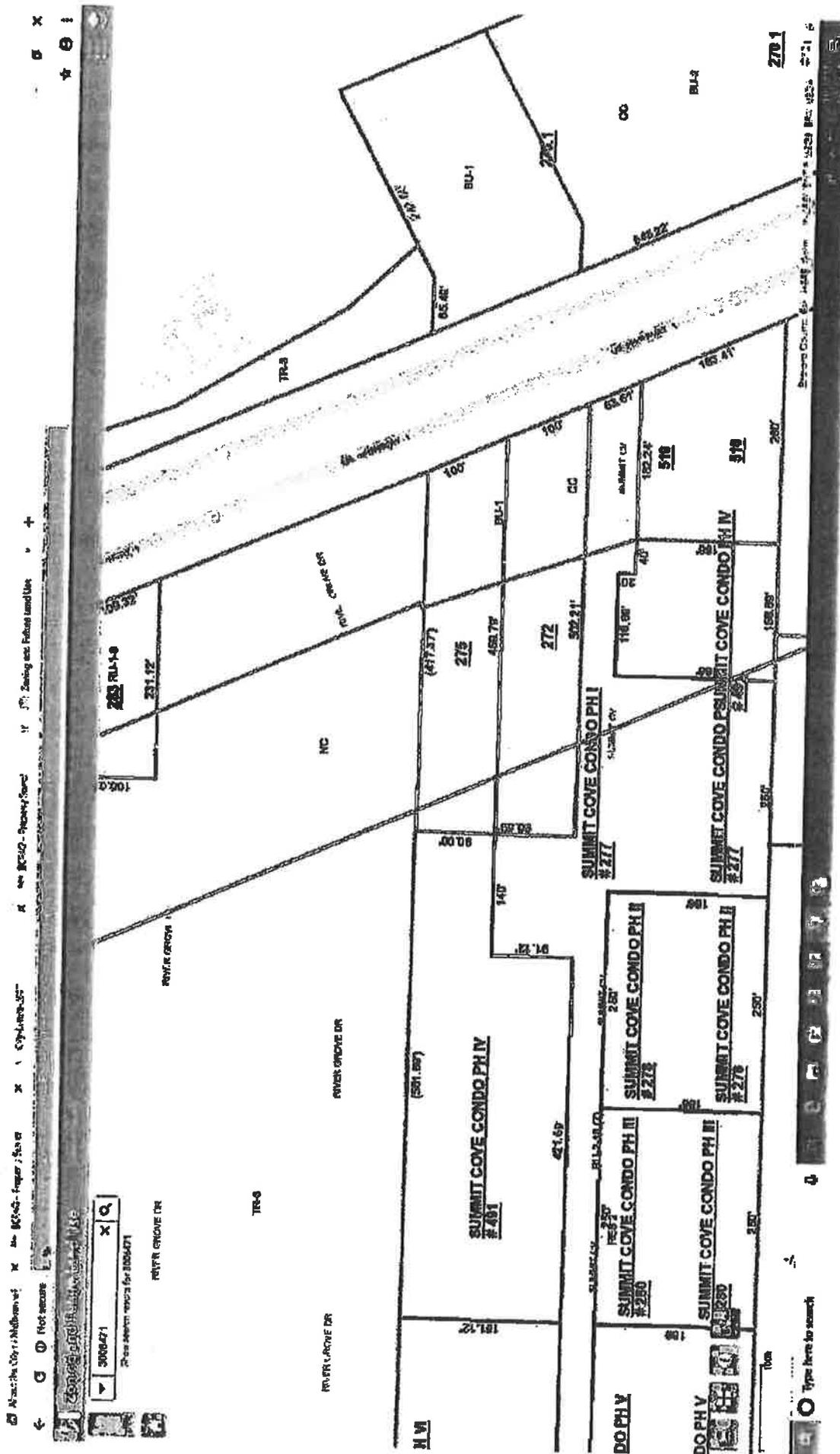
September 18, 2018

Anthony Lopes - Actually Pensacola is not a bad place, but I'm from Franklin, Tennessee, at the moment. My name is Anthony Lopes. I'm here in reference to the item that we're discussing. My partner, Gene Lomando, and I own two acres of property down in Micco, on 8480 and 8490 U.S. 1. We've owned that property together, jointly for 38 years. My family was involved with that property four years prior to that, so I've been involved with the property now for 42 years. Okay? And in those 42 years, we've maintained the property, we've made repairs to the property because of hurricane damage, we have put quite a bit of money into the property to maintain it, upgrade it, and keep it looking good. At one time, I was involved with the ownership of the Marina across the street, which is now the Sebastian River Marina, at that time it was called the Neptune Marina. Doug Hillman is here. Doug is now the owner of the marina. And during the entire time that we've owned this property we've seen very little development on the south end of Brevard County, especially in Micco. We've seen most of the development now go south of the Sebastian River Bridge in Indian River County, with very little bleeding over into Brevard County. The most recent is the Sebastian Inlet Marina, who did a ton of work to his building. So, there's a little bit going on but not much. But we think there's a reason that we could have a development in that area and I will tell you why. Um, hold on one second. Did this computer go to sleep for a little bit? Okay, so what are we trying to accomplish? Right now the property is zoned three, it has three different zonings. The front of the property is zoned BU-1, the middle of the property is zoned TR-3, the back of the property is zoned TR-2, so it's a little convoluted. It is hard to utilize the property effectively with those types of zonings. So what are we trying to do? What we are trying to do is, looking at the years, if looking at this and seeing that there is not one major hotel flag between Vero Beach and actually I did it last night, Melbourne, Florida, on U.S. 1, not one major hotel flag except for Best Western. Now you are talking about a beautiful, beautiful area, beautiful views, beautiful vistas, great boating, but there's not one major hotel other than Best Western on, on U.S. 1. So, we think there is a need now to fill that void, and what is the void? Where would the people be coming from? There's a group of people that come over regularly and have been coming over regularly from Orlando to go boating. Sebastian area, the Sebastian Inlet is the perfect place for them to boat. But there's also numbers of people who come up from south Florida, who spend the weekend up in our area. Now presently they're staying at Captain Hiram's in Sebastian, which is Indian River County. So those tourist dollars are parking themselves in Indian River County. We would like to take that and try to create a tourist destination to have them spend that money in Brevard County. Now why do we think its possible now? We think it is possible now because as you all know the new exits going in on I-95 on Micco Road, and the uh...it's funny, I'm staying at the Holiday Express on Malabar Road. I remember 35 years ago, before that exit was built, it was nothing; there was nothing there on Malabar Road. Now it's, it's booming. I think eventually, if you look forward, look, you'll see that that's a possibility for farther south in, in Brevard County because we'll be, people from Orlando will be easily able to get to the South Brevard area. And then the people coming up from South Florida will have an alternative to North Indian River County. Now what benefit? Now, now let me back up for a second, this is important and I know this is an issue, the people before us were discussing it. This is only possible because they're putting in a new sewer line in, in Micco. I'm sure you're all aware that there's a sewer line under development in



Micco as we speak, and our goal, when available, is to tie into that sewer line. No project that we're looking at could possibly happen without a sewer line. We are very aware of the environment, we own property, we don't just own this property we own property literally around the corner, residential property, a house, and a vacant lot which we intend to build on and live in. And we understand the issues with the Indian River Lagoon, we understand the algae bloom issues, we understand how it kills the sea grass and that's necessary for fish to spawn and for manatees to eat, so we're extremely concerned about the environment. We love the area because of the boating potential and that's the Indian River.

Doug Hillman - Good Morning. Doug Hillman, 8525 North U.S. 1, we call it Sebastian, but it's Micco, Florida. My wife and I purchased the oldest marina in South Brevard 26 years ago, coincidentally right across the street from Anthony Lopes and Gene Lomando. Slowly but surely we've tried to redevelop the marina and it's been quite place, quite a location. We love the area. I've been in business 51 years. We've owned marinas in other counties, in Indian River County, and we love what's going on in Brevard County. To back up, the reason I'm here is I'm 100 percent behind Anthony and Gene in their development. We think it's time for South Brevard to get some, some revenue, some tax revenue from, that we're missing. We watch it happen all the time. People come in from Orlando, they stop at our place for boating and they go and stay in Indian River County. It doesn't make any sense, it really doesn't. There's just no place near us that works. Again, we love the County; we'd like to see it developed responsibly. People don't have to tell me about the environment, I've lived in the environment where the water, where the tide changes, for a long time. We're committed to that and we would like to see the development happen. It has to be guided; it has to be done according to the current structure. I think what they're looking for is well within keeping of responsible development and we'll see how it goes. The sewer is...We've been paying property taxes to the County for a long time. Basically Micco is out there on the ragged edge; we have real estate and that's about it. We have no water, we have no sewer. This is a welcome development for us and what we hope is a future expansion in South Brevard County. Any questions?



mc Brevard County, FL

Brevard County, Florida - Code of Ordinances - CHARTER ARTICLE 2 - LEGISLATIVE BRANCH: BOARD OF CO. (Amd. of 11-2-10)

CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA VOLUME I

SUPPLEMENT HISTORY TABLE

CHARTER

ARTICLE 1 - CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT



Sec 2.1 - Composition.

Sec 2.2 - Resubstituting.

Sec 2.3 - Qualifications.

Sec 2.4 - Terms of office.

Sec 2.5 - Candidacy and election.

Sec 2.6 - Salary and other compensation.

Sec 2.7 - Vacancies and suspensions.

Sec 2.8 - Meetings.

Sec 2.8.1 - Organizational meeting.

Sec 2.8.2 - Special meetings.

Sec 2.8.3 - Location of meetings.

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2.9.3.1. Limitations on growth in ad valorem tax revenues.

(a) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for county purposes at a millage rate which causes the budgeted revenue therefrom to the County to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 99.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

(b) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for municipal purposes within any municipal service taxing unit, or for district purposes of any district for which the Board has the power to fix or approve the millage rate, at a rate which, for such unit or district, causes the budgeted revenue of the unit or district from ad valorem taxes to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 99.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

(c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year.

(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new constructions; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovations) and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.

(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants, or to any other millage approved by rate and/or of the electors, whether before or after the effective date of this subsection.

(Amd. of 11-2-10)

This subsection does not grant the County any power of review of the budget of the School District.

Navigation bar with icons for Home, Back, Forward, and other browser functions. Includes a search box and a large 'EXHIBIT 5' label.

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

In summary, Table 2.1 reiterates the specific development parameters and issues for consideration discussed in Policies 2.1 and 2.6 when evaluating requests for NC land use designations. This table also outlines issues which affect decision making for rezoning requests and for site plan review, as described in Policies 2.2 and 2.3.

Activities Permitted in Community Commercial (CC) Future Land Use Designations Policy 2.7

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

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

Locational and Development Criteria for Community Commercial Uses Policy 2.8

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

Criteria:



- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.
- B. Community commercial complexes should not exceed 40 acres at an intersection.
- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.
- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.
- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.
- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

In summary, Table 2.2 reiterates the specific development parameters and issues for consideration, as discussed in Policies 2.1 and 2.8, when evaluating requests for CC land use designations. This table also outlines issues which affect decision making for rezoning requests and for site plan review, as described in Policies 2.2 and 2.3.

Strip Commercial Development

Policy 2.15

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area. Refer to Figure 1 in the Appendix, "Illustrative Examples of Commercial Infill vs. Extension of Strip Development." Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

Criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.
- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.
- C. A sidewalk or bicycle path shall be required where appropriate, as encouraged by Tables 2.1 and 2.2 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

Periodic Review of Commercial Area Allocations

Policy 2.16

As part of each Evaluation and Appraisal Report (EAR), Brevard County shall analyze the allocation of commercial acreage in the Future Land Use Map. The evaluation of said allocations shall be based upon the following minimum criteria:

Criteria:

- A. Commercial development trends;
- B. The types, intensities, locations, and land areas of commercial land use designations; and
- C. Commercial acreage allocations shall consider all commercial development, whether within or outside of commercial land use designations.

Policy 2.17

Because of the contrasting nature of institutional activities, two types of institutional land uses are identified below. Institutional uses shall be evaluated according to the following location and development criteria:



shelters are identified by two categories; *general population* and *special needs*. Private shelters consist of structures privately owned.

Shoreline means the point where the water meets the land at any point in time.

Shoreline Protection Buffer - a setback established from the mean or ordinary high water line or safe upland line whichever the applicant chooses. Within the shoreline protection buffer, passive recreation, hunting, fish and wildlife management open space, nature trails and limited amounts and types of shoreline access facilities shall be allowed. The amounts and types of development allowed within the shoreline protection buffer and other development restrictions are found in Conservation Element Policies 3.3, 3.4, and 3.5.

Short Shoot - The area between the rhizome (root) and the blade of a seagrass.

Should - expresses obligation; mandatory action necessary unless it can be clearly demonstrated that:

- a. Strict application will be contrary to the public interest;
- b. The public values being protected are insignificant and strict application will result in an excessive hardship to the project;
- c. Strict application will place an excessive hardship on the project, and an alternative action is available which is equal to or superior than the original requirements in reaching the policy's objective, and;
- d. The activity is not financially feasible for the local government.

Significant Adverse Impacts means that within the sphere of influence of a proposed boating facility, death or injury to manatees or destruction of manatee habitat can be reasonably expected to occur as a result of the construction, expansion, or increase in powerboat densities and activities associated with boating facility.

Significant Manatee Habitat Features - each of the following five habitat features is considered significant as described.

1. Seagrass - 5% or more seagrass present on the proposed project site is considered significant.
2. Manatee Abundance - five (5) or more observations/overflight within a 5 mile radius of the site. If more than one survey falls within the 5-mile radius, the number of manatees observed will be counted for each survey, divided by the number of overflights and then the normalized values will be summed.
3. Significant Manatee Mortality - the number of watercraft mortality within a 5 mile radius, divided by the total number of watercraft mortalities in Brevard County. A value of 0.03 or larger is considered significant.
4. Manatee Freshwater Source/Calving/Cavorting/Feeding/Resting Area is within a 1/2 mile of the proposed site.



BEFORE THE BREVARD COUNTY COMMISSION

IN RE: REZONING APPLICATION OF ANTHONY LOPES AND EUGENE LOMANDO

CASE NO: 18PZ00077

SWORN STATEMENT OF ANTHONY LOPES

Before me the undersigned authority, did appear ANTHONY LOPES, who being duly sworn and deposed did say as follows:

1. That he is an owner of the 1.96 acre property described in the zoning application in Case No. 18PZ0007 as the tax account number being a portion of 3006468 & 3006471.
2. That he appeared before the Board of County Commissioners on September 18, 2018 and spoke on agenda item H.3. under Public Hearings.
3. That the attached copy of the verbatim transcript of his comments before the County Commission are a true and accurate account of what he said on that date.
4. That he has reviewed the Power Point Presentation presented in his behalf as applicant and states that the information in that presentation is accurate, in particular the photographs depicting the property, surrounding uses and access conditions as they exist as of the date of this sworn statement.

Anthony Lopes

ANTHONY LOPES

Sworn to and subscribed before me, the undersigned notary public:

Estell Irene Kennedy

Notary Public

My Commission expires: 10/09/2018



Verbatim of Anthony Lopes and Doug Hillman**Item H.3., Ordinance, Re: General Tourist Commercial TU-1 Code Revision to Eliminate Hotel Density****Zoning Meeting, Brevard County****September 18, 2018**

Anthony Lopes - Actually Pensacola is not a bad place, but I'm from Franklin, Tennessee, at the moment. My name is Anthony Lopes. I'm here in reference to the Item that we're discussing. My partner, Gene Lomando, and I own two acres of property down in Micco, on 8480 and 8490 U.S.1. We've owned that property together, jointly for 38 years. My family was involved with that property four years prior to that, so I've been involved with the property now for 42 years. Okay? And in those 42 years, we've maintained the property, we've made repairs to the property because of hurricane damage, we have put quite a bit of money into the property to maintain it, upgrade it, and keep it looking good. At one time, I was involved with the ownership of the Marina across the street, which is now the Sebastian River Marina, at that time it was called the Neptune Marina. Doug Hillman is here. Doug is now the owner of the marina. And during the entire time that we've owned this property we've seen very little development on the south end of Brevard County, especially in Micco. We've seen most of the development now go south of the Sebastian River Bridge in Indian River County, with very little bleeding over into Brevard County. The most recent is the Sebastian Inlet Marina, who did a ton of work to his building. So, there's a little bit going on but not much. But we think there's a reason that we could have a development in that area and I will tell you why. Um, hold on one second. Did this computer go to sleep for a little bit? Okay, so what are we trying to accomplish? Right now the property is zoned three, it has three different zonings. The front of the property is zoned BU-1, the middle of the property is zoned TR-3, the back of the property is zoned TR-2, so it's a little convoluted. It is hard to utilize the property effectively with those types of zonings. So what are we trying to do? What we are trying to do is, looking at the years, if looking at this and seeing that there is not one major hotel flag between Vero Beach and actually I did it last night, Melbourne, Florida, on U.S. 1, not one major hotel flag except for Best Western. Now you are talking about a beautiful, beautiful area, beautiful views, beautiful vistas, great boating, but there's not one major hotel other than Best Western on, on U.S. 1. So, we think there is a need now to fill that void, and what is the void? Where would the people be coming from? There's a group of people that come over regularly and have been coming over regularly from Orlando to go boating. Sebastian area, the Sebastian Inlet is the perfect place for them to boat. But there's also numbers of people who come up from south Florida, who spend the weekend up in our area. Now presently they're staying at Captain Hiram's in Sebastian, which is Indian River County. So those tourist dollars are parking themselves in Indian River County. We would like to take that and try to create a tourist destination to have them spend that money in Brevard County. Now why do we think its possible now? We think it is possible now because as you all know the new exits going in on I-95 on Micco Road, and the uh...It's funny, I'm staying at the Holiday Express on Malabar Road. I remember 35 years ago, before that exit was built, it was nothing; there was nothing there on Malabar Road. Now it's, it's booming. I think eventually, if you look forward, look, you'll see that that's a possibility for farther south in, in Brevard County because we'll be, people from Orlando will be easily able to get to the South Brevard area. And then the people coming up from South Florida will have an alternative to North Indian River County. Now what benefit? Now, now let me back up for a second, this is important and I know this is an issue, the people before us were discussing it. This is only possible because they're putting in a new sewer line in, in Micco. I'm sure you're all aware that there's a sewer line under development in

Micco as we speak, and our goal, when available, is to tie into that sewer line. No project that we're looking at could possibly happen without a sewer line. We are very aware of the environment, we own property, we don't just own this property we own property literally around the corner, residential property, a house, and a vacant lot which we intend to build on and live in. And we understand the issues with the Indian River Lagoon, we understand the algae bloom issues, we understand how it kills the sea grass and that's necessary for fish to spawn and for manatees to eat, so we're extremely concerned about the environment. We love the area because of the boating potential and that's the Indian River.

Doug Hillman - Good Morning. Doug Hillman, 8525 North U.S. 1, we call it Sebastian, but it's Micco, Florida. My wife and I purchased the oldest marina in South Brevard 26 years ago, coincidentally right across the street from Anthony Lopes and Gene Lomando. Slowly but surely we've tried to redevelop the marina and it's been quite place, quite a location. We love the area. I've been in business 51 years. We've owned marinas in other counties, in Indian River County, and we love what's going on in Brevard County. To back up, the reason I'm here is I'm 100 percent behind Anthony and Gene in their development. We think it's time for South Brevard to get some, some revenue, some tax revenue from, that we're missing. We watch it happen all the time. People come in from Orlando, they stop at our place for boating and they go and stay in Indian River County. It doesn't make any sense, it really doesn't. There's just no place near us that works. Again, we love the County; we'd like to see it developed responsibly. People don't have to tell me about the environment, I've lived in the environment where the water, where the tide changes, for a long time. We're committed to that and we would like to see the development happen. It has to be guided; it has to be done according to the current structure. I think what they're looking for is well within keeping of responsible development and we'll see how it goes. The sewer is...We've been paying property taxes to the County for a long time. Basically Micco is out there on the ragged edge; we have real estate and that's about it. We have no water, we have no sewer. This is a welcome development for us and what we hope is a future expansion in South Brevard County. Any questions?

Objection
18PZ00077
Lopes/Lomando
(Received 10/04/18)

Brevard County Board of Commissioners
Planning & Development Department

RE: Rezoning 18PZ00077 & 18PZ00076
Proposed Future use as Hotel
Amendment for an additional 35 feet in height

Parcel ID 30-38-14-00-272; 30-38-14-22-275
Address: 8480 & 8490 U.S. Hwy 1 Micco

As residents of (#8520 US 1) Summit Cove, we believe rezoning the property that is currently a lunch café will be detrimental to our community. Our community is set back from U.S 1 and quiet and private. A multiple story hotel would affect our quiet enjoyment of the residences as we know it. The proposed hotel would be 24-7 hours of operation, exterior lighting every night -all night, and noise levels may increase at odd hours, litter thrown onto our property and our one lane entrance/exit may be made more difficult. We are also concerned with the more transient hotel clientele so close to our homes. The small close-knit community feel is what attracted us to live here and worry how our property values would hold up with the change proposed. The proposed amendment for an additional 35 feet in height for a new structure is not consistent or compatible with the existing neighborhood.

We had been told the property owners planned a bed and breakfast with a full restaurant. That would seem to conform to the current charm and small town feel we currently enjoy. Now we hear of multiple story structure and parking garage that may lead to our community being another over-developed traffic area and U.S 1 has already increased in traffic flow tremendously in the past few years.

We feel rezoning for a resort right up against our homes it will no longer be a place to enjoy a peaceful, old charm Florida lifestyle as it has been enjoyed to present day.

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[Handwritten signature] B-11

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FAX TO ERIN STARK
321-633-2087

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Karen Oaks C-9

Lois Jean Johnston Melillo C-7

Robert G. Burren B-3

FAX TO ERIN STERK
321-633-2087