



AGENDA REPORT
March 7, 2019

Alberto and Biviana Roman (Ralph Kennedy) request an expansion of a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 zoning classification. (18PZ00114) (District 2)

SUBJECT:

Public Hearing, Re: Alberto and Biviana Roman (Ralph Kennedy) request an expansion of a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 zoning classification. The property is 0.24 acres, located on the southeast corner of North Grove Street and Tangerine Avenue) (170 North Grove Street, Merritt Island) (18PZ00114) (District 2)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider the request for an expansion of a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 zoning classification.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is requesting an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages from beer and wine only to full liquor for on-premises consumption in conjunction with a 3,312 square-foot sit-down restaurant with 72 indoor, and 46 outdoor, seats within the Merritt Island Redevelopment Area (MIRA). The parcel has a previously approved CUP (Z-9783) for on premises consumption of beer and wine accessory to a restaurant with a minimum of 50 seats.

According to the concept plan submitted with the application, the total proposed restaurant area is 6,389 square feet (approximately 3,312 square-foot indoor area, and 3,077 square feet of outdoor seating area). The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas which would amount to over 60 parking spaces for new restaurants. The on-street

parking adjacent to this property is insufficient and there are currently only 8 parking spaces available for this property. However, in the case of expanding existing establishments, the applicant only has to account for parking required by the new restaurant area (1,337 square feet). The applicant submitted agreements with the assisted living facility owner to the north and the church to the west, which indicate that they have the opportunity to share parking with those property owners to satisfy the requirement for 13 additional spaces.

The Board should consider the compatibility of the proposed CUP with surrounding development. Such CUP may be: 1.) approved subject to the conditions of Section 62-1906; 2.) approved subject to the conditions of 62-1906 and conditions imposed by the Board above and beyond the requirements of Section 62-1906; or 3.) denied.

The Board may wish to consider whether the shared parking agreements satisfy the parking concerns. In addition, the Board should also consider whether the operational hours of the restaurant being limited to after 4:00 p.m. ensure that deficiencies in parking spaces on site do not affect surround property owners. Improvements to the outdoor area on the south side of the building include an outdoor bar and a live music area. The Board may wish to consider whether additional buffering from surrounding uses are necessitated.

On September 27, 2018, the Merritt Island Redevelopment Agency heard the request and unanimously recommended approval.

On January 7, 2019, the Planning and Zoning Board voted unanimously to approve the request with the conditions that the hours of operation be limited to 4:00 p.m. to 10:00 p.m., Tuesday through Saturday, and that shared parking agreements be obtained.

On February 7, 2019, the Board of County Commissioners tabled the request to March 7, 2019, to allow the applicant to submit shared parking letters from neighboring businesses.

ATTACHMENTS:

Description

- ▣ **Administrative Policies**
- ▣ **Staff Comments 03/07/19**
- ▣ **GIS Maps**
- ▣ **Floor Plan**
- ▣ **Survey**
- ▣ **1996 Resolution and Site Plan**
- ▣ **P&Z Minutes - January**
- ▣ **MIRA Memo**
- ▣ **Shared Parking Letters**
- ▣ **Porch Photos**

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.

H.14

RESOLUTION NO. 18PZ00114

On motion by Commissioner Lober, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote:

WHEREAS, ALBERTO AND BIVIANA ROMAN have requested an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 (General Retail Commercial) zoning classification, on property described as Lot 8 and the north ½ of Lot 9, Block F, Merritt Park Place, according to the plat thereof, as recorded in Plat Book 5, Page(s) 48, of the Public Records of Brevard County, Florida. **Section 35, Township 24, Range 36.** (0.24 acres) Located on the southeast corner of N. Grove St. and Tangerine Ave. (170 N. Grove St., Merritt Island. In the Merritt Island Redevelopment Area.)

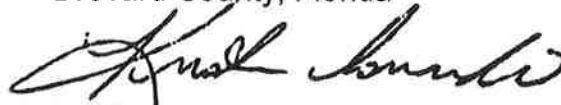
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved, limiting the hours of operation from 4:00 p.m. to 10:00 p.m., Tuesday through Saturday, and that shared parking agreements be obtained; and

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested expansion of an existing CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 (General Retail Commercial) zoning classification, be approved as recommended, limiting the hours of operation from 4:00 p.m. to 10:00 p.m., Tuesday through Saturday, and that shared parking agreements be obtained. The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of March 7, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Kristine Isnardi, Chair
Brevard County Commission
As approved by Brevard County Commission on
March 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – February 11, 2019)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years. The granting of this zoning does not

guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard county Comprehensive Plan and other applicable laws and ordinances.

REZONING REVIEW WORKSHEET

18PZ00114

Commission District # 2

Hearing Dates: P&Z 01/07/19

BCC 02/07/19 03/07/19

Owner Name: ALBERTO AND BIVIANA ROMAN

Request: Expansion of Existing CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant in BU-1

Subject Property:

Parcel ID# 24-36-35-32-F-8

Tax Acct.# 2427051

Location: Southeast corner of North Grove Street and Tangerine Avenue

Address: 170 N. Grove Street, Merritt Island

Acreage: 0.24

Consistency with Land Use Regulations

<u>YES</u> <u>YES</u> <u>YES</u>	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)
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	CURRENT	PROPOSED
Zoning	BU-1 with existing CUP for a restaurant for beer & wine only	BU-1 with CUP for existing restaurant full liquor
Potential*	10,454 sq. ft.	10,454 sq. ft.
Can be Considered under FLU MAP	YES COMMUNITY COMMERCIAL	YES COMMUNITY COMMERCIAL

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

	ADT	PM PEAK		
Trips from Existing Zoning	298	25	Segment Number	3201
Trips from Proposed Zoning	298	25	Segment Name	Highway 520 Tropical Trail to Courtenay Pkwy
Maximum Acceptable Volume (MAV)	59,900	5,391	Acceptable LOS	D
Current Volume	36,850	3,317	Directional Split	0.5
Volume With Proposed Development	36,850	3,317	ITE CODE	
Current Volume / MAV	61.52%	61.52%	931	
Volume / MAV with Proposal	61.52%	61.52%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	☒ Non-Deficiency		☐ Deficiency	

Background & Purpose of Request

The applicant is seeking an expansion of an existing Conditional Use Permit (CUP) for Alcoholic Beverages (beer and wine) to a CUP for Alcoholic Beverages (full liquor) for on-premises consumption in conjunction with a quality sit-down restaurant. The request is for a 3,312 square foot restaurant with 72 indoor and 48 outdoor seats, on 0.24 acres located at the southeast corner of N. Grove St. and Tangerine Ave. This parcel is located in the Historic Merritt Park Place area of Merritt Island which is within the Merritt Island Redevelopment Area.

Section 62-1906 identifies that the term "expansion" not only includes the enlargement of space for such use and uses incidental thereto as well as the extension of a beer and/or wine use to include intoxicating liquor.

The concept plan submitted with the CUP (**Z-9783**) request identified 72 indoor and 22 outdoor seats. This new request is seeking the expansion in conditional use for full liquor with the additional request for an allowance for an addition 24 outdoor seats. The concept plan also depicts a significant amount of planned renovations, including to the outdoor area and including a front "dining porch" addition. The improved outdoor seating area is proposed to be expanded by ~957 square feet, from ~1,740 previously to ~2,697 as demonstrated on the concept plan. The newly proposed "dining porch" will expand the structure by ~380 square feet. The applicant has also described the intent to replace perimeter fencing and the landscape buffer. The concept plan appears to depict ADA improvements to the building's access. The total newly proposed area is ~1,337 square feet.

May 9, 1968: the subject parcel was part of a large administrative rezoning (**Z-2270**) of all that part of Section 35 lying north of Highway 520 and west of State Rd. 3, to General Retail Commercial (BU-1) and Restricted Neighborhood Retail Commercial (BU-1-A).

October 28, 1996: **Z-9783**, a CUP for on-premises consumption of alcoholic beverages (beer and wine only) accessory to a restaurant with a minimum of 50 seats, was approved on the parcel.

Land Use Compatibility

This site retains the Community Commercial (CC) Future Land Use designation. The BU-1 zoning is consistent with Community Commercial Future Land Use designation.

FLUE 2.1 outlines the role of the Comprehensive Plan in the designation of commercial land.

FLUE 2.7 outlines activities permitted in the CC FLU designation.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Applicable Land Use Policies

The request is for an upgrade to the existing Conditional Use Permit (CUP) for the on-premises consumption of alcohol from beer and wine to full liquor in conjunction with a restaurant use in a BU-1 zoning classification. The BU-1 Zoning classification allows retail commercial land uses on minimum 7,500 square foot lots. BU-1 does not permit warehousing or wholesaling. The surrounding properties are also zoned BU-1. This area of Merritt Island is within the Merritt Island Redevelopment Area (MIRA).

There is a Church within 100 feet of the parcel. Per section 62-1906(3) *Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages.* The restaurant will have 72 indoor and 48 outdoor seats which exempts it from the distance requirement between a school or church.

The abutting parcel to the east is zoned BU-1 with an existing Professional Office Complex on the parcel. The abutting parcel to the south is zoned BU-1 with an existing one unit retail store on the parcel. The parcel to the north directly across Tangerine Ave. is zoned BU-1 with an existing Office Building with multi tenants on the parcel. The parcel to the west directly across North Grove St. is zoned BU-1 with an existing Church on the parcel.

The subject property is 84 ft. wide and 125 ft. deep, so it is conforming to today's BU-1 minimum lot size requirements of 75 ft. wide and 75 ft. deep, which is rare for commercial parcels within the Historic Merritt Park Place area. Many commercial parcels in the surrounding area utilize section 62-1188(1)(c) Nonconforming lots of record in order to retain development rights on parcels that are undersized when compared to today's criteria; *Merritt Island Redevelopment Area: Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 ft., a depth of not less than 75 ft., and an area of not less than 5,000. This paragraph shall be limited to Plat Book 2, Page 78 (Merritt Winter Home Development) north of State Road 520, Plat Book 4, Page 69 (Sunnyside Tract Map 2) east of North Tropical Trail and Plat Book 5, Page 48 (Merritt Park Place).*

The half-mile radius around this site has seen only two zoning changes within the last 3 years.

December 01, 2016; **16PZ00088**, a CUP was approved for on premises consumption of alcoholic beverages (beer and wine only) accessory to a Bar in a BU-1 zoning. This CUP is on a 0.17 acre parcel located on the East side of Northeast corner of McLeod St. and Myrtice Ave. approximately 300 feet Southeast of the subject parcel. This business has been so successful, they are also seeking as expansion of their CUP to serve beer and wine on a greater area under zoning application **18PZ00138**.

February 02, 2017; **16PZ00084**, a CUP was approved for trailer and truck rental in BU-1 for The Home Depot. This CUP is on a 9.37 acre parcel located on the East side of N. Courtenay Pkwy. approximately 535 feet east of the subject parcel.

Special Considerations for Conditional Use Permit

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6-9 of these comments. Section 62-1901 provides that 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.** The applicant's responses are indicated in **bold** and staff observations, if any, are provided in *italics*.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1906, on-premises consumption of alcohol.

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

A certified survey provided by the Applicant demonstrates that there are no schools, or daycares within 400' of the establishment. However the survey does show a Church within 100 feet of the parcel, directly west across North Grove Street. Per section 62-1906(3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. According to the concept plan, the restaurant will have 72 indoor and 48 outdoor seats, which exempts it from the distance requirement between a school or church.

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

General Standards of Review

Section 62-1901(c)(1)(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.

The previous use of this address was a restaurant with seating exceeding 50 seats, and has a CUP for on-premises consumption of beer and wine. The proposed use of the property will be a restaurant with seating exceeding 50 seats. Granting the conditional use will not result in substantial and adverse impact on the adjacent or nearby properties for any of the reasons listed above.

Any noise, odor, particulates, smoke, fumes and other emissions or other nuisance activities generated in conjunction with the operation of the business would need to comply with the performance standards of Section 62-2251 through 62-2272, including the noise regulations of Section 62-2271.

The Board may wish to consider whether the addition of 24 additional outdoor seats or the proposed renovations of ~1,337 square feet of new outside seating area and dining porch as identified on the concept plan in conjunction with the CUP for full liquor necessitates any additional buffering from surrounding uses.

Section 62-1901(c)(1)(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.

The proposed use will be a restaurant, open for dinner only initially, & will be consistent with the previous use of the property with regard to use, function, operation, hours of operation, type and amount of traffic generated. Building to be re-modeled with no increase to the footprint of the existing structure. Parking is available on site.

The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. The newly proposed ~1,337 square feet of additional outdoor seating and dining porch area would necessitate that 13 additional parking spaces be

constructed. The existing site, per the survey included with this application, shows the site has approximately 16 spaces, including with on-street unimproved parking spaces. The on-street parking adjacent to this property is insufficient. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use.

The property also benefits from sharing public on-street parking in the Merritt Park Place area. Parking spaces along North Grove Street are within the County Right-of-Way and were improved in 1999 by the County's Road & Bridge Department and the MIRA District. The applicant's survey indicates there are 6 spaces along North Grove Street, but staff has only identified 5 spaces on the ground. Ten non-angled parking spaces are identified as unimproved on Tangerine Avenue, along the property's northern property line. Two more spaces are on the existing paved driveway. All 12 of the spaces along Tangerine Avenue are partially within the County Right-of-Way and partially on the private property. The Board may wish to consider whether improvement of existing un-improved parking spaces should be a condition of approval of this requested CUP.

While sidewalk exists along the west side, Pedestrian infrastructure appears to be missing on the north side of the parcel. None of the spaces on the boundary survey appear to be marked for ADA accessibility. It does appear that the applicant has identified improvements for ADA accessibility to the restaurant on the concept plan. The Board may wish to consider necessitating that sidewalks & ADA improvements be made a condition of approval of this CUP.

Pursuant to Section 62-3206(14) within the Merritt Island Redevelopment Area, new developments located within the Merritt Park Place subdivision will be required to locate on-site parking to the side or rear of the principal structure. Since the site is not a new development, the parking is considered non-conforming.

Section 62-1901(c)(1)(c) The proposed use will not cause a substantial diminution in value of abutting residential property.

Note: A substantial diminution shall be irrefutably 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 location is within Merritt Park Place, a mixed use zoned area. It will not cause substantial diminution in value of nearby residential property.

Specific Standards

Section 62-1901(c)(2)(a) Ingress and egress to the property and proposed structures (including vehicular and pedestrian safety and convenience, traffic flow and control, and emergency response access) shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses is defined as 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 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.

No changes to the existing property ingress or egress

Section 62-1901(c)(2)(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.

The request for additional CUP for on premise consumption of liquor is consistent with the previous CUP issued for this property.

The applicant's submitted concept plan identifies 24 additional outdoor seats, as well as significant improvements to the outdoor area on the south side of the building, including an outdoor bar and a live music area. The Board may wish to consider whether additional buffering is necessitated.

Section 62-1901(c)(2)(c) Noise levels for a conditional use shall comply with Section 62-2271 of the Code which includes the following:

Maximum Permissible Time Averaged (Leq)
A-Weighted Sound Pressure Limits for Receiving Uses

Type of Use	Time Period	Maximum Allowable Sound Pressure Level
Residential	7:00 a.m. to 10:00 p.m.	60 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Commercial	7:00 a.m. to 10:00 p.m.	65 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Industrial	7:00 a.m. to 10:00 p.m.	75 dB(A)
	10:00 p.m. to 7:00 a.m.	65 dB(A)

Note: Additional requirements may apply. Refer to Section 62-2271 for full noise specifications.

There will be outdoor seating. The noise levels will not exceed the Maximum Allowable Sound Pressure.

The applicant's submitted concept plan identifies 24 additional outdoor seats, as well as significant improvements to the outdoor area on the south side of the building, including an outdoor bar and a live music area. The Board may wish to consider whether additional buffering is necessitated.

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal for the property or area covered by such level of service, to be exceeded.

The request is consistent with the previous use of the property as a restaurant.

Section 62-1901(c)(2)(e) The proposed conditional use shall not cause the adopted level of service for potable water or wastewater for the property or the area covered by such level of service, to be exceeded by the proposed use.

It will not. The request is consistent with the previous use of the property as a restaurant.

Section 62-1901(c)(2)(f) The proposed conditional use must have existing or proposed screening or buffering, in terms of type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

There is a stockade fence and landscaping bordering the east and south sides of the property, with landscaping. Both the fencing and landscaping will be removed and replaced.

Section 62-1901(c)(2)(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.

Exterior lighting will not exceed County Regulations.

The applicant states the exist monument sign has been removed. The applicant also states a new monument sign will be applied for meeting the sign code.

Section 62-1901(c)(2)(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.

Hours of operation will remain consistent with previous operators. This will be a dinner only operation to start.

The previous approved CUP (Z-9783) did not limit the hours of operation of the restaurant.

Section 62-1901(c)(2)(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.

Note: A survey of building heights within 1000 feet of the property lines should be furnished for applications requesting a CUP for additional building height.

Not applicable to this request.

Section 62-1901(c)(2)(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.

Note: 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.

Not applicable to this request.

The existing site, per the survey included with this application, shows the site has approximately 15-16 spaces with on-street parking spaces. The Board may wish to consider whether this CUP's hours should be limited to evening only to take advantage of available public on-street parking.

The newly proposed ~1,337 square feet of additional outdoor seating and dining porch area would necessitate that 13 additional parking spaces be constructed. The existing site, per the survey included with this application, shows the site has approximately 16 spaces, including with on-street unimproved parking spaces.

The on-street parking adjacent to this property is insufficient. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use.

Pursuant to Section 62-3206(14) within the Merritt Island Redevelopment Area, new developments located within the Merritt Park Place subdivision will be required to locate on-site parking to the side or rear of the principal structure. Since the site is not a new development the parking location is considered non-conforming. Also per the survey provide the site does not have a sidewalk or ADA accessibility.

Note to Applicant: Per Section 62-1901(f), Expiration, Conditional use permits approved after the effective date of Ordinance No. 99-43 (8/3/99) shall expire within three years from the date of approval if the approved use is not constructed or under substantial and continuous construction.

For Board Consideration

The applicant is requesting an expansion of an existing CUP for Alcoholic Beverages from beer and wine only to full liquor for on-premises consumption in conjunction with a 3,312 sq. ft. quality sit-down restaurant with 72 indoor and 48 outdoor seats. The parcel has a previous approved CUP (**Z-9783**) for on premises consumption of alcoholic beverages (beer and wine only) accessory to a restaurant with a minimum of 50 seats. The concept plan submitted with the CUP (**Z-9783**) request identified 72 indoor and 22 outdoor seats. This new request is seeking the expansion in conditional use for full liquor with the additional request for an allowance for an addition 24 outdoor seats. The concept plan also depicts a significant amount of planned renovations, including to the outdoor area and including a front "dining porch" addition.

The improved outdoor seating area is proposed to be expanded by ~957 square feet, from ~1,740 previously to ~2,697 as demonstrated on the concept plan. The newly proposed "dining porch" will expand the structure by ~380 square feet. The applicant has also described the intent to replace perimeter fencing and the landscape buffer. The concept plan appears to depict ADA improvements to the building's access. The total newly proposed area is ~1,337 square feet.

This parcel is located in the Historic Merritt Park Place area of Merritt Island which is within the Merritt Island Redevelopment Area (MIRA). The Board should make note that this CUP request is considered an expansion to previous approved CUP for beer and wine only. The restaurant expansion will be evaluated through a site plan.

The Land Development Regulation requires one parking space for every 100 square feet of the establishment including any outside seating areas. The on-street parking adjacent to this property is insufficient. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use.

The subject property is also deficient in sidewalk connectivity on its northern side along Tangerine Avenue and none of the existing parking spaces appear to be handicap accessible. The Board may wish to condition this CUP's approval on parking, sidewalk and ADA accessibility improvements being made.

The Board should also consider whether the operational hours of the restaurant being limited to after 4:00 p.m. to ensure that deficiencies in parking spaces on site do not affect surround property owners. The Board may also wish to consider whether the applicant should be required to perform a parking analysis of on-street parking availability with proximity to the subject parcel, to ensure that parking for restaurant patrons will not spill over into private property parking nearby.

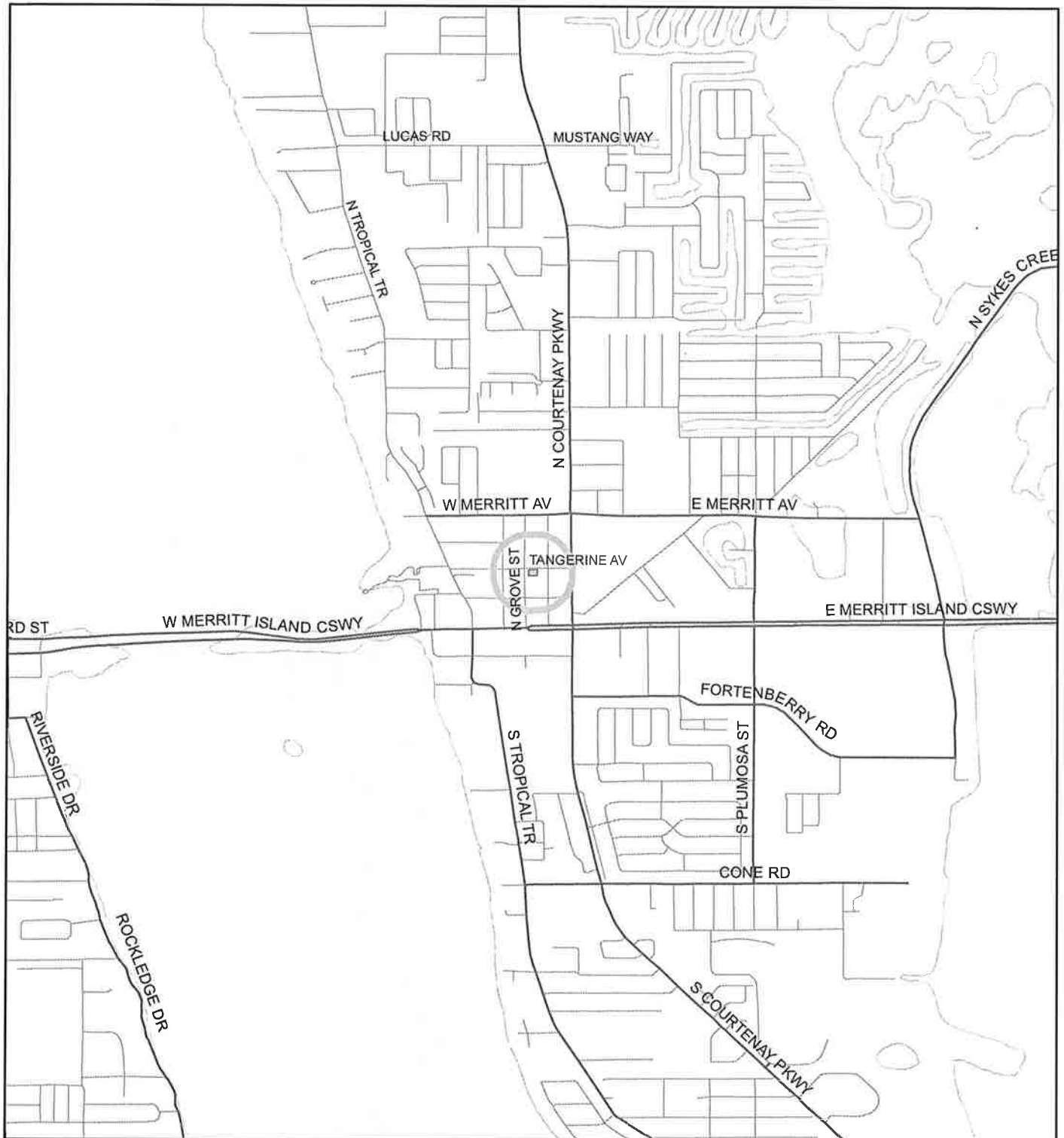
The applicant's submitted concept plan identifies 24 additional outdoor seats, as well as significant improvements to the outdoor area on the south side of the building, including an outdoor bar and a live music area on ~957 square feet of newly proposed impervious surface. The Board may wish to consider whether additional buffering from surrounding uses necessitated.

The Board should consider the compatibility of the proposed CUP with surrounding development. Such CUP may be: 1) approved subject to the conditions of Section 62-1906; 2) denied, or; 3) approved subject to the conditions of 62-1906 and conditions imposed by the Board above and beyond the requirements of Section 62-1906.

LOCATION MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



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.

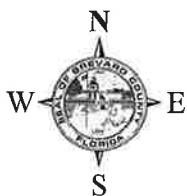
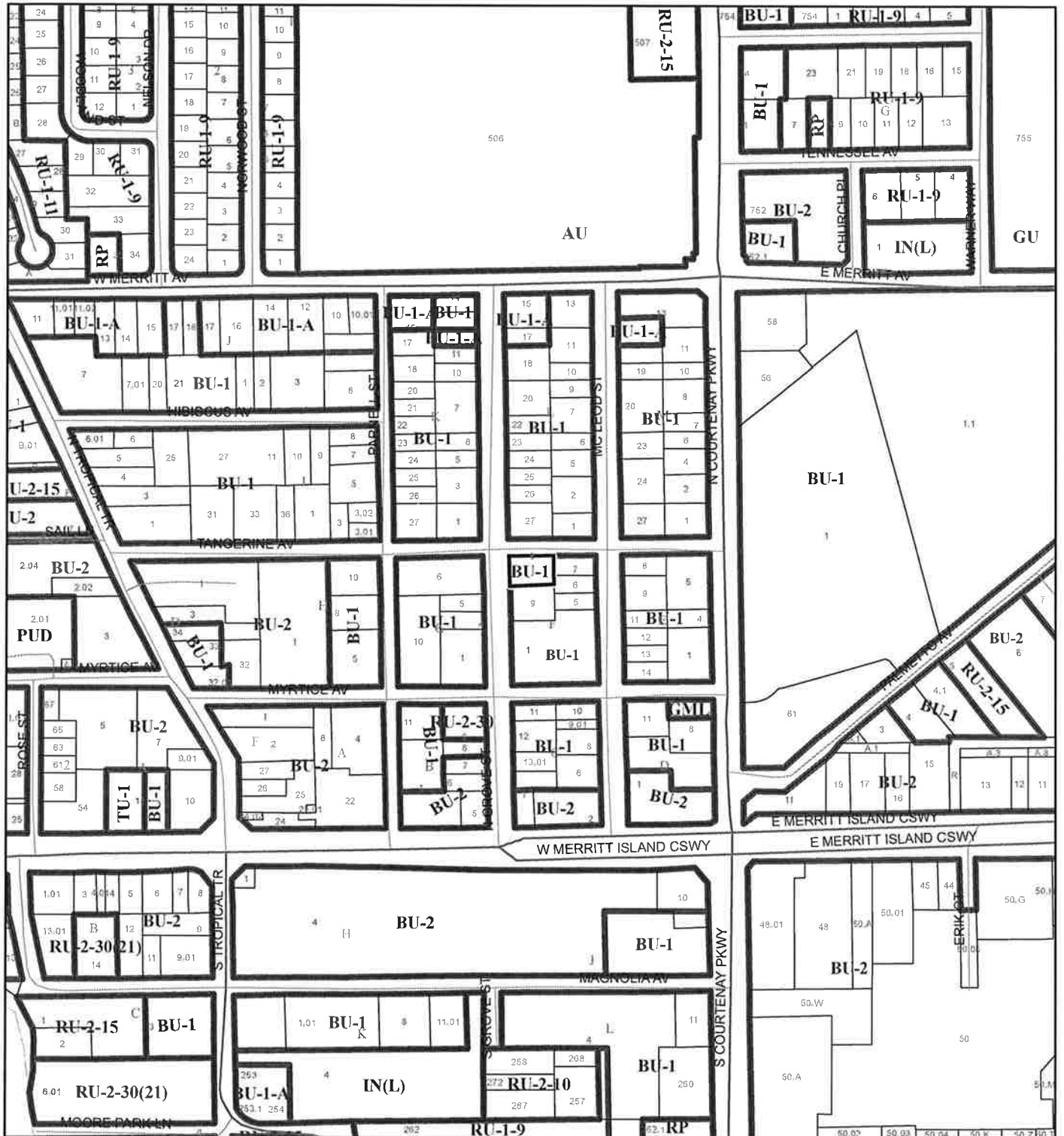
Produced by BoCC - GIS Date: 9/21/2018

— Buffer
■ Subject Property

ZONING MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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

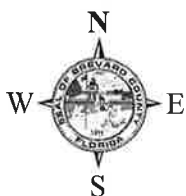
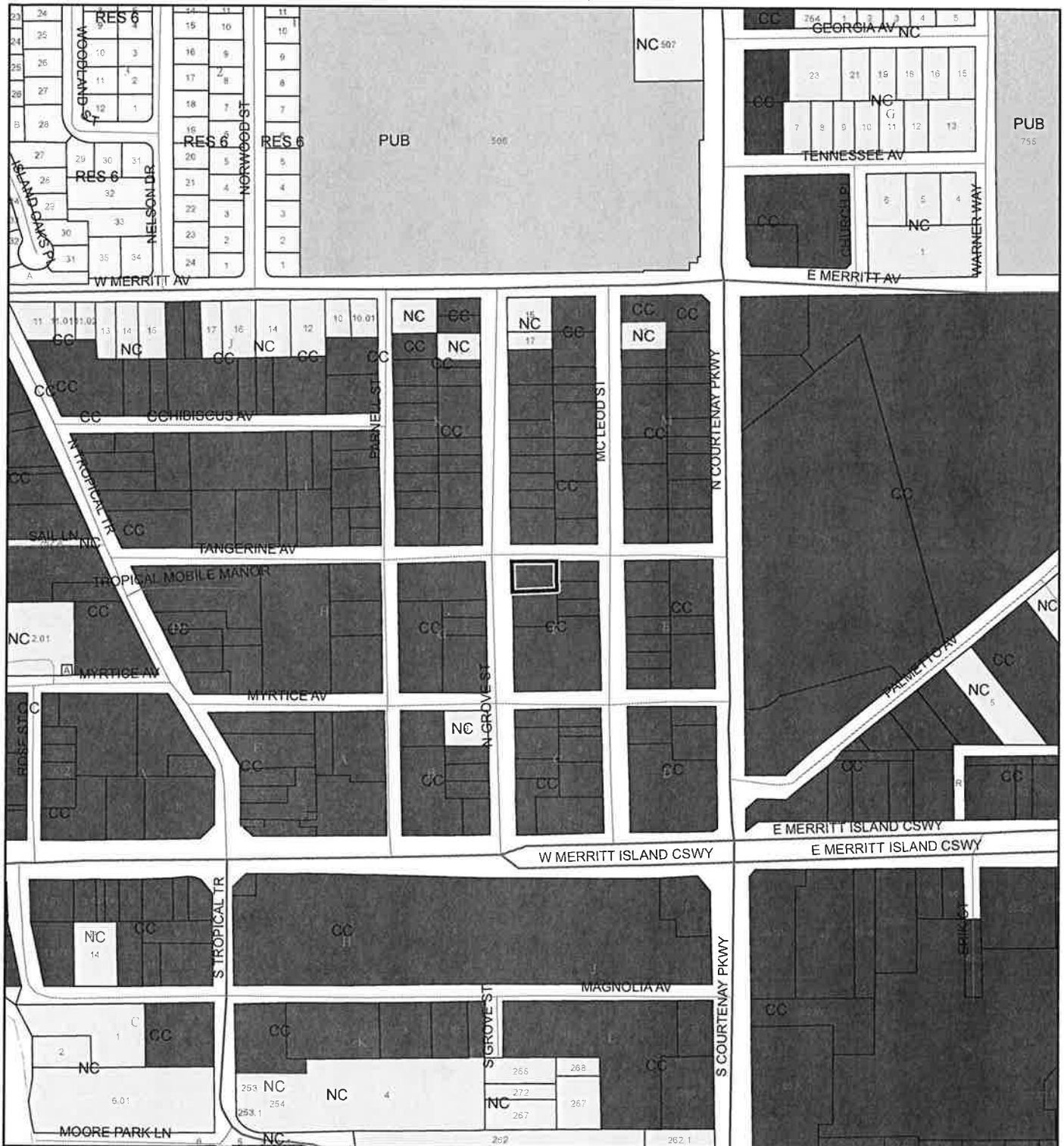
Produced by BoCC - GIS Date: 9/21/2018

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



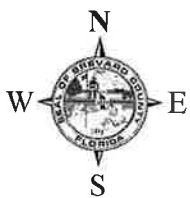
1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 9/21/2018

AERIAL MAP
ROMAN, ALBERTO AND BIVIANA
18PZ00114



1:1,200 or 1 inch = 100 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: 9/21/2018

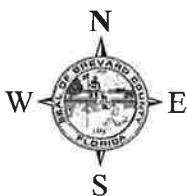
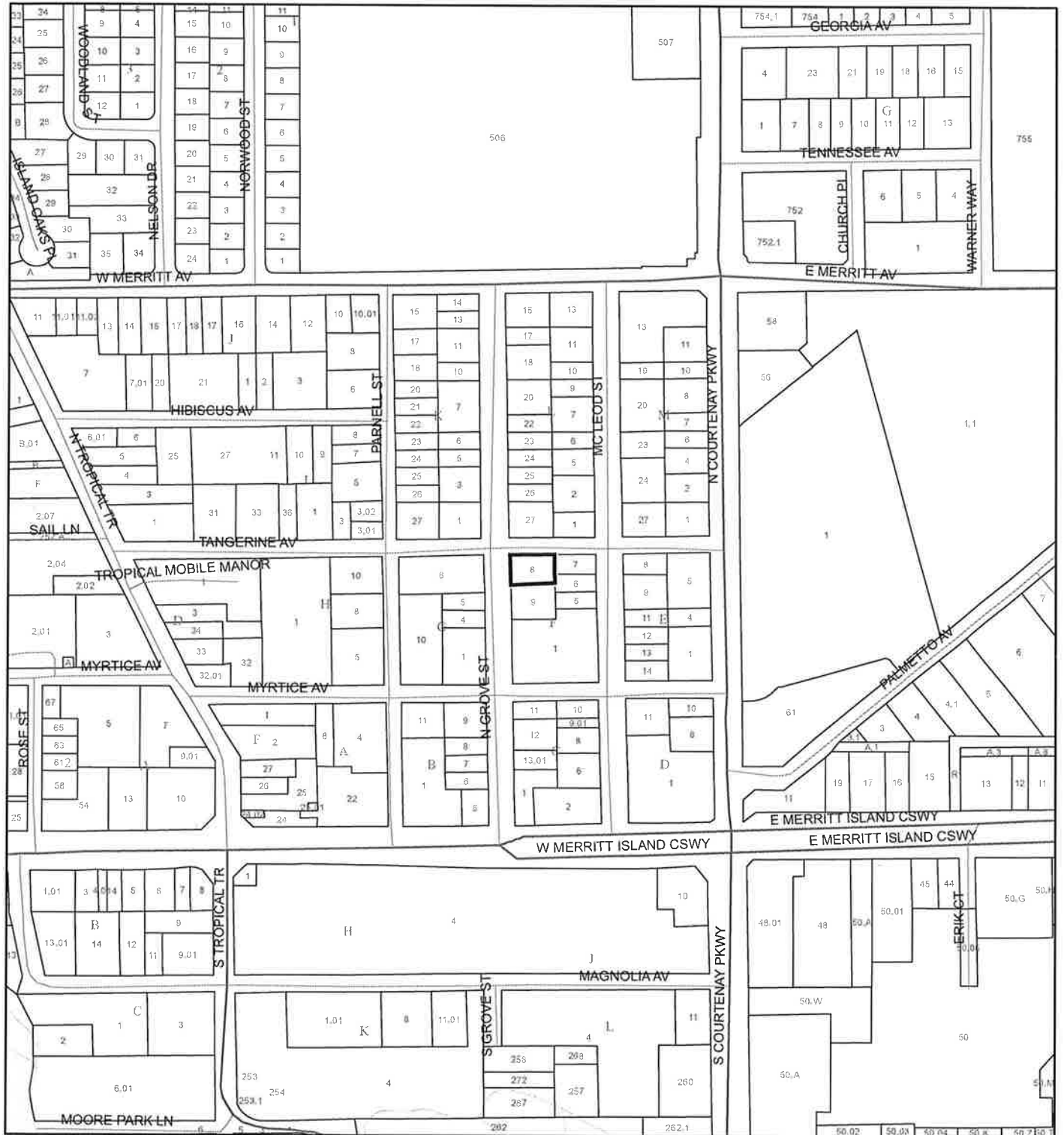
— Subject Property

□ Parcels

NWI WETLANDS MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 9/21/2018

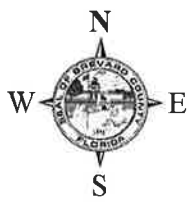
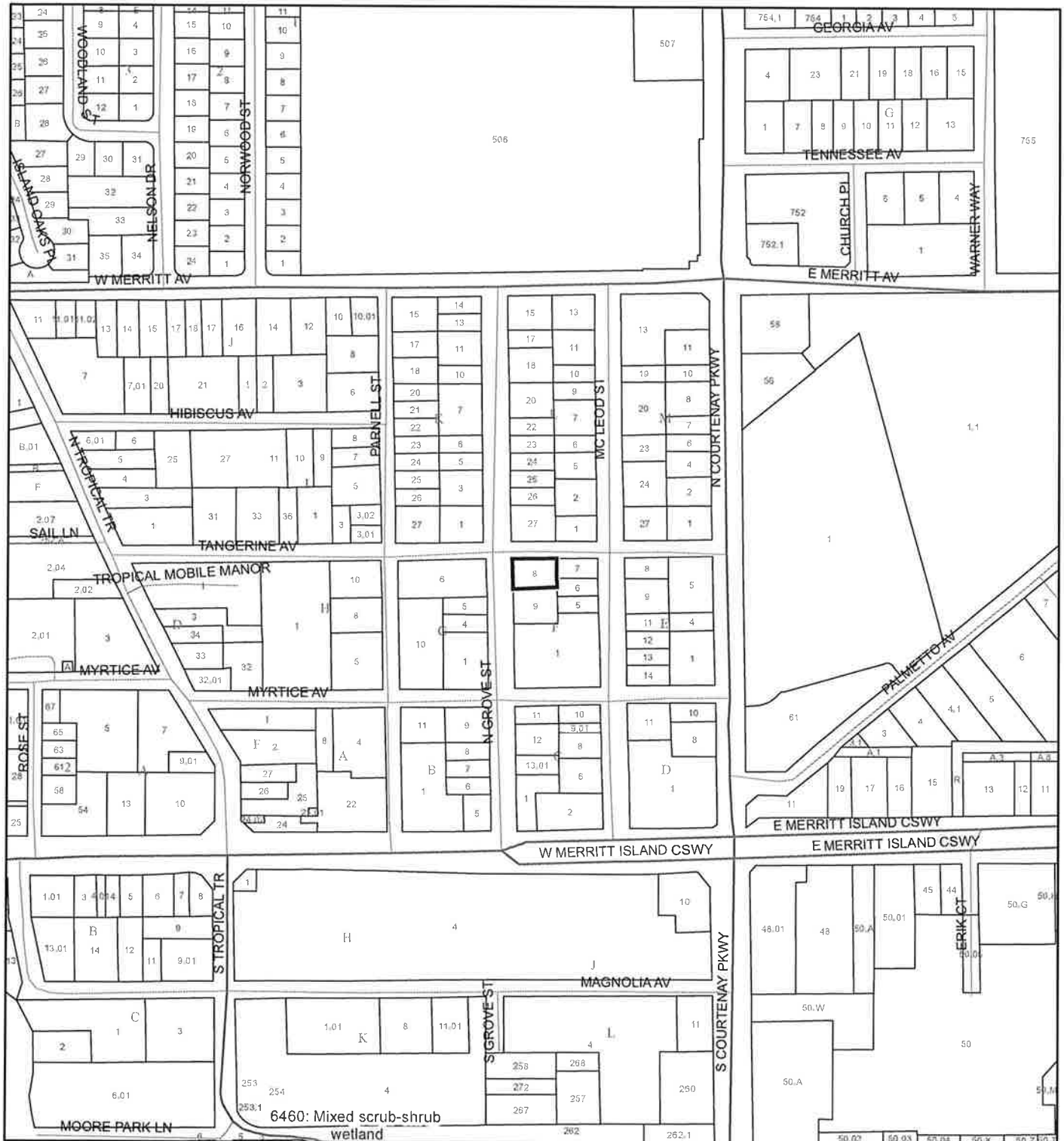
National Wetlands Inventory (NWI)

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

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 9/21/2018

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

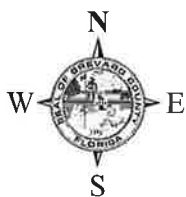
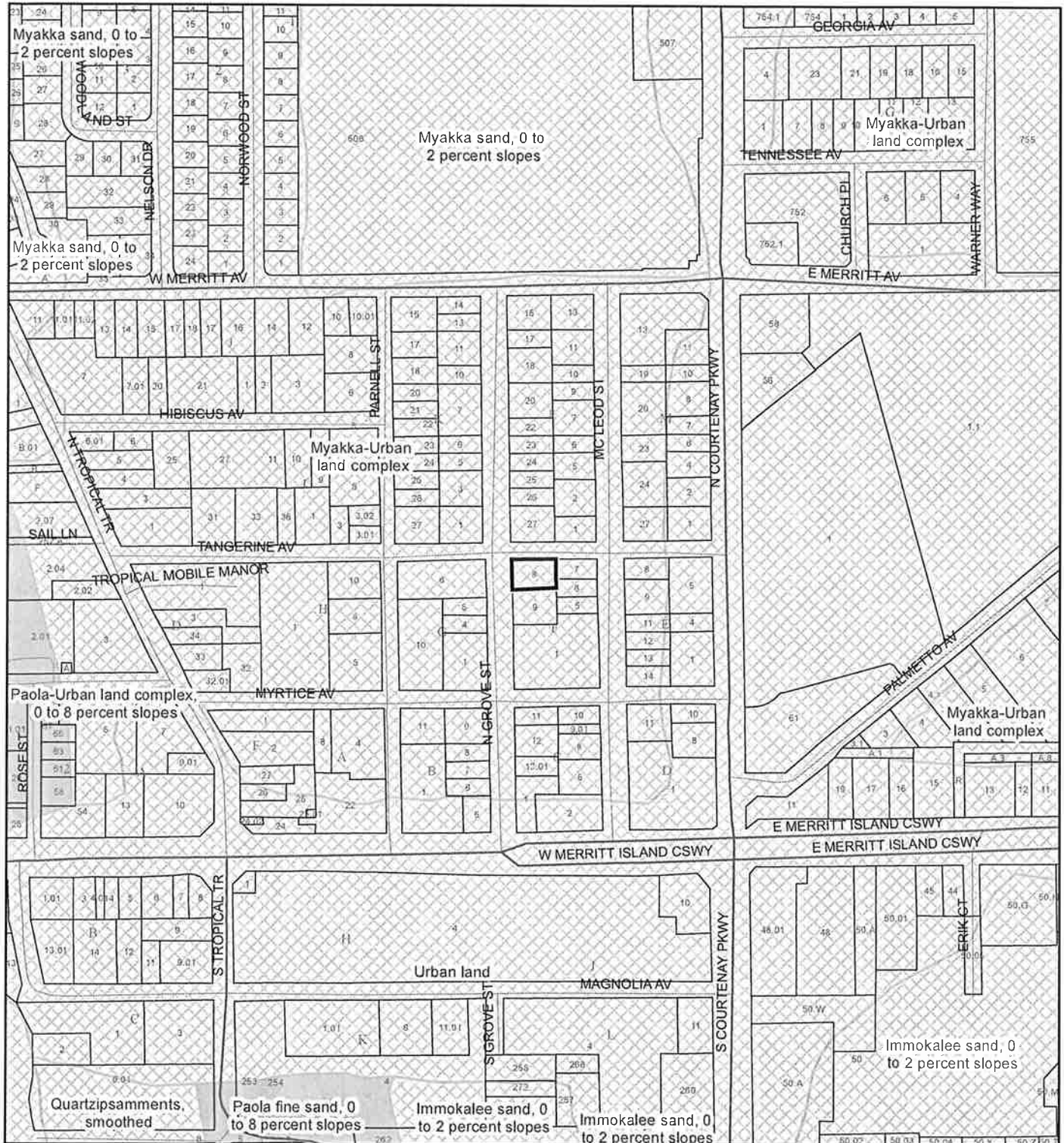
— Subject Property

□ Parcels

USDA SCSSS SOILS MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

Subject Property

Parcels

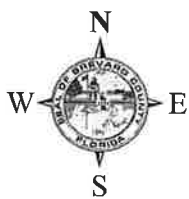
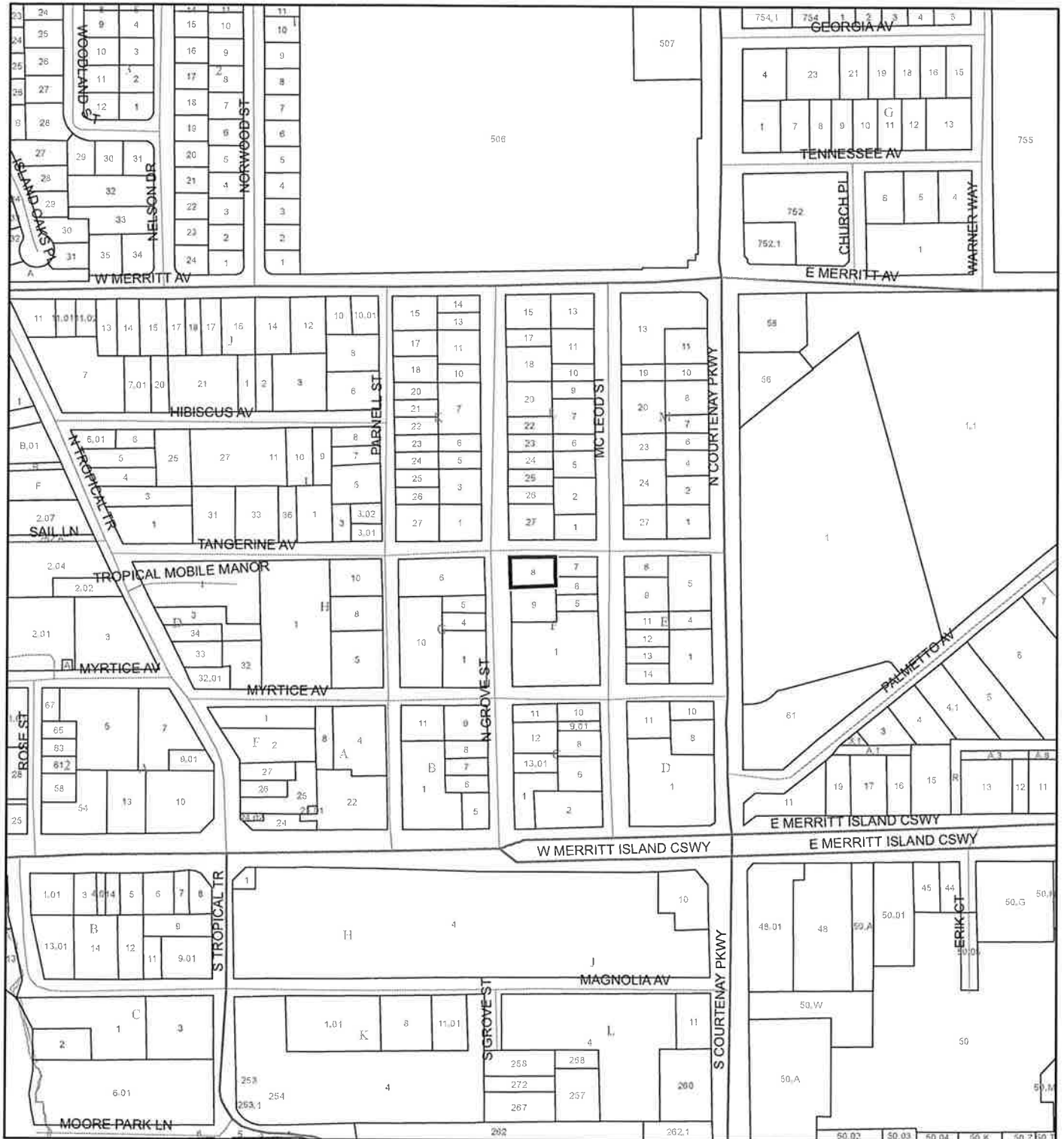
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by BoCC - GIS Date: 9/21/2018

FEMA FLOOD ZONES MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/21/2018

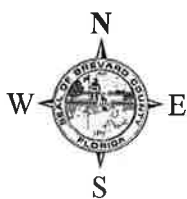
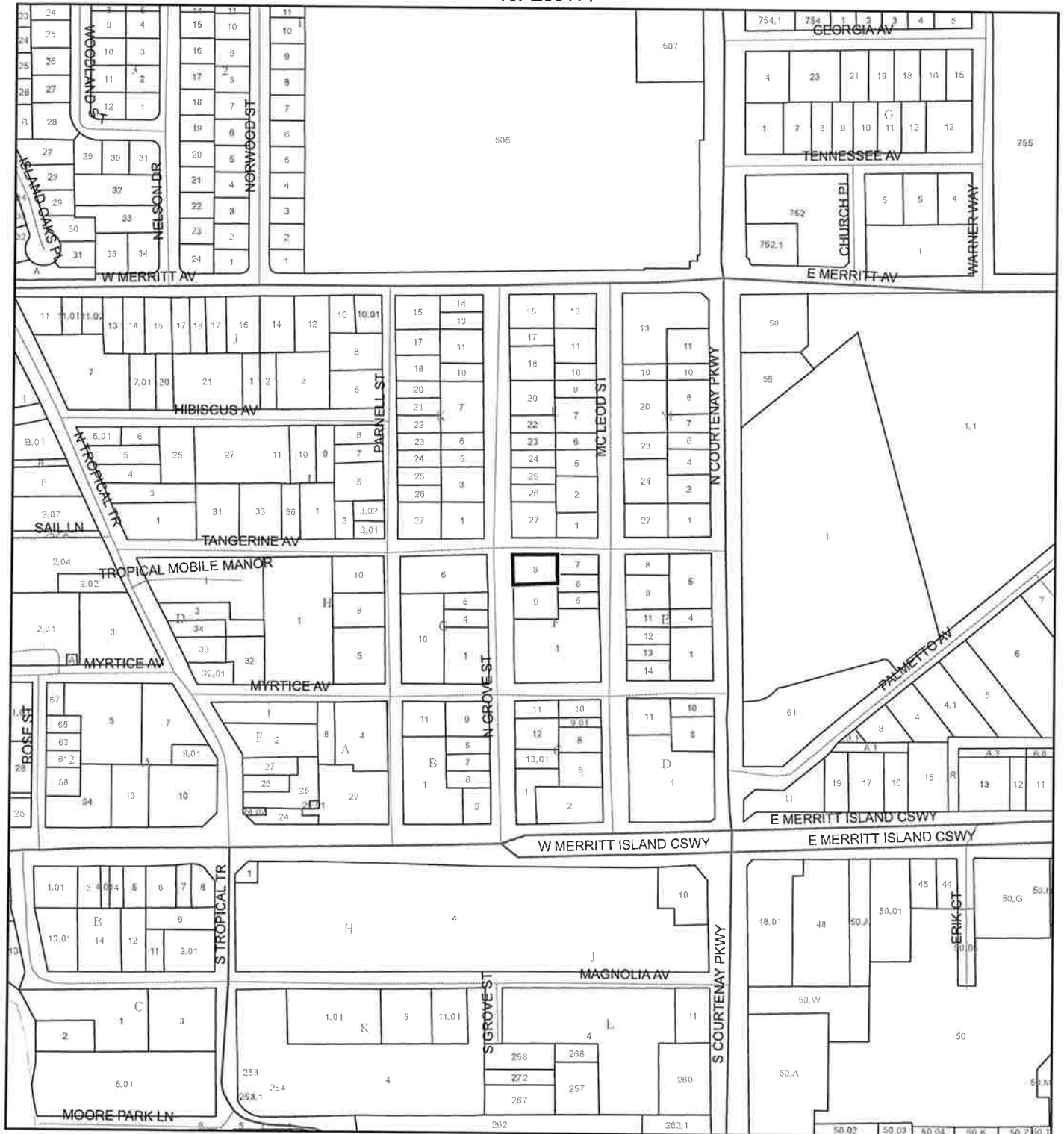
FEMA Flood Zones

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

EAGLE NESTS MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 9/21/2018

— Subject Property

□ Parcels

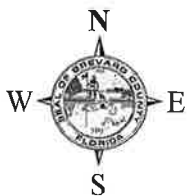
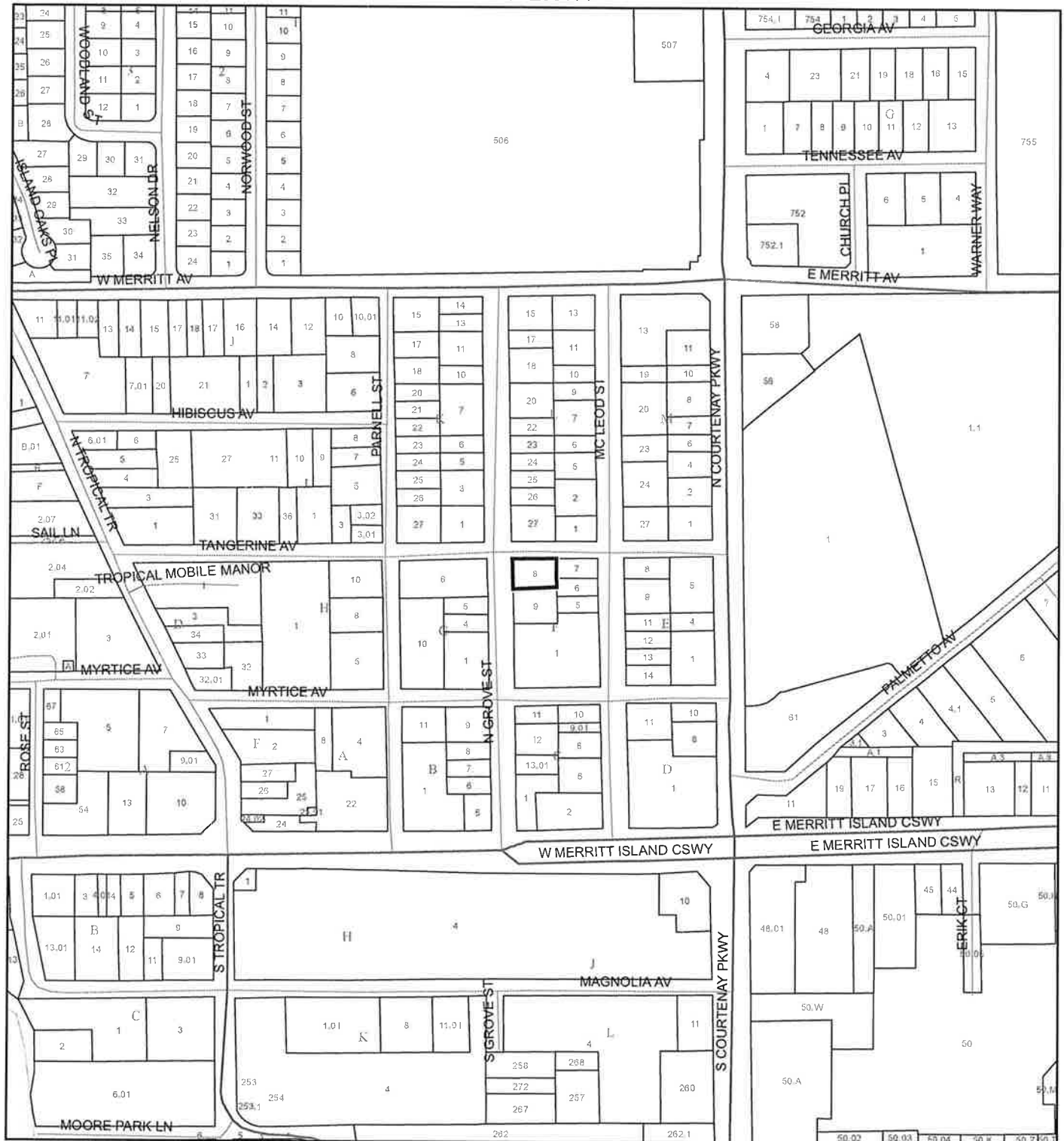


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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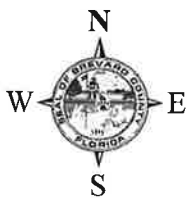
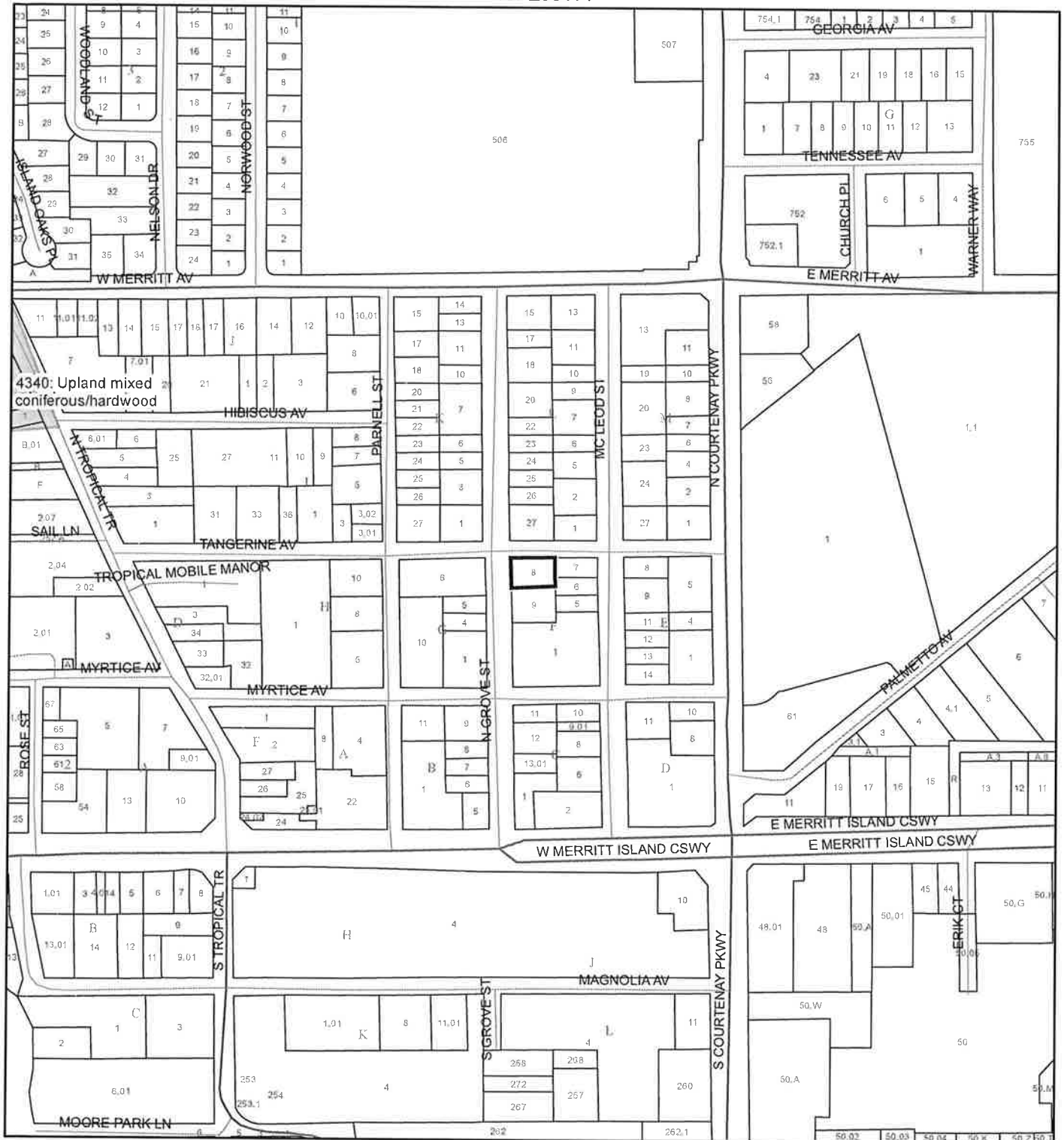
Produced by BoCC - GIS Date: 9/21/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

ROMAN, ALBERTO AND BIVIANA

18PZ00114



1:4,800 or 1 inch = 400 feet

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

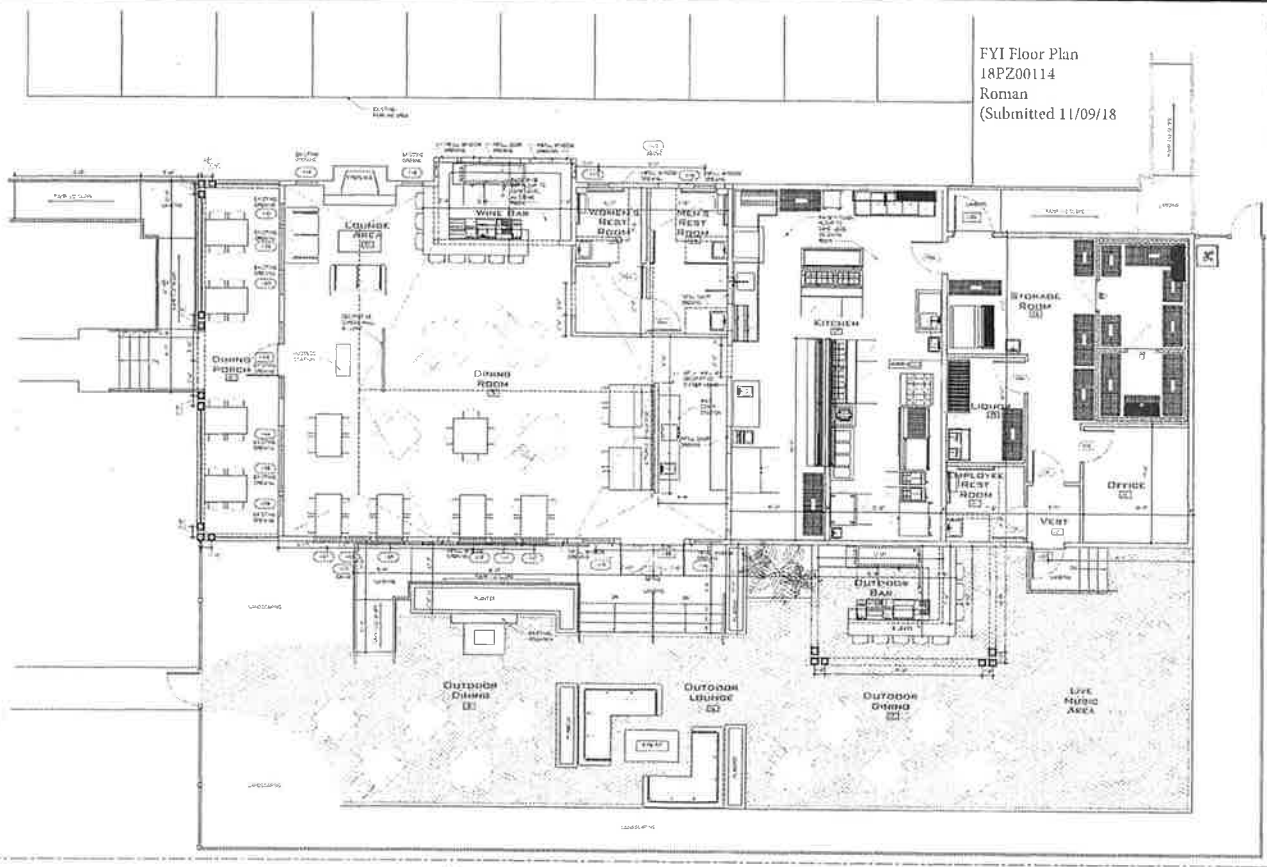
Produced by BoCC - GIS Date: 9/21/2018

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 Floor Plan
 18PZ00114
 Roman
 (Submitted 11/09/18)



N
 X X X
 FLOOR PLAN

m&d
 studio
 ARCHITECTURE

1100 N. GULF BLVD.
 SUITE 200
 TAMPA, FL 33602
 (813) 288-1100

JOB # DISTRICT
 CLIENT ARCHITECT

DATE
 CDR
 DRG
 CHG
 DTHN
 DES

REVISIONS
 1
 2
 3
 4
 5

GROVE ST. RESTAURANT RENOVATION
 170 N. GROVE ST.
 Merritt Island, FL 32953

SCALE

DATE: 11/09/18
 ARCHITECT

PROPOSED
 FLOOR
 PLAN

PROJECT NUMBER
 A3.1

MAP OF SURVEY

LEGAL DESCRIPTION:

Lot 8, and the North 1/2 of Lot 9, Block F,

MERRITT PARK PLACE,

according to the plat thereof as recorded in Plat Book 5, Page 48, of the Public Records of Brevard County, Florida.

LEGEND:

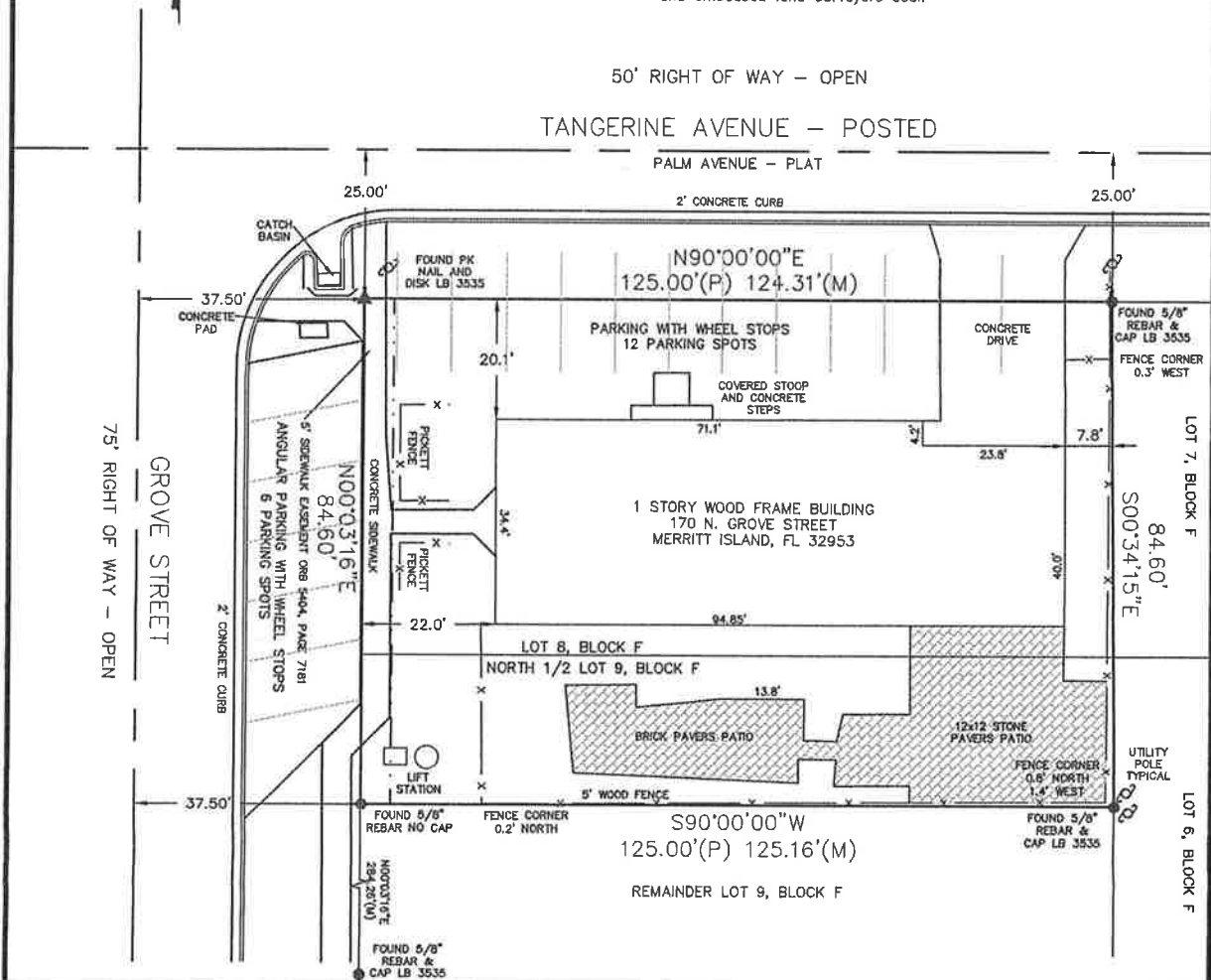
- Set 5/8" iron rebar with cap marked: LB 2351
- Found iron rebar, size 5/8" and cap, no identification
- Set 4"x 4" concrete monument with disk marked: LB 2351
- Found concrete monument, size and identification #
- △ Set nail and disk marked: LB 2351
- ▲ Found nail and disk, identification as noted

EXPLANATION OF ABBREVIATIONS

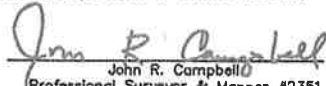
A/C Air Conditioner
M Measured Distance
P Measurement On Plat
PB Plat Book
LB Licensed Business
LS Licensed Surveyor

SURVEYOR NOTES:

1. The intended purpose of this survey is for boundary information and improvements only, as shown hereon.
2. The undersigned surveyor has been provided a current title opinion or abstract of matters affecting title or boundary to the subject property, by Commonwealth Land Title Insurance Company. It is possible that there are documents of record unrecorded deeds, easements or other instruments that could affect the boundaries to the subject property.
3. This survey does not reflect or determine ownership.
4. This survey meets or exceeds the minimal horizontal control accuracy of 1:7500 for a suburban survey.
5. Measurements shown hereon are expressed in feet and decimal parts thereof.
6. Dimensions shown are taken at the exposed areas of improvements, underground footers, foundations, utilities or other subsurface structures are not located for the purpose of this survey.
7. Subject property lies within Flood Zone 'X', area is determined to be outside the 500-year flood plain and Flood Zone as per firm map number 12009C0430 G, dated 03/17/2014. This location is based upon maps prepared by the Federal Emergency Management Agency. Final location and flood determination rest with said agency. This surveyor assumes no responsibility for said location and determination.
8. Bearings are assumed, referenced to N00°02'40"W along West right of way line of Grova Street.
9. This drawing is not valid unless bearing an original signature and embossed land surveyors seal.



Drawn by: CD	 115 Alma Blvd, Suite 102 Mailing Address: P.O. Box 541866 Merritt Island, FL 32954 Phone: (321) 514.6920 LICENSED BUSINESS #7978
Scale: 1"=20'	
Date: 02-15-18	
Project # 2018-126	
DATE	REVISIONS
3-15-18	REVISION remove sheds
3-20-18	REVISION ADD PARKING

BOUNDARY SURVEY	
Certified to:	ALBERTO & BIVANA ROMAN WATSON, SOLEAU, DELEO & BURGETT, P.A. COMMUNITY BANK OF THE SOUTH COMMONWEALTH LAND TITLE INSURANCE COMPANY
I hereby certify that the survey shown hereon is true and correct based on actual measurements taken in the field. This survey meets the Minimum Technical Standards as set forth by the Florida Board of Professional Land Surveyors found in Chapter 5J-17.005, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.	
UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.	
 John R. Campbell Professional Surveyor & Mapper #2351 State of Florida	

Revised 11/9/18

Previous CUP Resolution

RESOLUTION NO. Z-9783

On motion by Commissioner O'Brien, seconded by Commissioner Scarborough, the following resolution was adopted by a unanimous vote:

WHEREAS, JOHN A. & JERRE L. VOGT

has/have applied for a Conditional Use Permit for Alcoholic Beverages for On-Premisess Consumption in a BU-1 zoning classification on property described as Lot 8 and the North 1/2 of Lot 9, Block F, Merritt Park Place, according to the plat thereof recorded in Plat Book 5, Page 48, Public Records of Brevard County, Florida. (.26 acre) Located approximately 500 ft. west of North Courtenay Pkwy. on the southeast corner of Tangerine Avenue and Grove Street.

Section 35, Township 24 S, Range 36 E, and,

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Planning and Zoning Board recommended that the application be approved accessory to a restaurant with a minimum of 50 seats and,

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

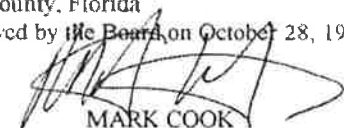
BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Conditional Use Permit for Alcoholic Beverages for On-Premisess Consumption in a BU-1 zoning classification be APPROVED accessory to a restaurant with a minimum of 50 seats, and that the zoning classification relating to the above described property remain unchanged and the Growth Management Director or designee is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of October 28, 1996.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida
As Approved by the Board on October 28, 1996.

ATTEST: 
SANDY CRAWFORD, CLERK

by

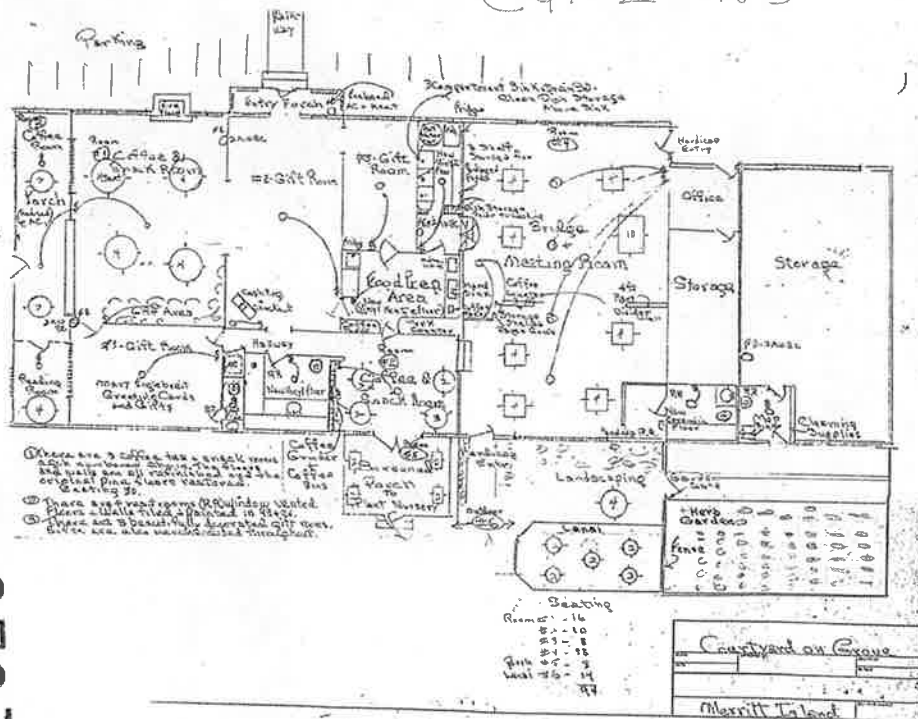

MARK COOK
Chairman

(SEAL)

(Hearing -October 7, 1996)

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES

Previous Site Plan From CUP Z-9783



Z-9783

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete minutes.

4. Alberto and Biviana Roman:

(Ralph Kennedy) request an expansion of a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 (General Retail Commercial) zoning classification. The property is 0.24 acres, located on the southeast corner of North Grove Street and Tangerine Avenue. (170 North Grove Street, Merritt Island) (18PZ00114) (District 2)

Ralph Kennedy – The Roman's currently operate the El Tucan Mexican restaurant on Sykes Creek, so they own the liquor license, and this facility is too small and does not have enough seats to qualify for a full-liquor license required by the State, so they are willing to transfer their license because their current restaurant meets that requirement. We know the staff comments are primarily about parking, and if you've been to Merritt Park Place you're aware that parking is a little bit tight, but there is on-street parking allowed and there is on-street parking in the area. The Roman's intend to re-do the parking on the Tangerine Avenue side, which is 10 spaces of grass parking now, to brick pavers to replace the existing driveway there that was marked as a handicapped spot, and they've modified that for parking and loading zone area. They have on-street parking that's County-owned on the west side. Additionally, they will address the handicap parking when they do the parking on the Tangerine Avenue side to coincide with the new handicap ramp that will be on the new entrance on the west side of the Grove Street side of the property. Catty-corner to the property is La Casa, a retirement home assisted living facility that has an employee parking lot that will be available in the evenings and they have said they are glad to have the Roman's as neighbors, so that parking will be available for customers. We talked to the pastor of Merritt Assembly of God, across the street on Grove Street, about using the grass parking lot towards the west end of their property for employee parking if needed, and he has graciously agreed. We have also spoken with the owner of what used to be the realtor building at McLeod Street and Myrtice Avenue, and it is now a veterinary hospital, and their parking will be available at night, too, to help keep everything off the street. La Casa said the public parking that's in front of them is hardly ever used during the evenings, so there's a lot of on-street parking there. Currently, the plans are only to be open from 5:00 p.m. to 10:00 p.m. Tuesday through Saturday; they will be closed Sunday and Monday, and they are not open for lunch. This is something intended to be something we don't have on Merritt Island right now, which is nice. We have a lot of chain restaurants, but not really anything that competes with what is in Cocoa Village, and that is

going to be his market, who all offer liquor. It is not intended to be a bar, it's not intended to be anything you won't find in any restaurant for patrons who want to come in and have a mojito or margarita, and it will be Cuban-based cuisine. I think it will be a welcomed addition to get this building back in good condition; it is in pretty rough shape right now, so it will take a lot to get it up to meet current codes, but they are willing to invest the money into the property to do it.

Henry Minneboo – Do you have anything in writing from those places?

Ralph Kennedy – I don't, but I can get it. With the holidays I've been out of town and didn't get a chance to do it, but there is enough parking in the area as it is, and Merritt Park Place re-did the requirements in that area anyway, so there's enough on-street parking in the vicinity to meet the requirements that we need. Having La Casa allowing us to park on their property, and Merritt Assembly of God allowing employees to park, is a bonus.

Henry Minneboo – How large is the building?

Ralph Kennedy – The building is approximately 3,000 square feet.

Henry Minneboo – Wasn't that a restaurant at one time?

Ralph Kennedy – It was Courtyard on the Grove, and it has been about three different restaurants.

Scott Langston – Have you already applied for any of the permitting for the additional parking?

Ralph Kennedy – No, we're still in design, we're just trying to go through this process for now. I'm not really sure what he would do because there's existing parking there now, and all they are talking about doing is replacing grass parking with pavers. We did stormwater in that area a number of years ago to address those concerns, because there wasn't any in the area to start with, and because there is such a mixed use of businesses and residential, it's such a hodge-podge that in order to make it work and make it viable, the County had to acknowledge that kind of downtown flavor and let the people park where they can and walk to the businesses that they need.

Scott Langston – What's the occupancy?

Ralph Kennedy – I think it's 120.

Henry Minneboo – I'm going to add to Scott's concern here, and what has happened to us is an applicant will come up here and say they are going to park here or there, and then the next thing you know, that's not exactly what the truth is, and I think we'd feel better if we had something in writing.

Rochelle Lawandales – With 120 seats for this one, how does that compare with the others? Are they the same size?

Ralph Kennedy – No, this will be a little bit larger, only because they're adding and trying to meet handicap accessibility. They are adding a porch to the west end of it that will add four tables, which is 16 more seats; they're re-configuring the courtyard area to add a couple of tables, and that's what makes the difference.

Rochelle Lawandales – My next question is for staff. Is anyone from the Merritt Island Redevelopment Agency here?

Erin Sterk – I don't think so.

Rochelle Lawandales – We have a couple of restaurants on the agenda today, and I love the use, I think it's appropriate, suitable, and needed, but I'm wondering what the Agency's plans are for working within Merritt Park Place to maybe create additional parking areas, or if they have some acquisitioning, or own some property that they can create some parking so that there's enough to allow for this activity and momentum in the redevelopment district.

Ralph Kennedy – I did present this to the Merritt Island Redevelopment Agency and they supported it unanimously. I went to them before I came here. There was always a restaurant there before, and the busiest times were Friday and Saturday nights, and it always worked out.

Rochelle Lawandales – Are they not going to do a lunch business? And if they so, would they be willing to enter into a binding development plan to restrict the hours that you talked about.

Ralph Kennedy – They do not plan to open for lunch, but they would agree to that.

Rochelle Lawandales – I think that would help in balancing the parking situation, and maybe some assurances for this board that there would be available spaces in those hours.

No public comment.

Erin Sterk – I spoke with the Merritt Island Redevelopment Agency board and they heard this item before the staff comments were compiled, so some of the deficiencies in the area they didn't thoroughly evaluate, so they have offered to hear the item again at the end of this month so we can talk about things like shared parking agreements and things they have under their control, and infrastructure improvements that they can make with their redevelopment funds.

Henry Minneboo – But we can approve or deny this today?

Erin Sterk – You can. It's really for conversation purposes, because we already have the recommendation for approval on the record.

Rochelle Lawandales – In light of that, I'd like to move approval of the Conditional Use Permit with the stipulation that they enter into a binding development plan for hours of operation and that cross parking agreements be entered into to the satisfaction of the County Attorney.

Erin Sterk – You can condition the approval of the Conditional Use Permit rather than a binding development plan.

Scott Langston – I'll second the motion.

Erin Sterk – Can you clarify the hours of operation?

Ralph Kennedy – Can we ask that the hours be limited to 4:00 p.m. to 10:00 p.m. for any deliveries made before 5:00 p.m.

Erin Sterk – It would just be for the service of the alcohol that would be limited, not your overall operational hours.

Ralph Kennedy – Correct.



MERRITT ISLAND REDEVELOPMENT AGENCY

DATE: February 4, 2019

TO: Tad Calkins, Planning & Development Director
Erin Sterk, Planning & Zoning Manager
Jennifer Jones, Special Projects Coordinator

FROM: Cindy Thurman, MIRA Land Development Manager on behalf of the
Merritt Island Redevelopment Agency Board of Directors

RE: **September 27, 2018 MIRA Meeting; Ralph Kennedy; 170 N. Grove St.; P & D
Application # 18PZ00014.**

Pursuant to Section 62-2114 of Brevard County Code, "When an application is made to the P&Z Board for a change in zoning or approval of a conditional use permit, or to the Board of Adjustment for a variance, for property located in the MIRA area, the application shall be forwarded to the MIRA agency prior to the applicable public hearing before the P&Z board or the Board of Adjustment."

On September 27, 2018 at their regular meeting, the Merritt Island Redevelopment Agency Board of Directors heard the CUP request for the on premises consumption of alcohol located at 170 N. Grove Street and voted to recommend approval of the CUP with a unanimous vote.

There are several ongoing and simultaneous development related issues in this area, specifically within the area known as "Merritt Park Place". The long standing issues of a lack of onsite parking and retention in the area are identified in the Merritt Island Redevelopment Area's Community Redevelopment Area Plan adopted by the Board of County Commissioners in 2014.

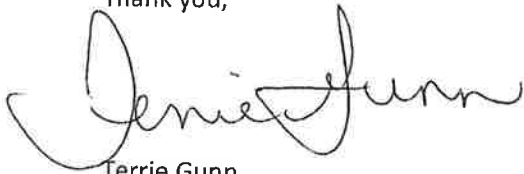
The Merritt Island Redevelopment Agency Board of Directors made a motion at their January 31, 2019 meeting to ask staff to move forward with a parking study and to explore code changes for the area.

January 22, 2019

To Whom It May Concern;

Madrous Restaurant at 170 N. Grove St., Merritt Island, FL may use La Casa ALF's parking lot located on corner of N. Grove St. and Tangerine Ave., Merritt Island, FL across the street from La Casa ALF. La Casa ALF will not be responsible for any damages or stolen items.

Thank you,

A handwritten signature in black ink, appearing to read "Terrie Gunn", with a large, stylized initial "T".

Terrie Gunn

Executive Director

La Casa ALF

tgunn@lacasaliving.com

(321) 449-8880



165 N. Grove St.
Merritt Island, FL 32953

BOB ARTHURS, Pastor
(321) 454-4263

January 21, 2019

To Who It May Concern:

My name is Robert Arthurs, pastor of Merritt Assembly of God. We believe the church is meant to be a blessing to our community. We have offered our parking area to use to multiple businesses in the Merritt Park Place area through the 26 years I have pastored the church. Our parking area was even used as a staging area for the county's heavy machinery when they were replacing the underground utilities.

Alberto and Biviana Roman have our blessing for their employees to park on our property that runs along Parnell Street and borders Tangerine Avenue. Merritt Assembly of God extends this permission assuming no liability for those vehicles and persons parking here.

This permission is granted with the understanding that if in the future Merritt Assembly of God's parking needs increase, the church shall maintain primary parking access but a reasonable amount of notice would be granted to the Roman's business enterprise. Notice would also be given if safety becomes a concern.

Should any further information be needed, please contact me at 321-454-4263.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Arthurs", written in dark ink.

Robert Arthurs



