



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

4/6/2023

Subject:

Thomas A. Metzger; Alan and Grace Metzger request a change of zoning classification from RR-1 to AU. (22Z00069) (Tax Account 2801827) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from RR-1 to AU for the purpose of having horses, fowl, and a barn to store farm equipment on the undeveloped property.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

The established area is rural residential and agricultural zoning with single-family residences. The subject parcel abuts RR-1 zoning to the west which does not permit commercial agricultural uses. AU zoning exists to the east and south of the subject property. North is I-95.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential agritourism activities adversely affect the surrounding area.

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 22Z00069

On motion by Commissioner Tobia, seconded by Commissioner Feltner, the following resolution was adopted by a unanimous vote:

WHEREAS, Thomas A. Metzger; Alan and Grace Metzger have requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 1, Block KK, as recorded in ORB 9447, Pages 1675 - 1677, of the Public Records of Brevard County, Florida. Section 11, Township 28, Range 36. (5.14 acres) Located on the south side of Chicago Ave., approx. 300 ft. east of Cavel St. (No assigned address. In the Micco area.); and

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

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

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

BE IT FURTHER RESOLVED that this resolution shall become effective as of April 6, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on April 6, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 13, 2023

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, 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 zoning 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 amendments, 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 development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00069

**Thomas A. Metzger; Alan and Grace Metzger
RR-1 (Rural Residential) to AU (Agricultural Residential)**

Tax Account Number: 2801827
Parcel I.D.: 28-36-11-01-KK-1
Location: South side of Chicago Avenue, 300 feet east of Cavel Street. (District 5)
Acreage: 5.14 acres

Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1	AU
Potential*	5 units	1 unit
Can be Considered under the Future Land Use Map	YES, RES 2	Yes, RES 2

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) for the purpose of having horses, fowl and a barn to store farm equipment. The property is undeveloped. The parcel is a Flag Lot configuration and the applicant has applied for Flag Lot administrative approval application **22FL00070**. Access will need to meet section 62-102. The parcel was created on November 19, 2021 when the abutting parcel to the east was split per Official Records Book 9332, page 2686.

In the AU and AU(L) zoning classification accessory buildings shall be located to the rear of the front building line, excluding barns, of the principal building and shall be set back not less than 15-feet from the side lot lines and not less than 15-feet from the rear lot lines. There are also setbacks for barns and stalls: 125-feet from the front lot line, 50-feet from the side lot lines and 50-feet from the rear lot

line. The AU zoning allows for buildings or structures accessory to agricultural uses including stables, barns, paddock areas and storage areas without a principal dwelling.

The current RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence.

The existing parcel was originally zoned RU-1 (Single-Family Residential). The property was rezoned to all RR-1 on September 08, 1966 as part of zoning action **Z-1971**.

Land Use

The subject property retains a FLU designation of Residential 2 (RES 2). Both the existing RR-1 and the proposed AU zoning classifications may be considered consistent with the RES 2 FLU designation.

Applicable Future Land Use Policies

FLUE Policy 1.8 – The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant proposes having farm animals; horses, chickens and a barn to store farm equipment. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, the proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhood within the area.

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

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

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

1. historical land use patterns;

The surrounding area has AU zoning to the south and east and RR-1 zoning to the west. The AU zoning to the south and east have existed since May 22, 1995 per zoning action Z-9535. The proposed AU zoning may be considered consistent with the existing RES 2 Future Land Use.

2. actual development over the immediately preceding three years.

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

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

There has not been any actual development within this area in the preceding three (3) years. There have been no zoning actions approved within one-half mile.

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

No material violation of relevant policies has been identified.

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

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.

The applicant proposes having farm animals; horses, chickens and a barn to store farm equipment. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, and RR-1 zoning to the west which permits four horse per acre on single-family developed parcels, the proposal is not anticipated to impact the existing neighborhood within the area with traffic, parking, commercial activity or industrial activity.

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.

The area is established by existing developed parcels and developed platted lots with established roads.

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.

The parcel does not have any established neighborhood commercial uses or non-conforming commercial uses.

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.

The established area is rural residential and agricultural and does not have commercial or industrial uses.

As the subject parcel abuts RR-1 zoning to the west which does not permit commercial agricultural uses, the Board may consider the lower intensity zoning classification of AU(L). The AU(L) zoning classification is a lower intensity sub-classification of AU. The AU(L) classification allows agricultural pursuits of a personal non-commercial nature. It also allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities to help preserve the residential character of the neighborhood.

Surrounding Area

Direction	Existing Land Use	Zoning	Future Land Use
North	Right-of-Way	N/A	N/A
South	Single-Family	AU	RES 2
East	Single-Family	AU	RES 2
West	Single-Family	RR-1	RES 2

To the north, across Chicago Avenue, is a 1.16-acre parcel with RR-1 zoning developed with a single-family residence. To the east is a 10.82-acre parcel with AU zoning developed with a single-family residence with a barn/stable and horses. To the south is a 4.82-acre parcel with AU zoning developed with a single-family residence and residential accessory structures. To the west are 0.85-acre parcels with RR-1 zoning developed a single-family residence.

The current RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

The proposed AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

Florida Statute 570.86 defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

There are 22 single-family residences currently within a 500 feet radius.

There are no agritourism activity currently within a 500 feet radius.

There have been no zoning actions approved within one-half mile of the parcel in the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US 192, between Simon Road and I-95, which has a MAV (Maximum Acceptable Volume) of 41,790 trips per day, a Level of Service (LOS) of C, and currently operates at 31.20% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 31.23% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is not serviced by Brevard County water or sewer. The closest water line to the parcel is approximately 8.8 miles to the north along the east side of Lake Andrew Drive. The closest sewer line to the parcel is approximately 7.1 miles away to the north at the east end of Kennesaw Place.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Wetlands

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential agritourism activities adversely affect the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00069**

Applicant: Thomas Metzger

Zoning Request: RR-1 to AU

Note: Applicant wants to have farm animals and associated accessory structures.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2801827

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Wetlands

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Malabar sand), in the northern part of the property, an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal.

Wetlands

The National Wetlands Inventory maps show a freshwater emergent wetland on the southeast corner of the property. The SJRWMD FL Land Use and Land Cover (FLUCCS), 2009 map shows Code 6430, Wet Prairies, in that same location. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62 3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The

Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

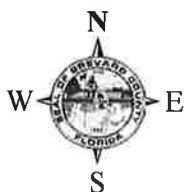
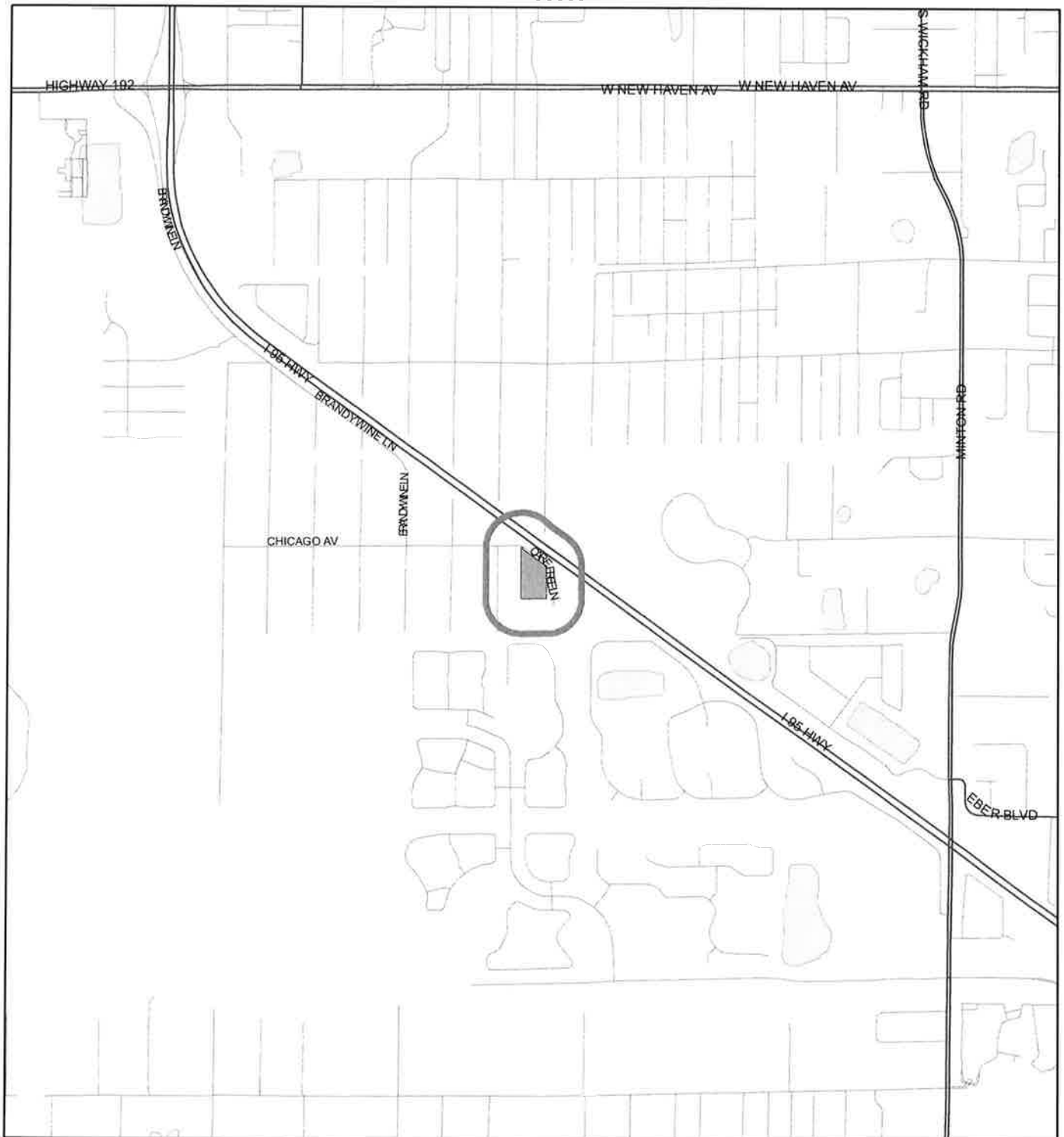
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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

LOCATION MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



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

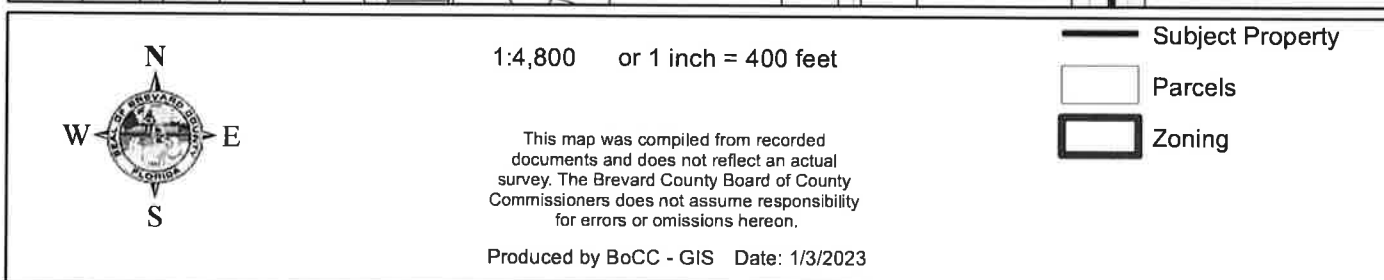
Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 1/3/2023

— Buffer
■ Subject Property

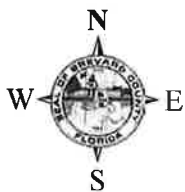
METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



FUTURE LAND USE MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

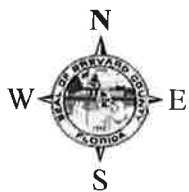
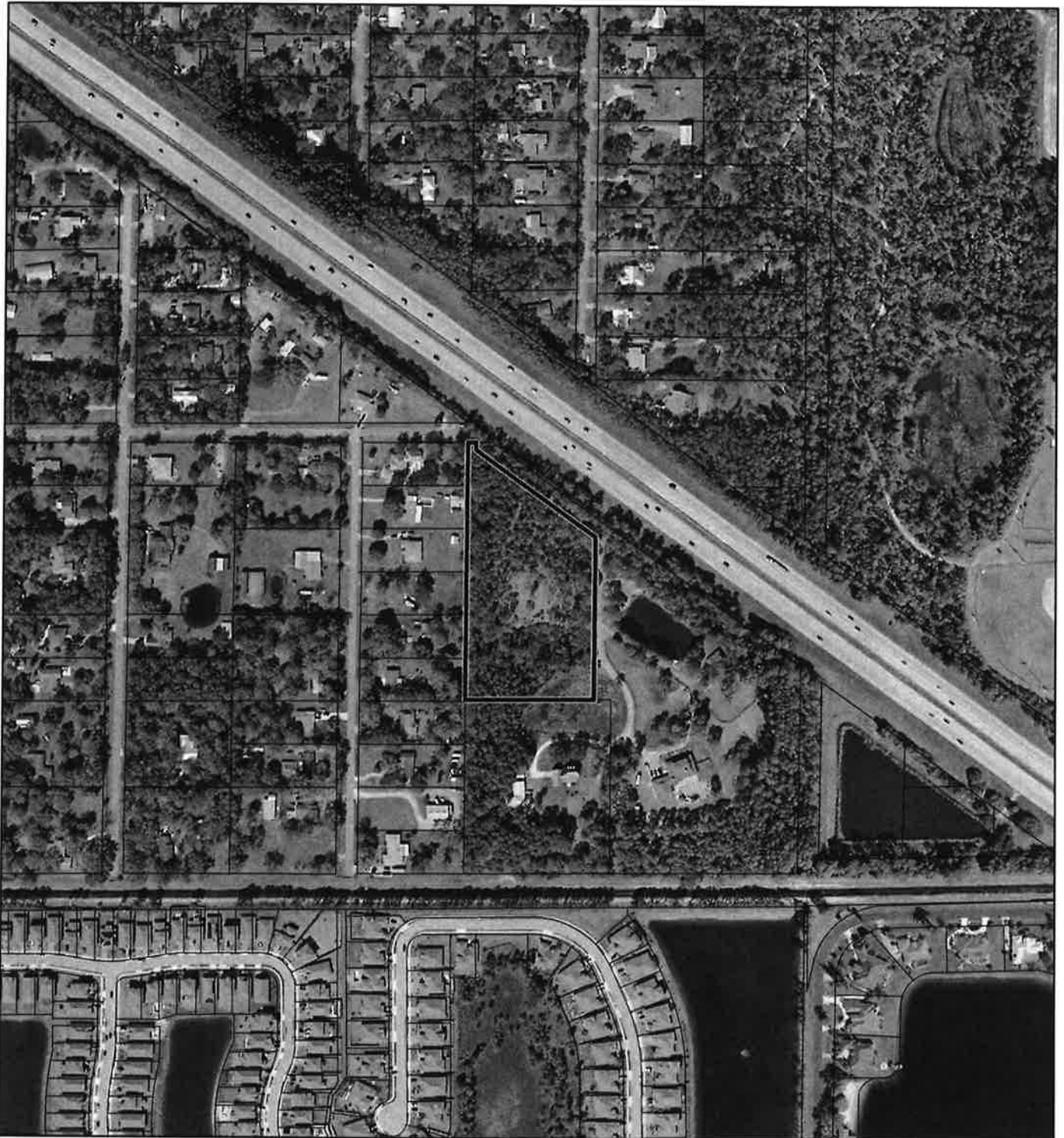
Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/3/2023

AERIAL MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

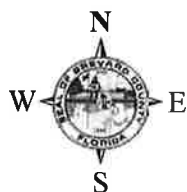
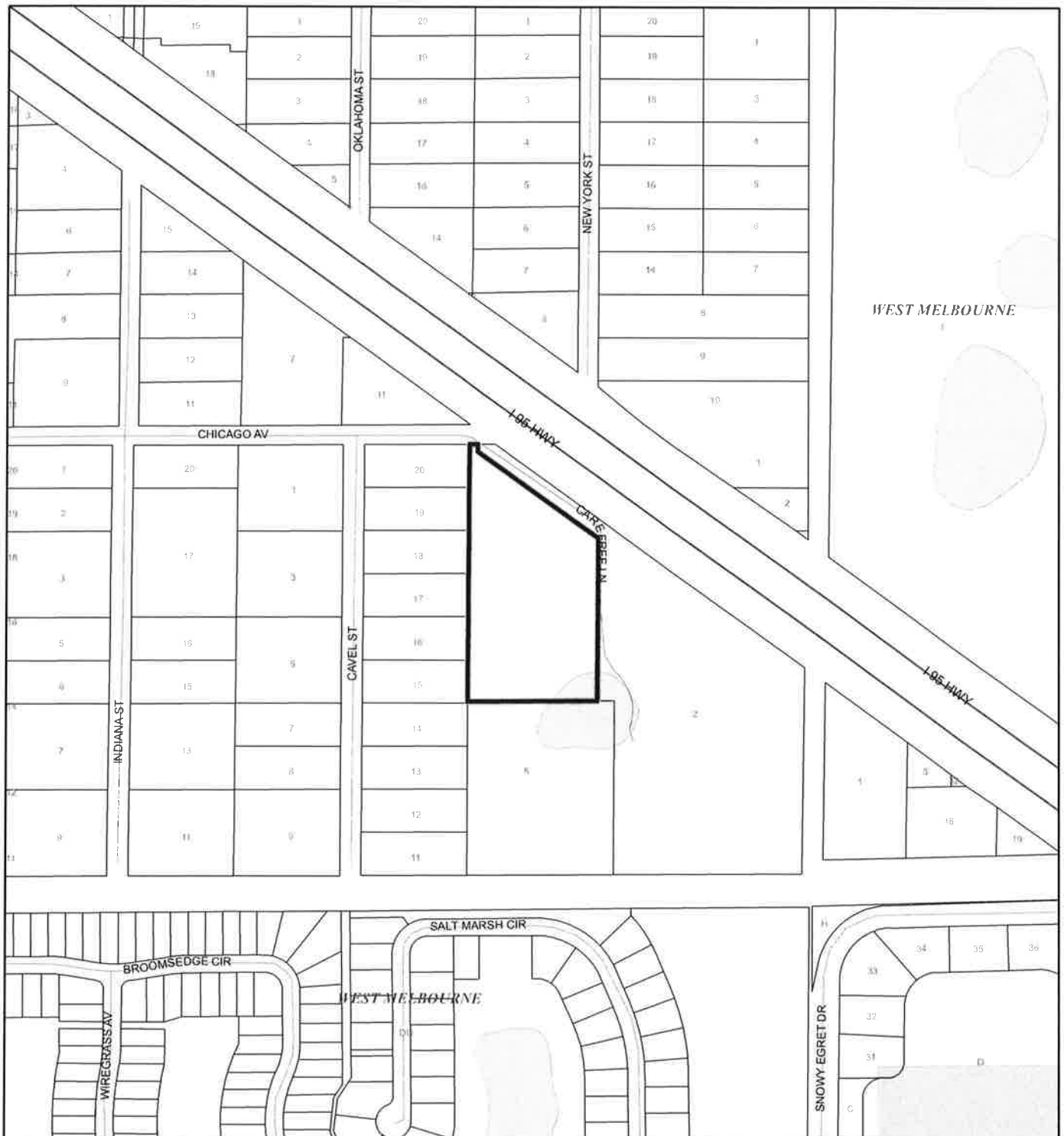
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/3/2023

— Subject Property
□ Parcels

NWI WETLANDS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

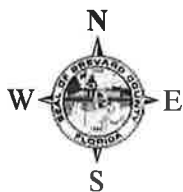
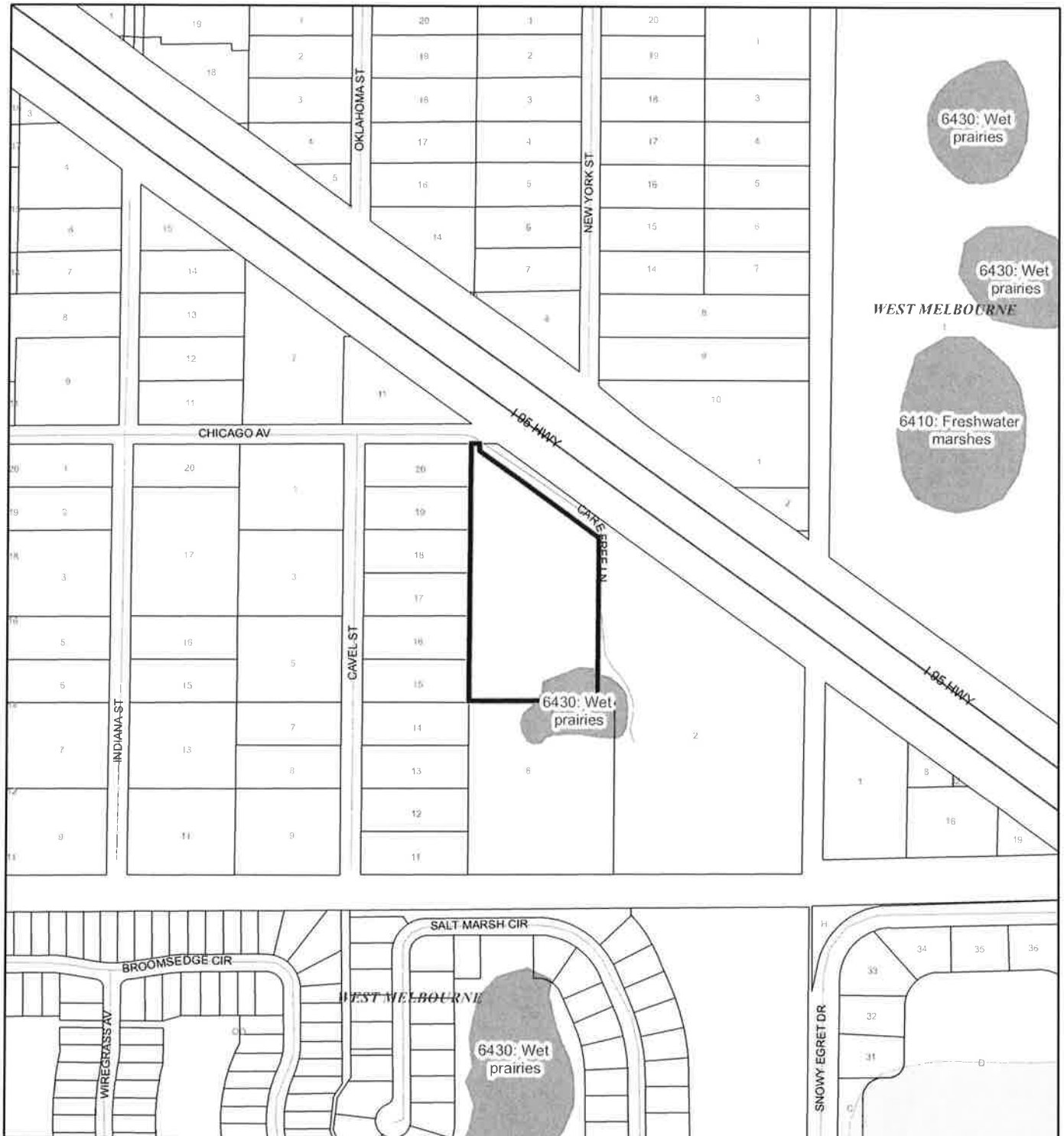
National Wetlands Inventory (NWI)

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

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

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

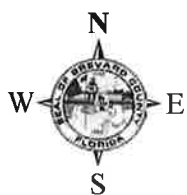
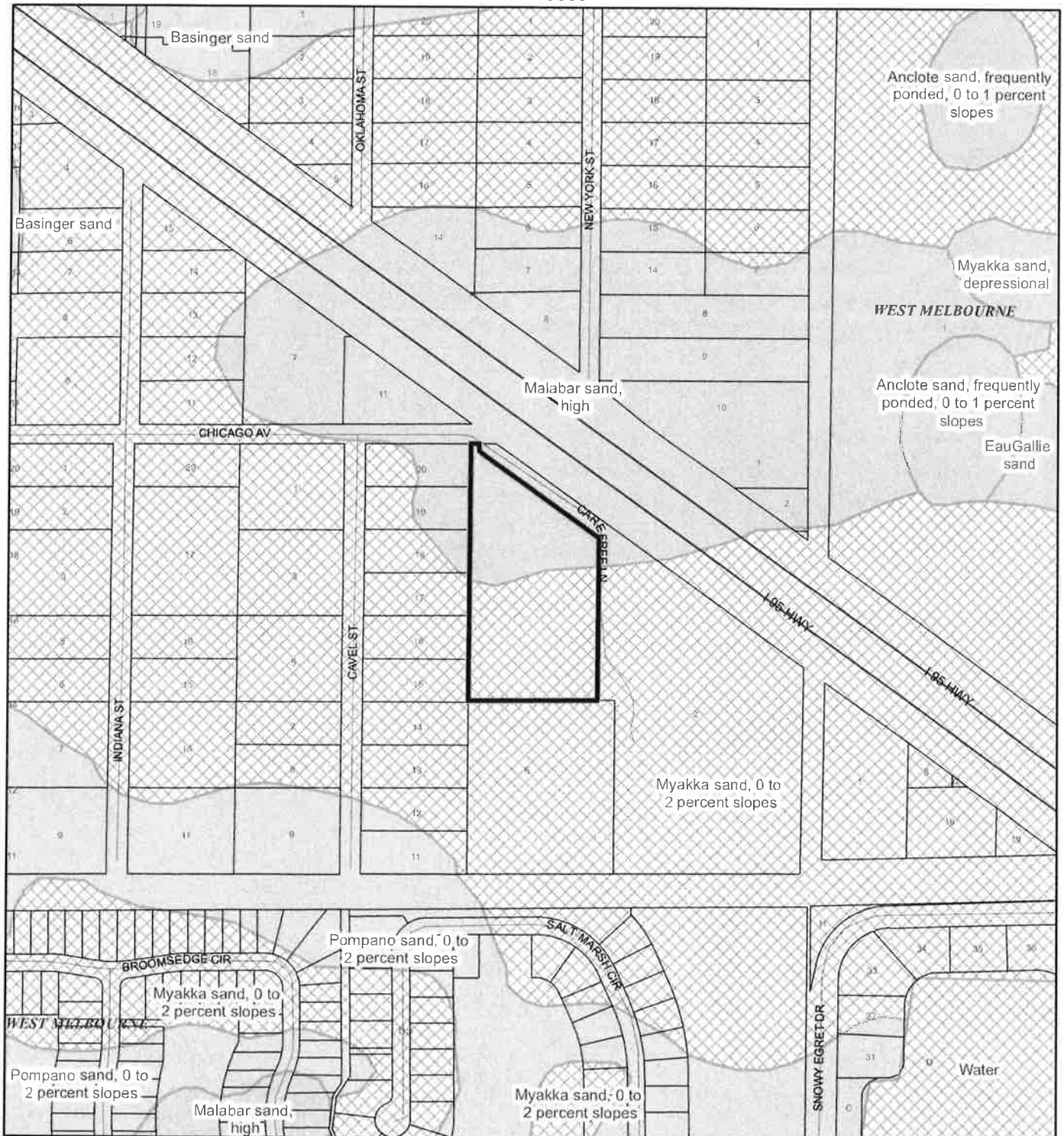
Subject Property

Parcels

USDA SCSSS SOILS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

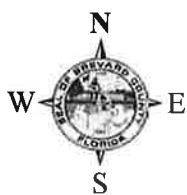
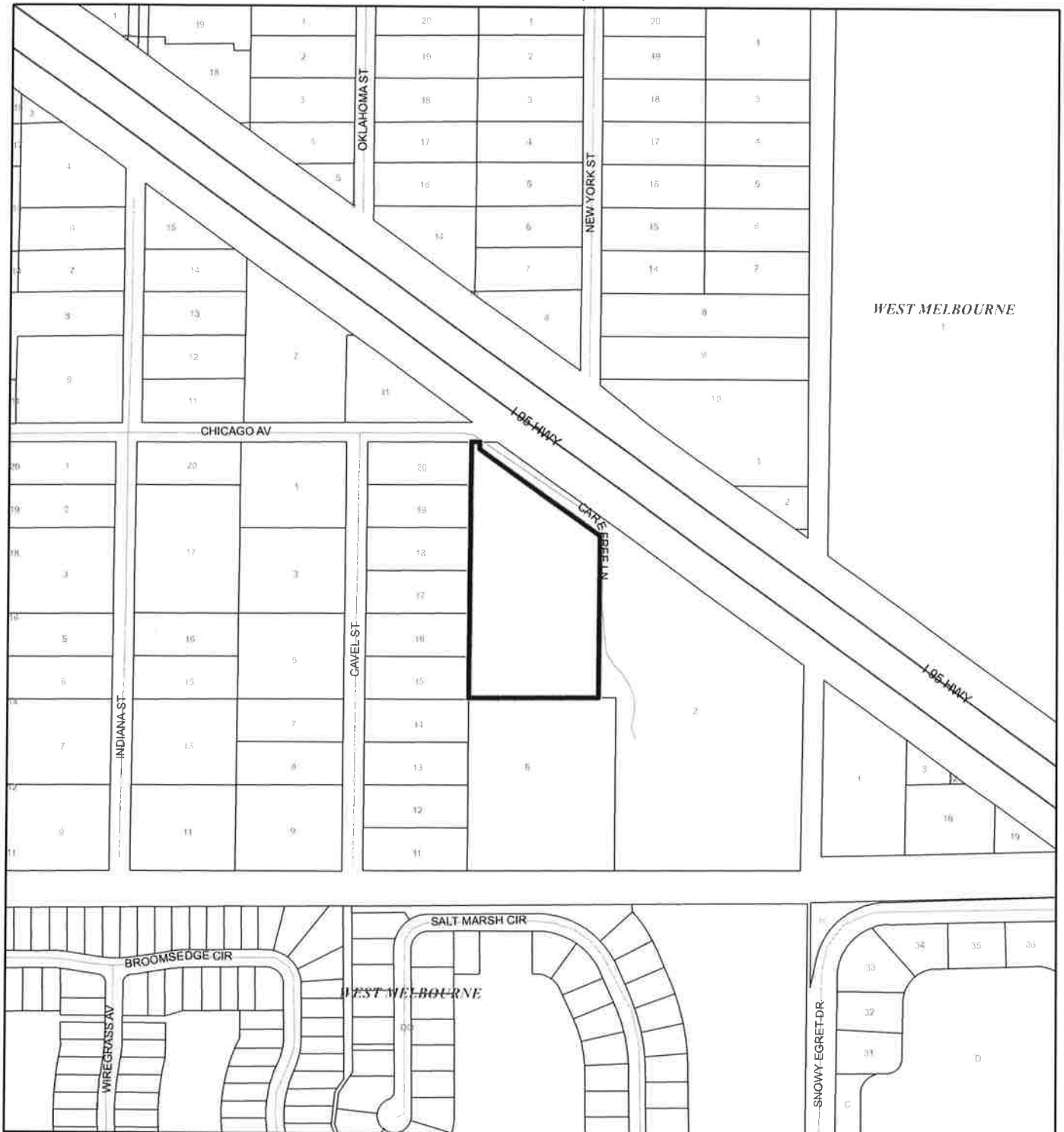
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

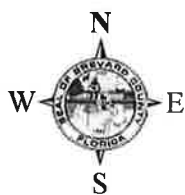
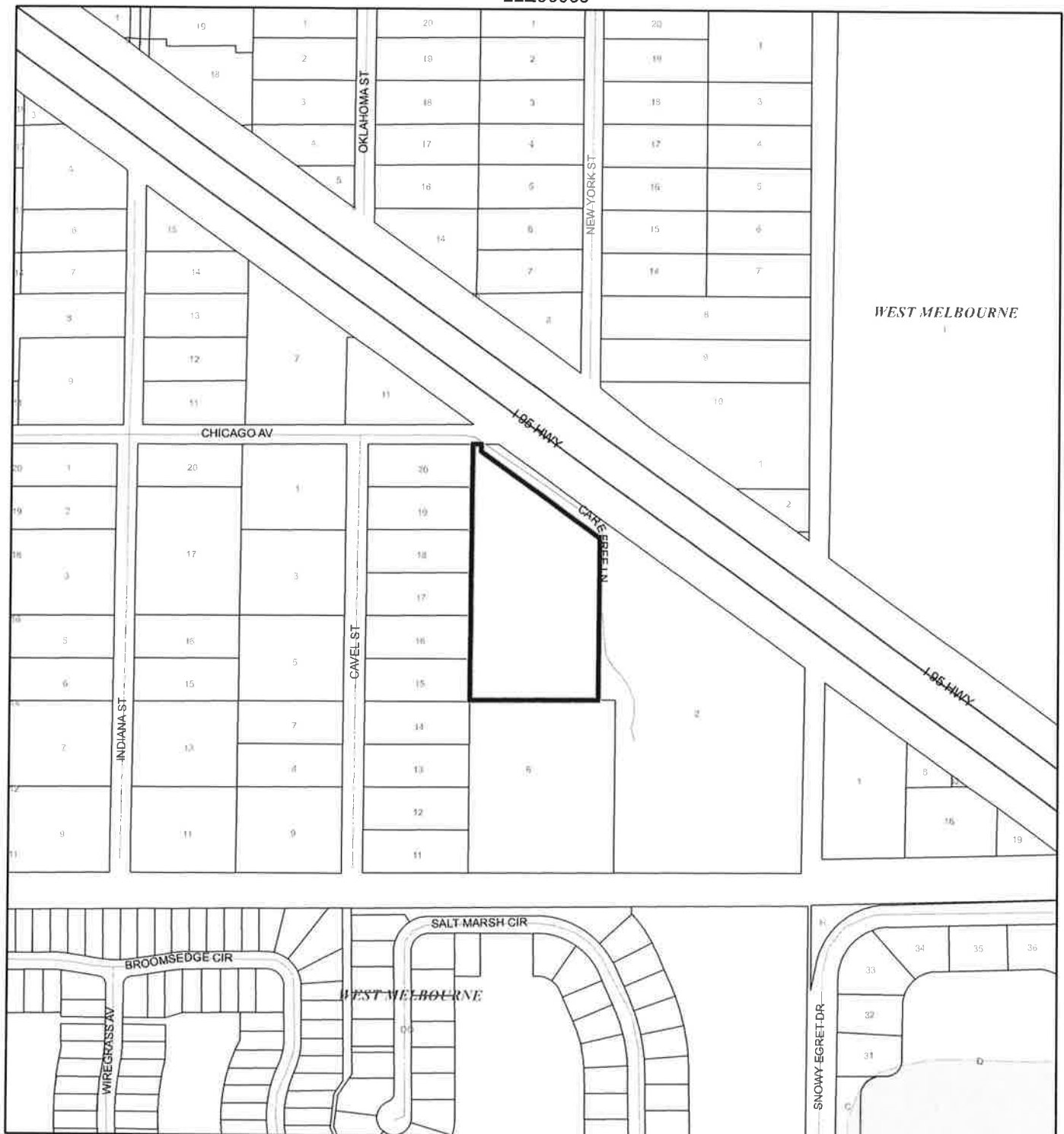
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

— Subject Property

□ Parcels

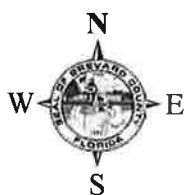
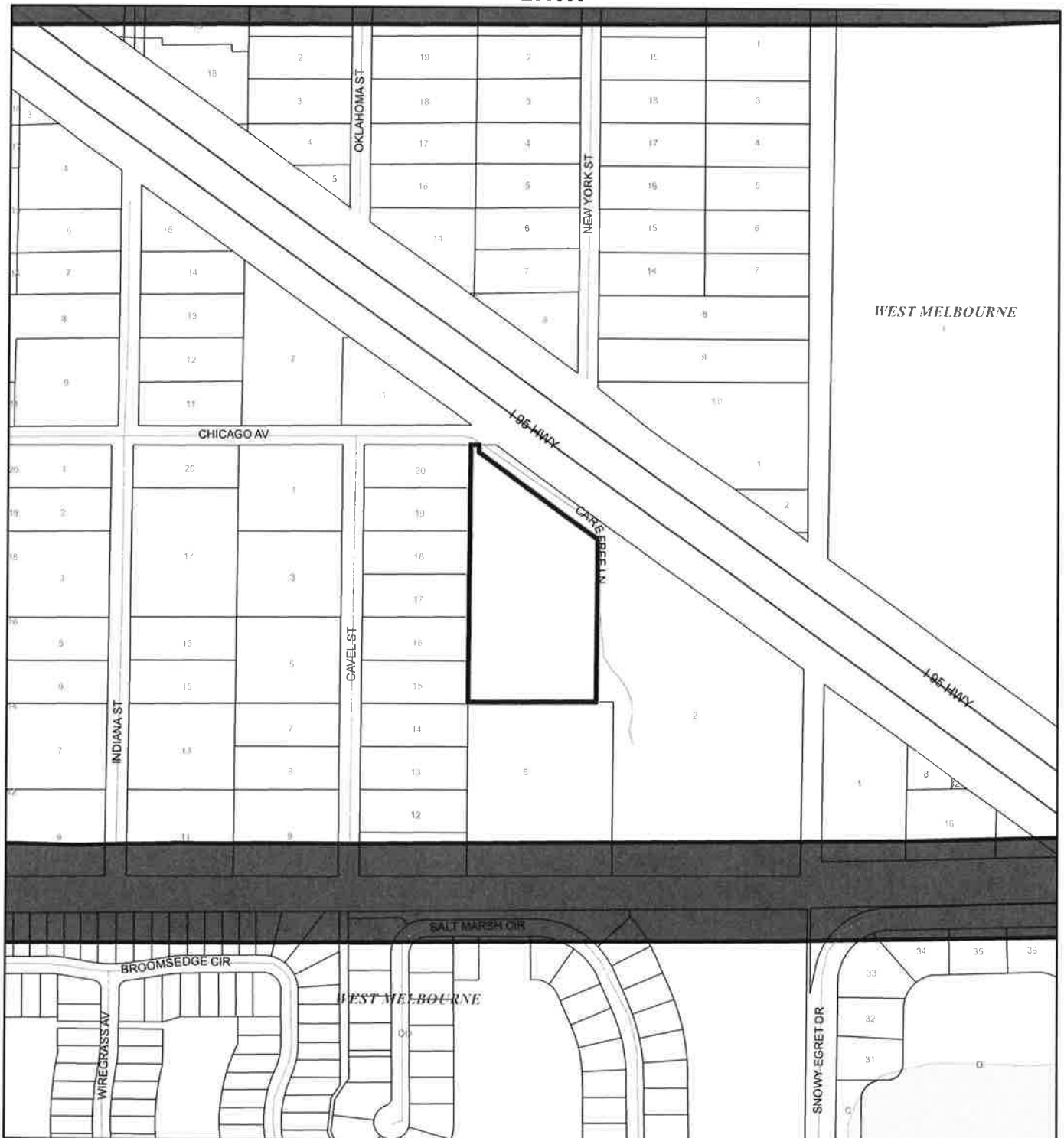
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

— Subject Property

□ Parcels

Septic Overlay

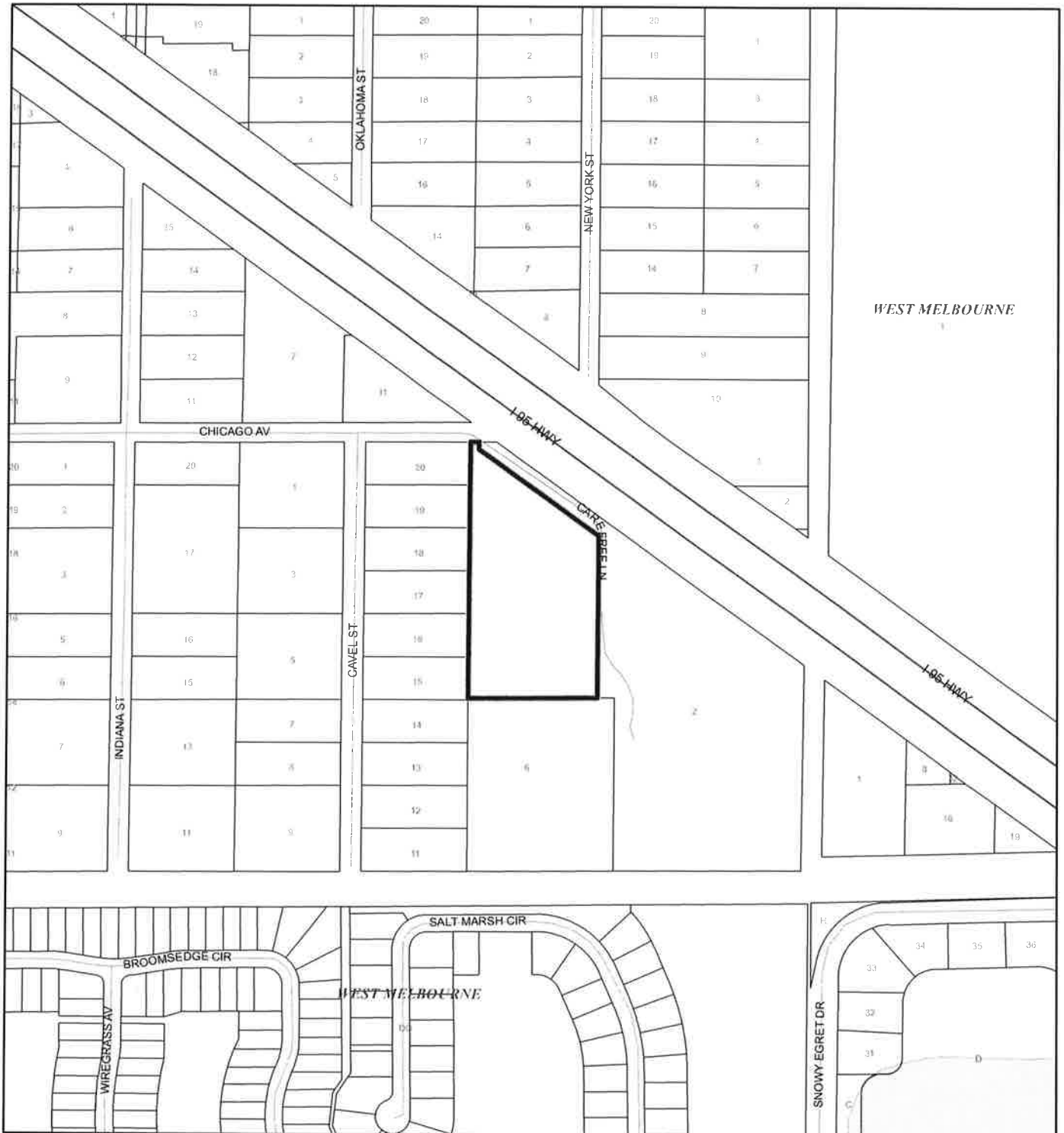
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE
22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

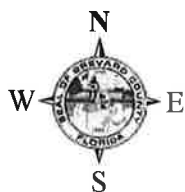
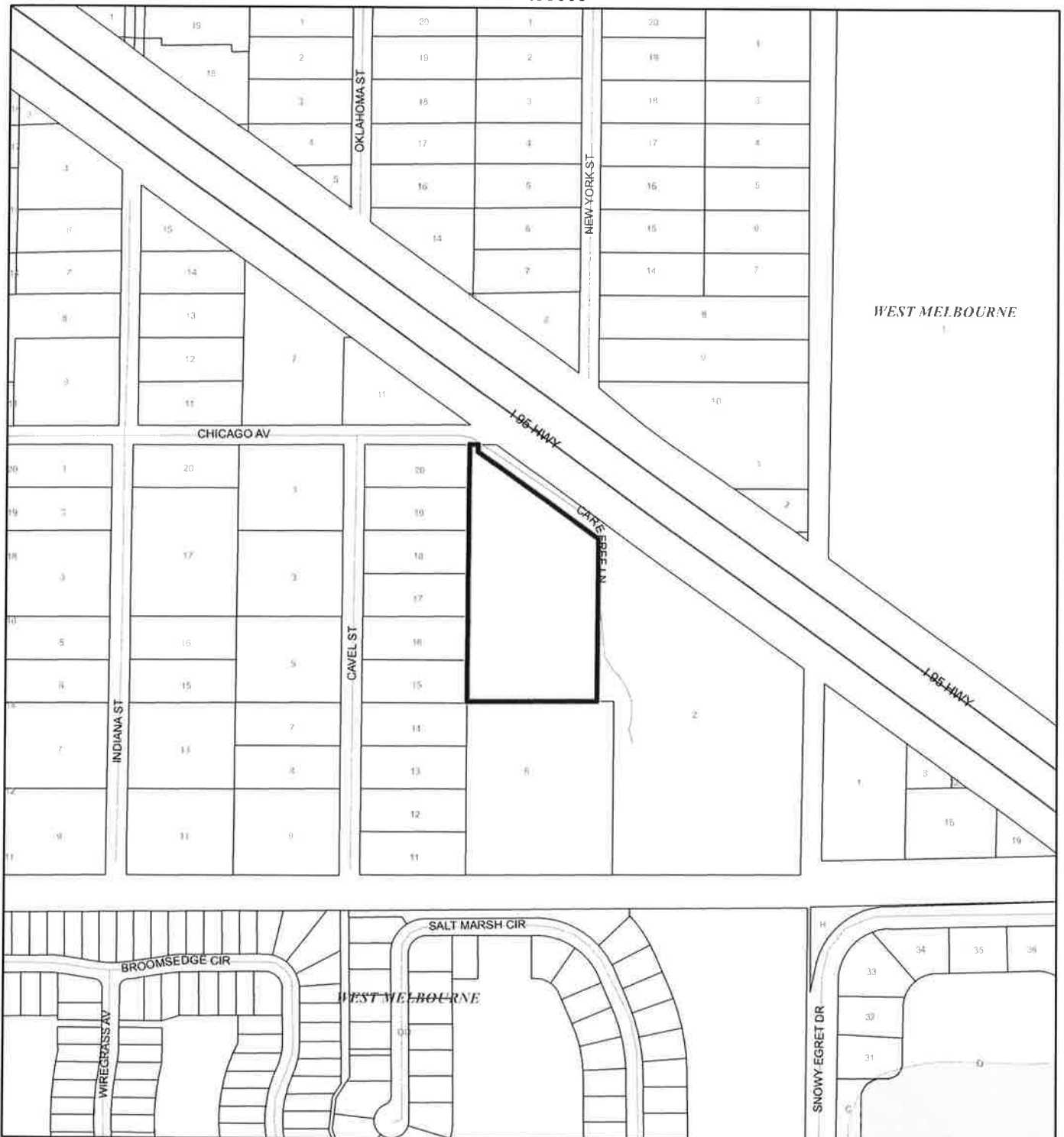
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE




22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

22Z00069



Wayne & Theresa Stewart
3020 Carefree Lane
West Melbourne FL. 32904

4 March 2023

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

To Whom It May Concern:

We saw the zoning request 22Z00069 at the front entrance to both our property and the Metzger's 5 acre lot. We would like this entered into the official record that we support the zoning change being requested as it is consistent with our current zoning. We have no objection to Tommy building his barn and house, and look forward to Tommy being a neighbor again.

Thank you,

Wayne & Theresa Stewart

Handwritten signatures of Wayne Stewart and Theresa Stewart. Wayne's signature is on the left, followed by a horizontal line, and Theresa's signature is on the right.

Billy & Susan Curry
4010 Chicago Avenue
West Melbourne FL. 32904

6 March 2023

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

To Whom It May Concern:

As neighbors to the Metzger's for over the last 25 years, we saw the zoning request sign at the front 5acre lot that they own, application/zoning request number 22Z00069. We just want to provide a pledge of support to the zoning request as we believe this will be consistent and beneficial to the neighborhood. We actually helped Mr. Metzger do the original site development when he converted what could have been 26 planned homes in our neighborhood into the three lots that have existed for a number of years. The two homes built over the years have been beneficial to the neighborhood, and we believe that the rezoning request from RR-1 to AU is consistent with properties in the area at both this end of Chicago Ave as well as the other end of the neighborhood off of Ranch Road. We look forward to having Tommy as a neighbor again.

If there are any questions, please feel free to contact us. Thank you.

Billy & Susan Curry

Handwritten signatures of Billy Curry and Susan Curry. The signature of Billy Curry is on top, and the signature of Susan Curry is below it. Both are written in cursive.

Amanda Skeen
4000 Chicago Avenue
West Melbourne FL. 32904

6 March 2023

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

To Whom It May Concern:

We have been neighbors with the Metzger's for over 10 years, and saw the zoning request (22Z00069) at the front of their property. We support the zoning change from RR-1 to AU, as it is consistent with the surrounding neighbors. We look forward to having Tommy as a neighbor, and believe his plans for the property will be beneficial to the neighborhood. Please feel free to reach out with any questions.

Sincerely,

Amanda Skeen

A handwritten signature in cursive script, appearing to read 'Amanda Skeen', written in dark ink.

Richard & Shauna Seenath
2995 Carefree Lane
West Melbourne FL. 32904

4 March 2023

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

To Whom It May Concern:

We saw the zoning request number 22Z00069 at the front of the Metzger's lot near our Carefree Lane entrance. We purchased Alan & Grace Metzger's home in Nov. 2021. Although we have only known them a short time, we support the zoning change to Agricultural that is being requested as it is consistent with both our property as well as our neighbors the Stewart's that are both AU. We look forward to Tommy building on his property and having him in the neighborhood.

Please feel free to reach out with any questions.

Thank you,

A handwritten signature in black ink, appearing to be 'R. Seenath' or similar, written over a horizontal line.

Richard & Shauna Seenath

Darin & Angela Zeger
2911 Cavel Street
West Melbourne FL. 32904

2 March 2023

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

To Whom It May Concern:

We have owned our property for over 15 years that adjoins the property owned by the Metzger's, and recently saw the zoning request number 22Z00069 at the front of the Metzger's lot to the rear of our property. Our property fronts Cavel Street, and our side yard is along the paved Brevard County Road Chicago Ave. We support the zoning change that Tommy is requesting as it is consistent with the other properties the Metzger's used to own that border the other sides of this 5-ac lot. We know Tommy wants to build a barn and home on the property and are fine with that. If there are any questions, please feel free to contact us. Thank you.

Darin & Angela Zeger




PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Thomas A. Metzger; Alan and Grace Metzger

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on 5.14 acres, located on the south side of Chicago Ave., approx. 300 ft. east of Cavel St. (No assigned address. In the Micco area.) (Tax Account 2801827) (District 5)

Thomas Metzger, 9899 Riverview Drive, Micco, stated there are three large parcels in the back of the neighborhood that are all zoned AU, and he would like the same zoning. He said the primary reason for the request is to build a barn for a tractor and a horse before he builds a house.

No public comment.

Mr. Hopengarten asked if there is a drainage ditch on the north side of the property.

Alan Metzger, 989 Oak Trail, Micco, stated he is the original developer of the property. He said St. Louis Avenue was a County-platted road that has never been developed, and it goes across the back of the Tillman Canal drainage area, but it doesn't touch the subject property.

Mr. Hopengarten asked why Carefree Road is not being used as the as access.

Alan Metzger replied in 1993 he bought 26 acres; the County had a platted element with New York Avenue proposed, and everything dead-ended into the 26 acres; it was 26 non-conforming lots of record. He said he plan was to make three lots out of the 26 acres; 11 acres for himself, and then two 5-acre lots. The County told him to extend Chicago Road 350 feet, and deed the road back to the County in 1995. The subject property has access off of Chicago Avenue.

Motion by John Hopengarten, seconded by Bruce Moia, to approve the change of zoning classification from RR-1 to AU. The motion passed unanimously.