



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

4/7/2022

Subject:

Brian G. and Debra S. Lawson (Kim Rezanka) request a change of zoning classification from GU to RR-1 with a BDP. (22Z00005) (Tax Accounts 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, 2314709) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) to RR-1 (Rural Residential) with a BDP (Binding Development Plan).

Summary Explanation and Background:

The applicant requests to change the zoning classification from GU (General Use) to RR-1 (Rural Residential) with a BDP (Binding Development Plan) limiting the development to 4 units. The RR-1 zoning classification will allow 10 substandard lots to be combined into 4 lots meeting the RR-1 minimum lot size. It also increases the minimum residential living area from 750 square feet as currently required by the GU zoning classification to a minimum 1,200 square feet as required by the RR-1 zoning classification.

The developed character of the surrounding area is a mixture of single-family residential and mobile home zoning classifications. Surrounding the property is undeveloped lots retaining the GU and AU zoning classification. The introduction of RR-1 zoning could be considered consistent with the prior recordings of 1-acre lots within the recorded Survey Book. The RR-1 zoning classification will recognize the existing development patterns of the area.

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

On March 14, 2022, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP limiting density to a maximum of 4 units.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

- (c) General Standards of Review.

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

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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

22Z00005

Brian G. & Debra S. Lawson

GU (General Use) to RR-1 (Rural Residential) with BDP

Tax Account Numbers: 2314706, 2314720, 2314737, 2314738, 2314739, 2322365, 2322366, and 3018241

Parcel I.D.s: 23-35-35-01-14-4, 23-35-35-01-16-2, 23-35-35-01-16-3, 23-35-35-01-16-5, 23-35-35-01-16-23, 23-35-35-01-16-24, 23-35-35-01-16-25, 23-35-35-01-16-26

Location: 4680 Grissom Parkway Cocoa, FL 32927 (District 1)

Acreage: 11.8 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal 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	GU	RR-1 with BDP
Potential*	9 combined nonconforming lots** 1 substandard remnant lot	4 SF lots
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES RES 1:2.5***

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** 62-1188(4) considers ownership for combining lots to satisfy the Comprehensive Plan. ***Applicant/owner is proposing to combine various lots to be consistent with the 2.5-acre lot area density limitation to be consistent with RES 1:2.5 Future Land Use Designation.

Background and Purpose of Request

The applicant requests to reconfigure 10-lots zoned GU (General Use) into 4-lots zoned RR-1 (Rural Residential) classification with a BDP (Binding Development Plan) limited to 4 units.

The zoning is the original 1958 GU zoning. This request has the potential to reduce the number of lots from 10 to 4 lots and increase the minimum residential living area from 750 square feet as

currently required by the GU zoning classification to at least 1,200 square feet required by the RR-1 zoning classification. The proposed BDP is used to limit the minimum lot area of each proposed lot. The reconfiguration of lots will require the revocation of a previously approved administrative approval for a flag lot and for an administrative approval of an easement lot. The easement lot was approved under **AA-1871** on September, 2003. The flag lot was administratively approved under **18PZ00034** on May 30, 2018. The applicant will need to demonstrate compliance with 62-102 regarding access and the issuance of a Building Permit.

According to 62-1188(4), If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record, and if all or part of the lots do not meet the requirements for lot width, lot area and lot depth as established in this section, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Where two or more nonconforming lots of record are combined for the purpose of requesting a new zoning classification which would make the combined lots conforming as one parcel, the lots shall not be re-divided subsequent to the rezoning except where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.

Land Use

The subject property is currently designated Residential 1:2.5 (RES 1:2.5). The existing GU and proposed RR-1 zoning with BDP density limitation request are both consistent with the Residential 1:2.5 (RES 1:2.5) FLU designation.

Applicable Land Use Policies

FLUE Policy 1.10 The Residential 1:2.5 Future land use designation. The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

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

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

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

Criteria:

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

The applicant proposes the development of four single-family residential lots limited under a Binding Development Plan.

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;

This area is residential in nature. Most of the lots identified within the Canaveral Groves Subdivision recorded in Survey Book 2 Page 57.

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

The owner has received approval to create a flag lot for residential purposes within this area in the preceding four (4) years. The residence was completed on February 19, 2020.

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

There is a mobile home development within this area that has received Zoning approval in the preceding three (3) years. That project lies 865-feet to the east and was approved under Zoning Resolution 20Z00006. That action approved a change in zoning from TR-1 to TRC-1 with CUP for the cluster development of mobile homes with a BDP to limit development to 100-units.

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

This property will need to be developed in compliance with the Comprehensive Plan.

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

The developed character of the surrounding area is a mixture of single-family residential and mobile home zoning classifications. Surrounding the property is undeveloped lots retaining the GU and AU zoning classification. The introduction of RR-1 zoning could be considered consistent with the prior recordings of 1-acre lots within the recorded Survey Book. The RR-1 zoning classification will recognize the existing development patterns of the area. GU zoning is considered a holding zoning classification for areas lacking specific development trends. Consistency with the RES 1:2.5 FLUM would suggest the RR-1 zoning is not consistent with the current FLUM per Section 62-1255 Exhibit A of Brevard County Code. The proposed BDP will limit development consistent with 2.5-acre lots.

	Existing Land Use	Zoning	Future Land Use
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North	vacant	GU	RES 1;2.5
South	vacant	GU	RES 1;2.5
East	vacant	GU	RES 1;2.5
West	vacant	GU & AU	RES 1;2.5

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

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

There was one zoning action within a half-mile radius of the subject property within the last three years. The zoning action was **20Z00006** which was approved by the Board on November 17, 2020. The request changed the property from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) with a CUP for Cluster Development of Mobile Homes and a (Binding Development Plan (BDP) recorded in ORB 8923, Pages 875-886. The BDP limited development to 100 units, expanded a 10-foot buffer to 20-feet and provided a conservation easement over the wetlands. That site is 870 feet to the east of this request between Fountain Palm Road and Hess Avenue.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, between Canaveral Groves Boulevard to Camp Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 48.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.1%. The corridor is anticipated to operate at 48.38% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal reduces the number of residential lots.

The parcel does not have access to public water from the City of Cocoa. The potential sewer connection is on the east side of the Grissom Parkway 2,060 feet south at the Canaveral Groves Boulevard intersection.

Environmental Constraints

- Hydric Soils/Wetlands

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

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

For Board Consideration

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

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

Item # 22Z00005

Applicant: Rezanka for Lawson

Zoning Request: GU to RR-1 w/BDP

Note: Applicant wants to combine eight parcels into four SFR flag lots

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

Tax ID Nos: 2314706, 2314720, 2314737, 2314738, 2314739, 2322365, 2322366 & 3018241

- 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
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

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

Land Use Comments:

Hydric Soils/Wetlands

The subject property contains a small area of mapped hydric soils (St Johns sand depressional) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy

would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of building permit application, a wetland determination/delineation may be required.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

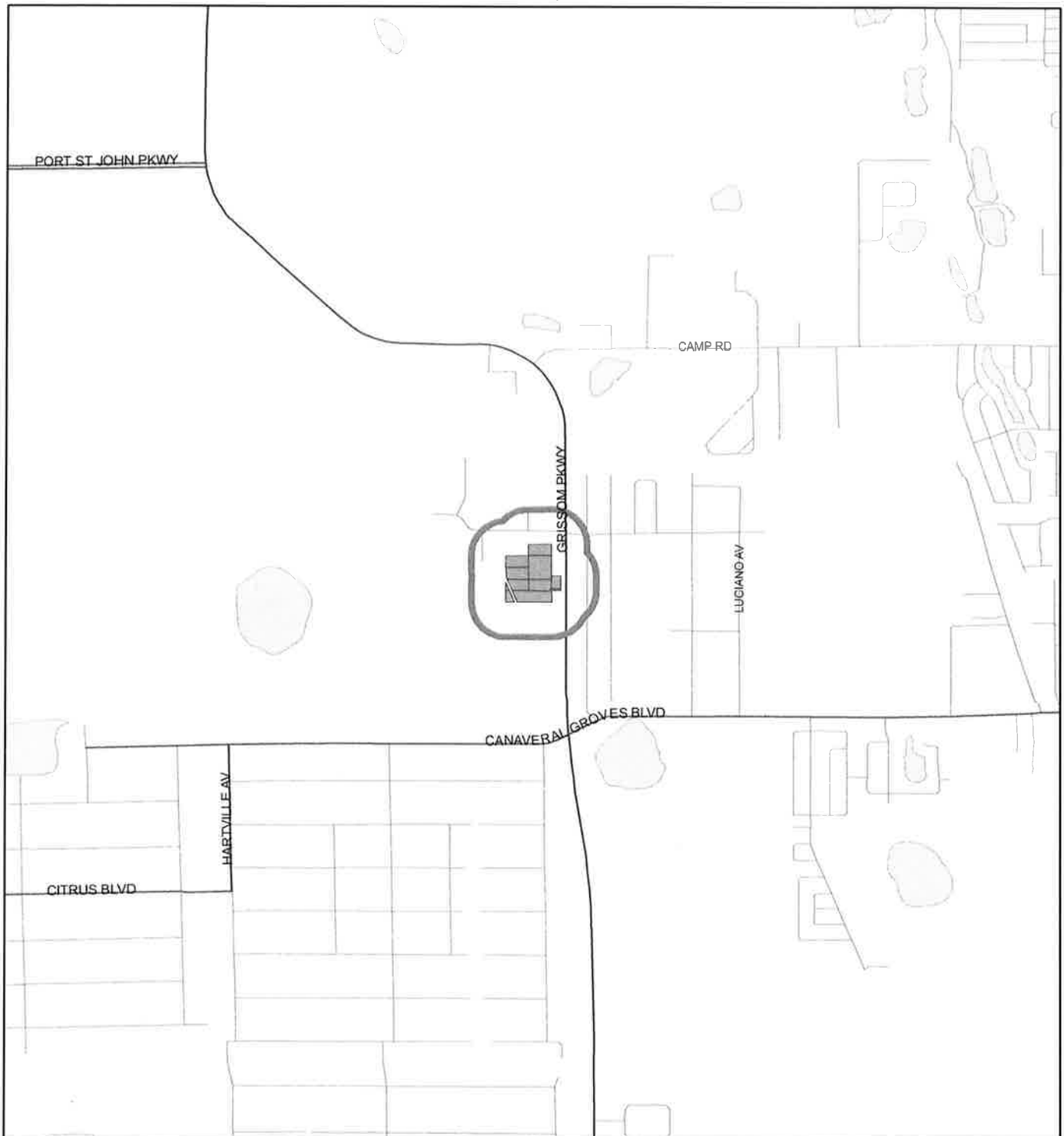
Aerials indicate that project site is forested. Protected (greater than or equal to 14 inches in diameter for pines) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species – Florida Scrub Jay

Information available to NRM indicates that federally and/or state protected species may be present on the property. The subject property has mapped Florida Scrub Jay polygon over the entire site as shown on the Scrub Jay Occupancy Map. In addition, gopher tortoises can be found in areas of aquifer recharge soils. 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

LAWSON, BRIAN G. AND DEBRA S.
22Z00005



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.

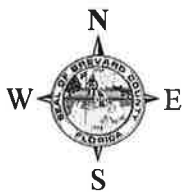
Produced by BoCC - GIS Date: 1/12/2022

— Buffer
■ Subject Property

ZONING MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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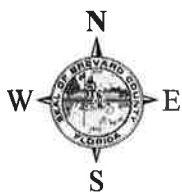
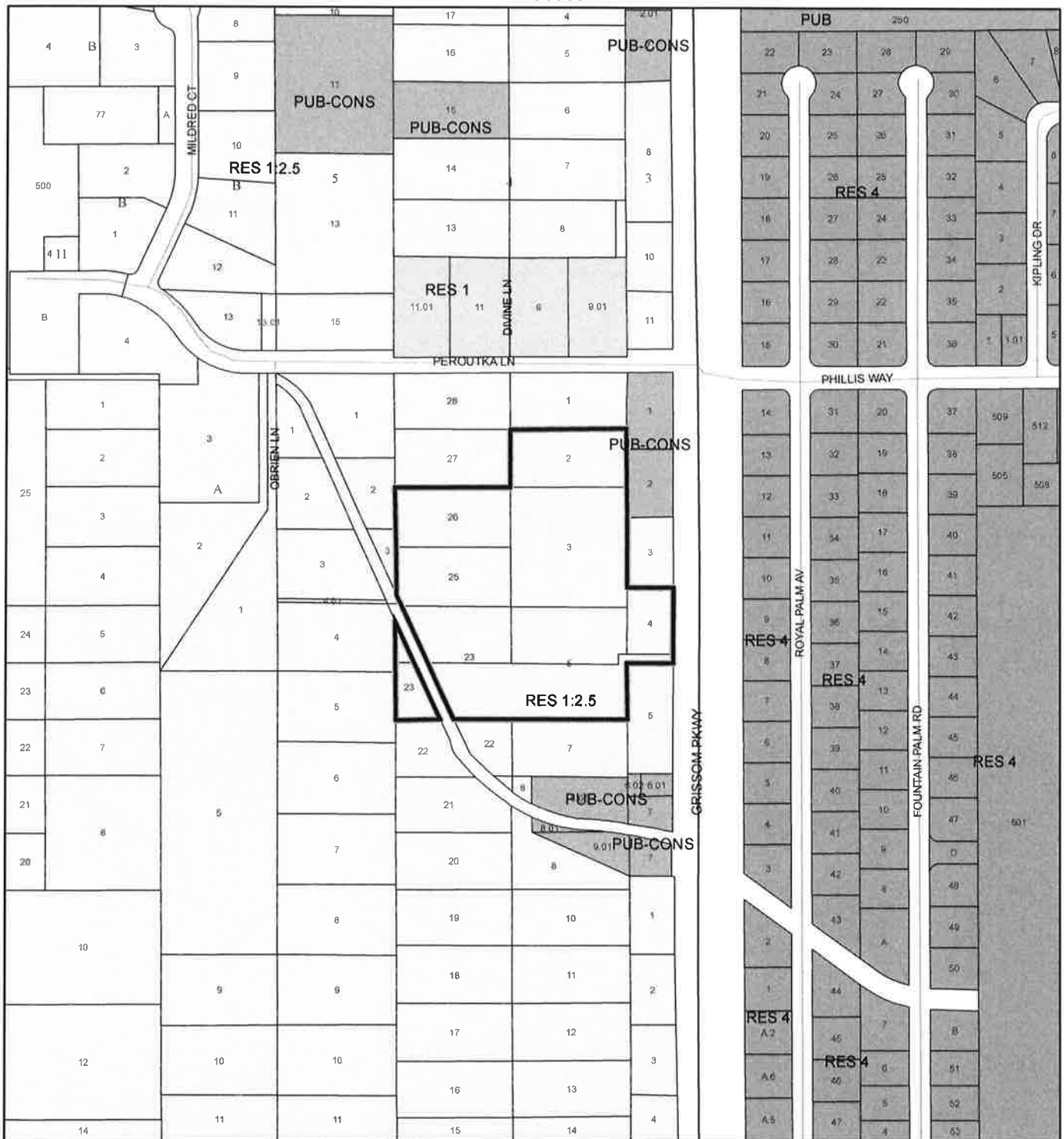
Produced by BoCC - GIS Date: 1/12/2022

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

— Subject Property

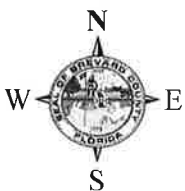
□ Parcels

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Produced by BoCC - GIS Date: 1/12/2022

AERIAL MAP

LAWSON, BRIAN G. AND DEBRA S.
22Z00005



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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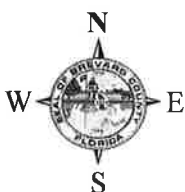
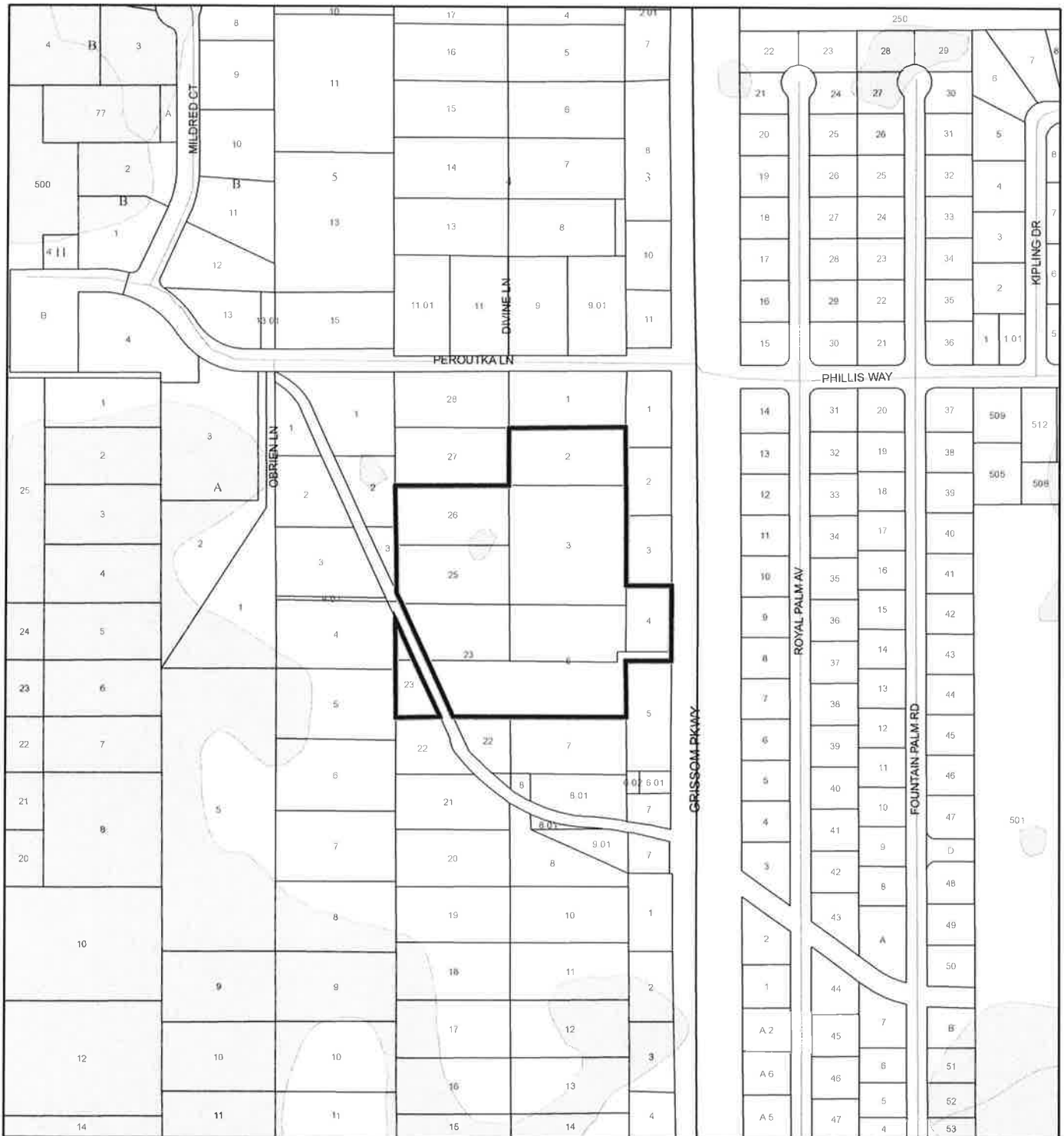
Produced by BoCC - GIS Date: 1/12/2022

— Subject Property
□ Parcels

NWI WETLANDS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

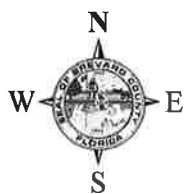
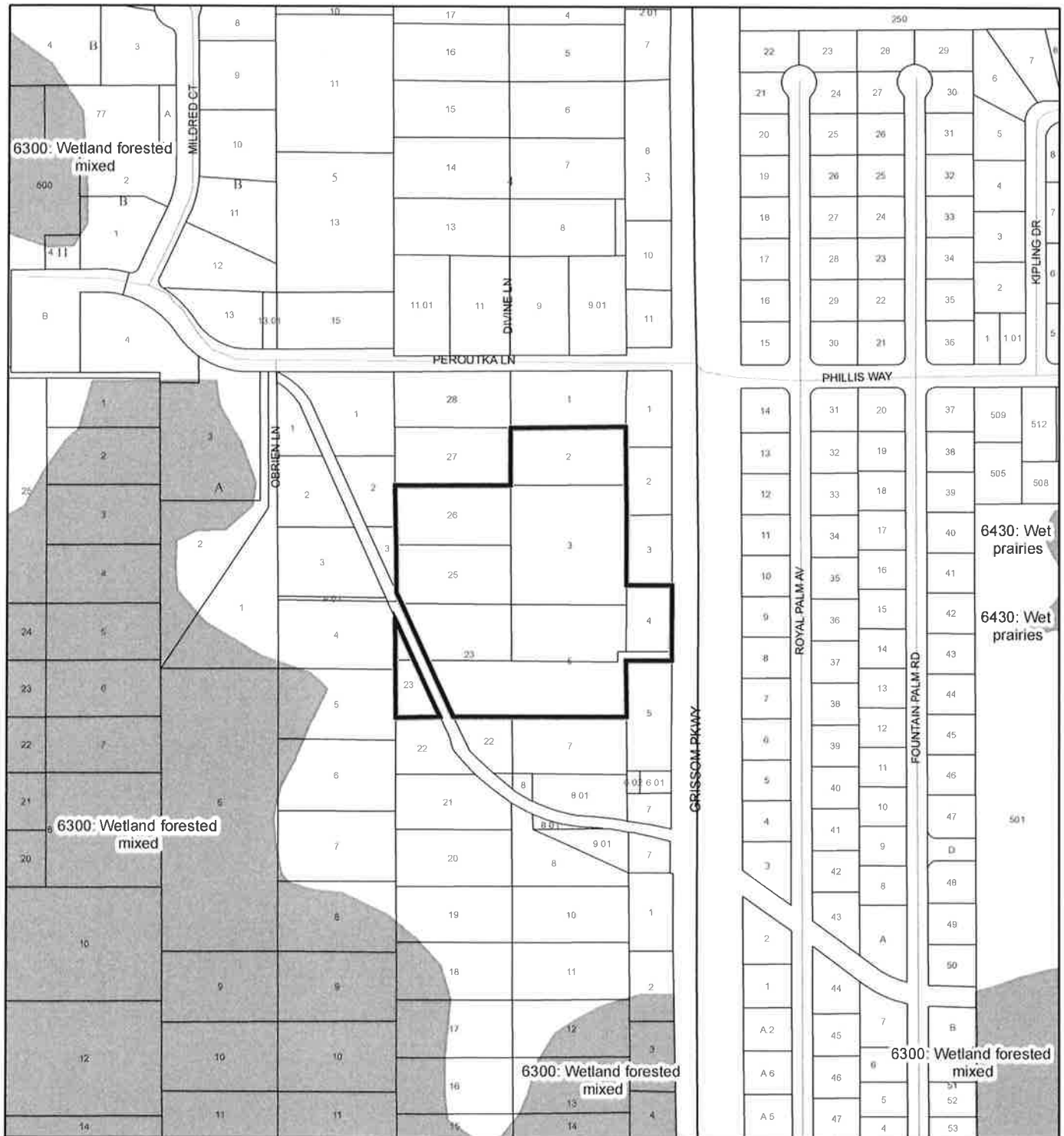
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



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Produced by BoCC - GIS Date: 1/12/2022

SJRWMD FLUCCS WETLANDS

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

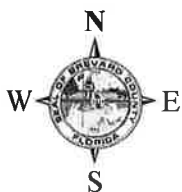
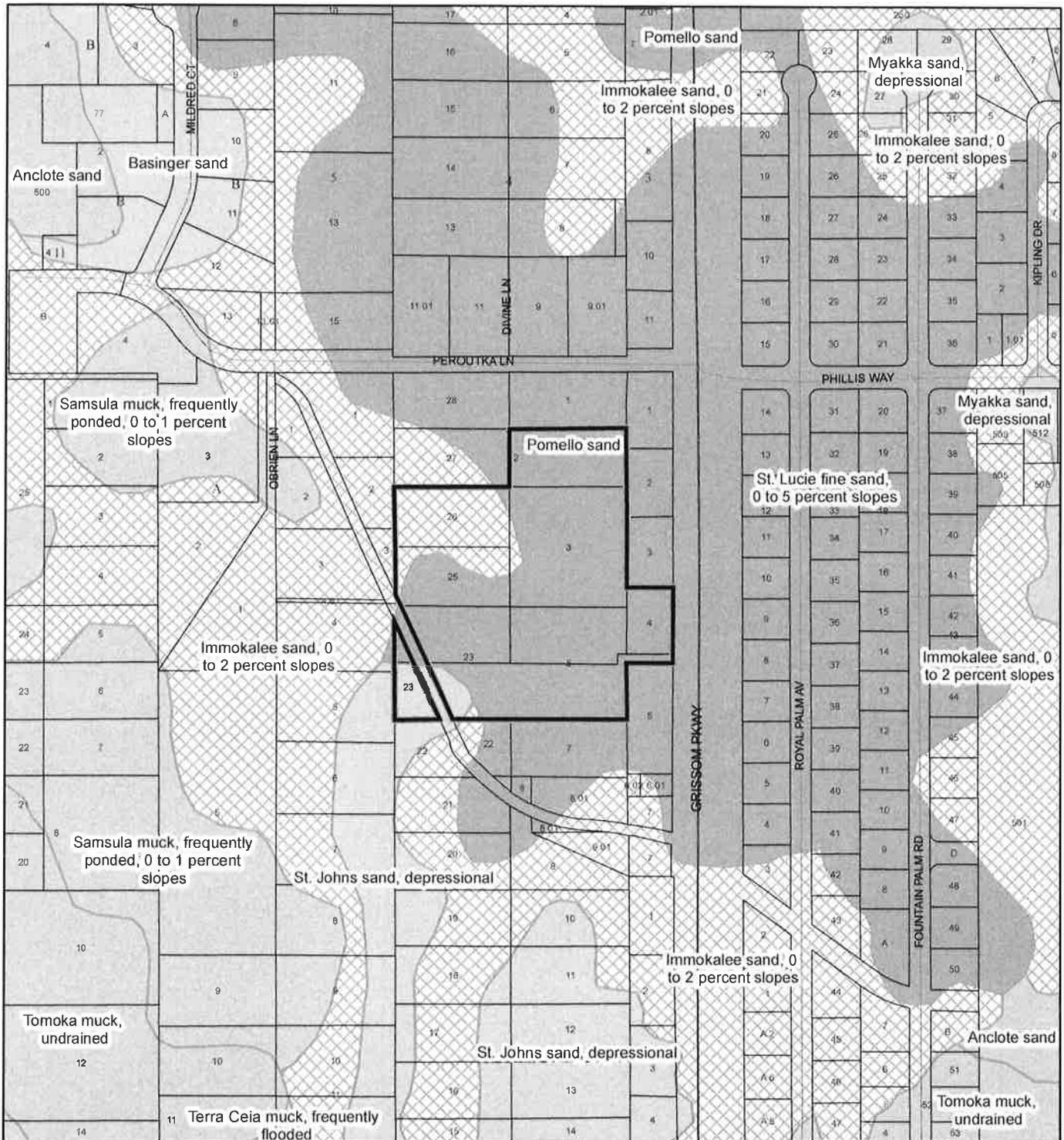
Subject Property

Parcels

USDA SCSSS SOILS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005

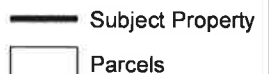
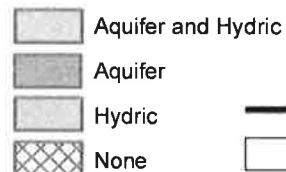


1:4,800 or 1 inch = 400 feet

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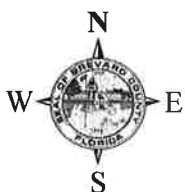
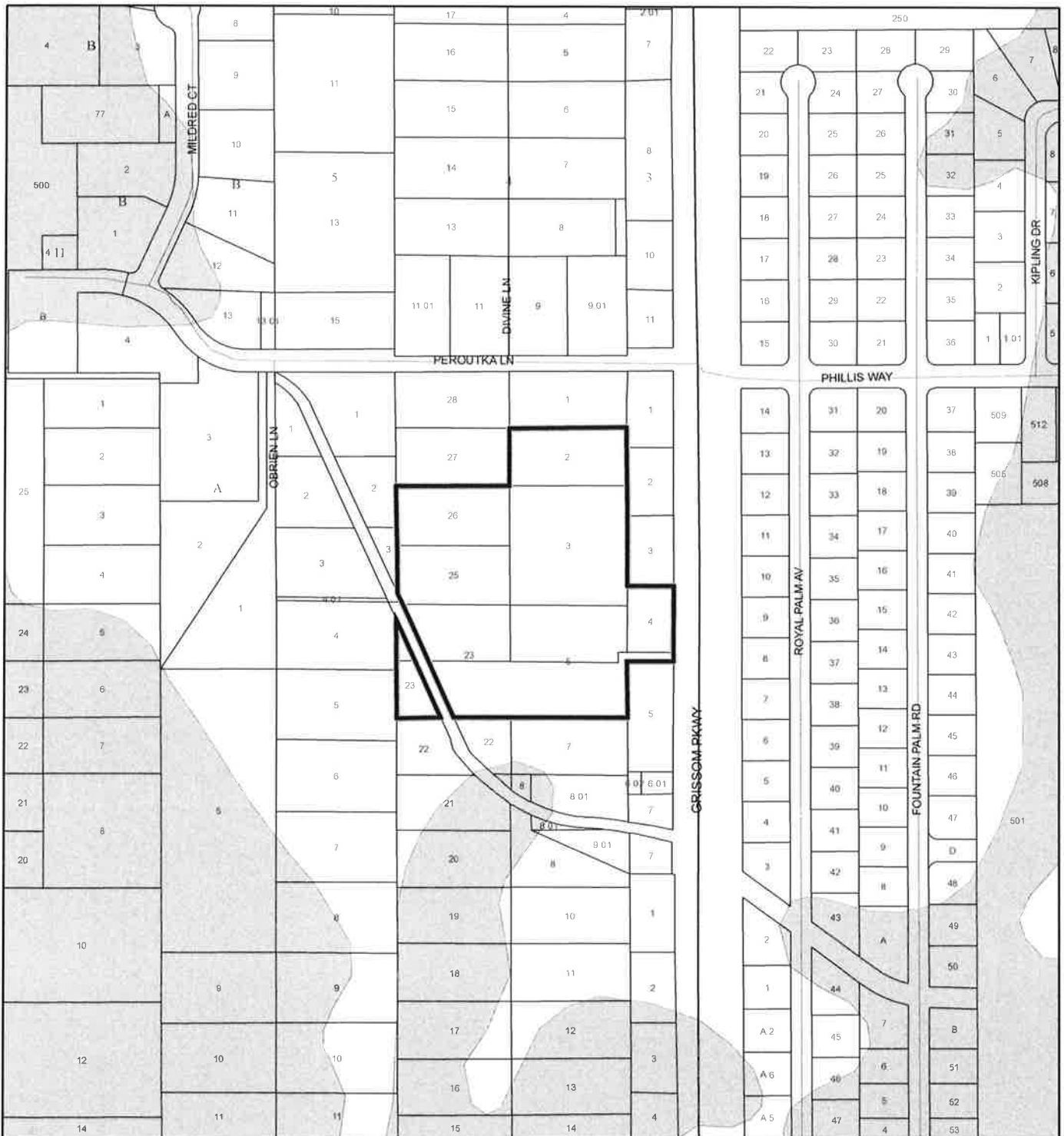
USDA SCSSS Soils



FEMA FLOOD ZONES MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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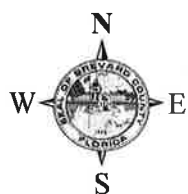
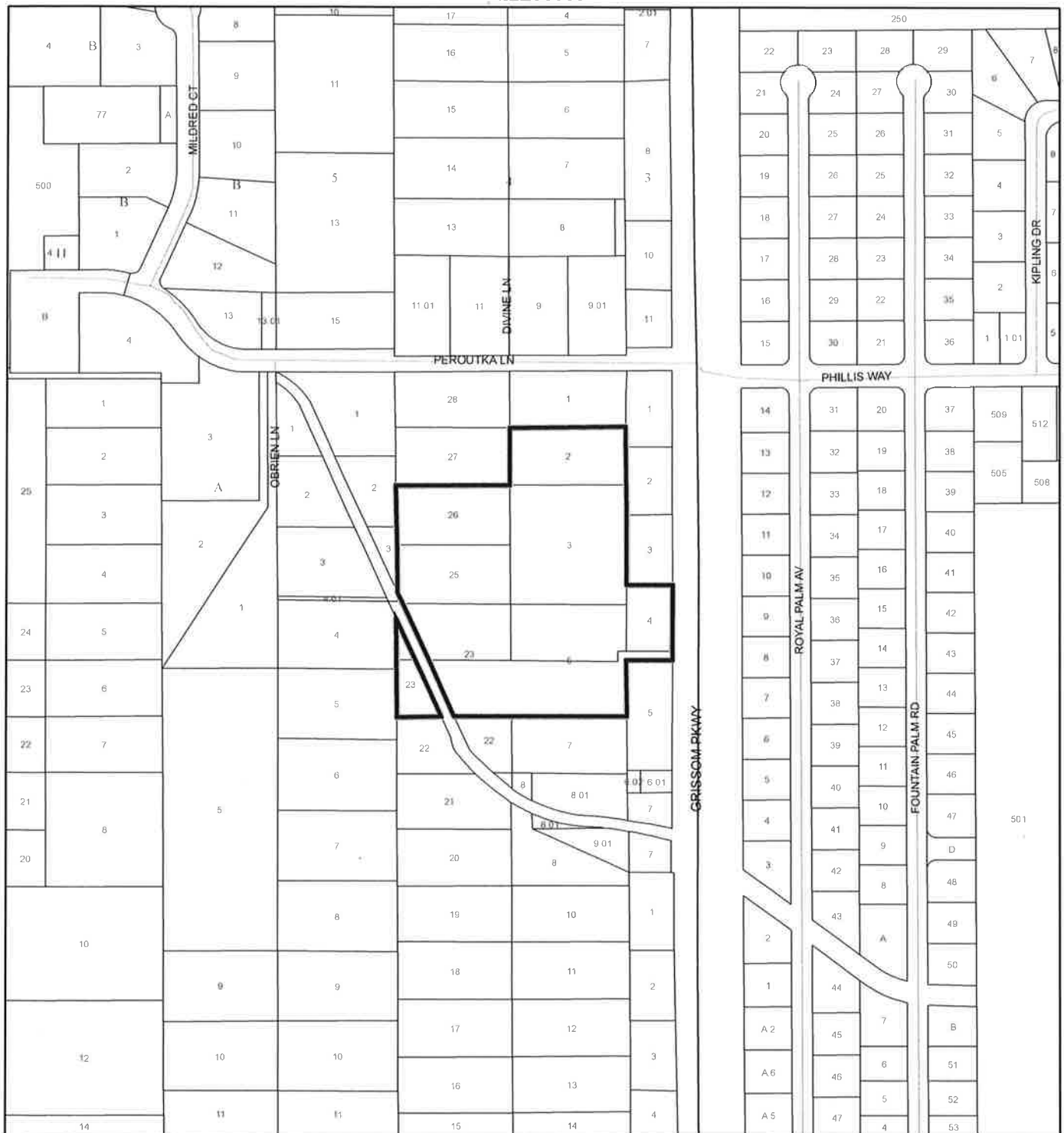
FEMA Flood Zones



COASTAL HIGH HAZARD AREA MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

— Subject Property

□ Parcels

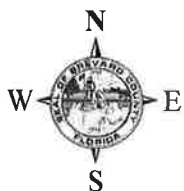
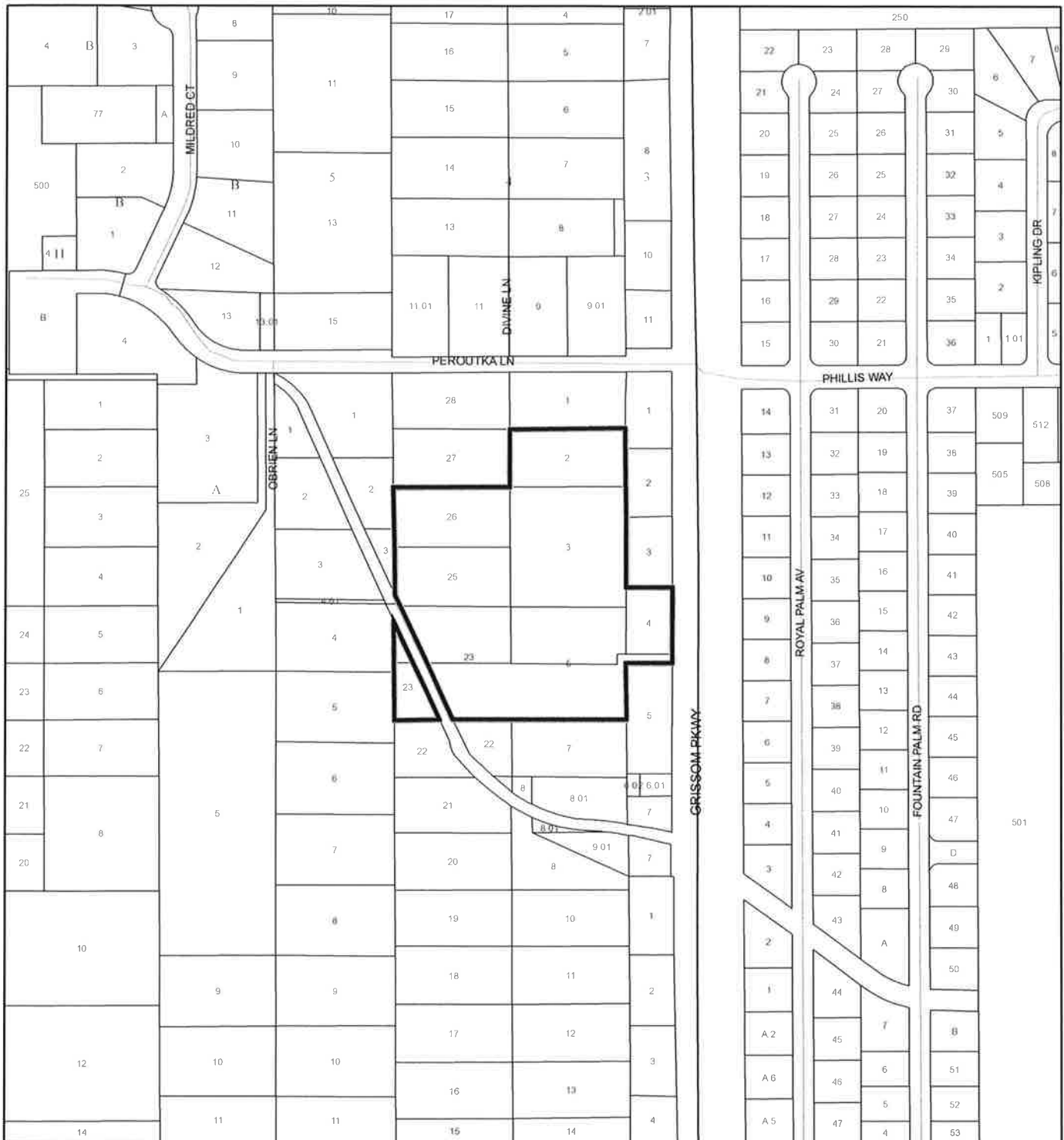
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



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Produced by BoCC - GIS Date: 1/12/2022

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

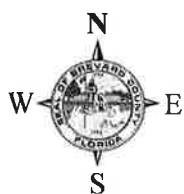
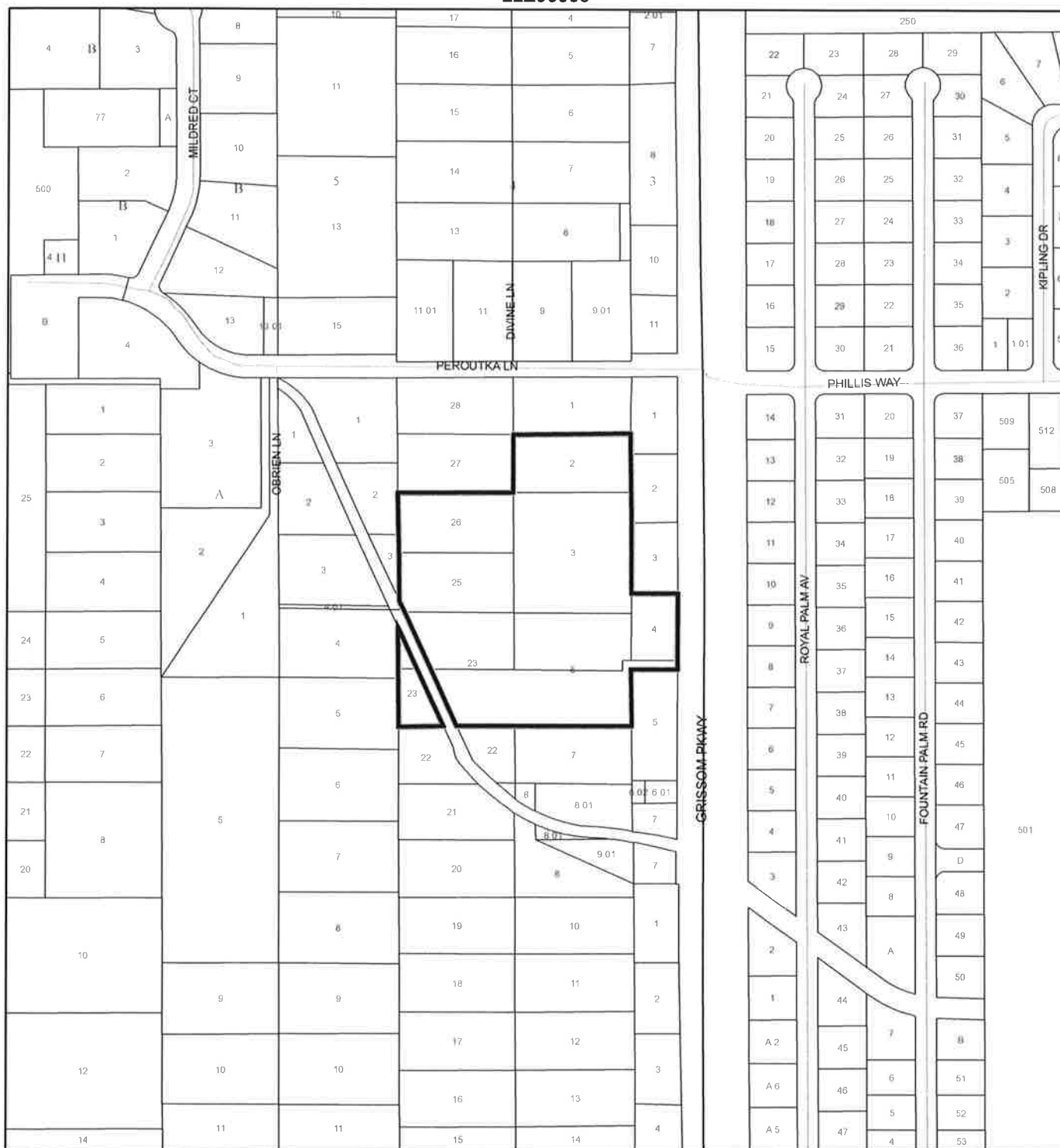
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



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Produced by BoCC - GIS Date: 1/12/2022

 Subject Property

 Parcels

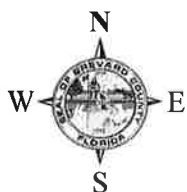
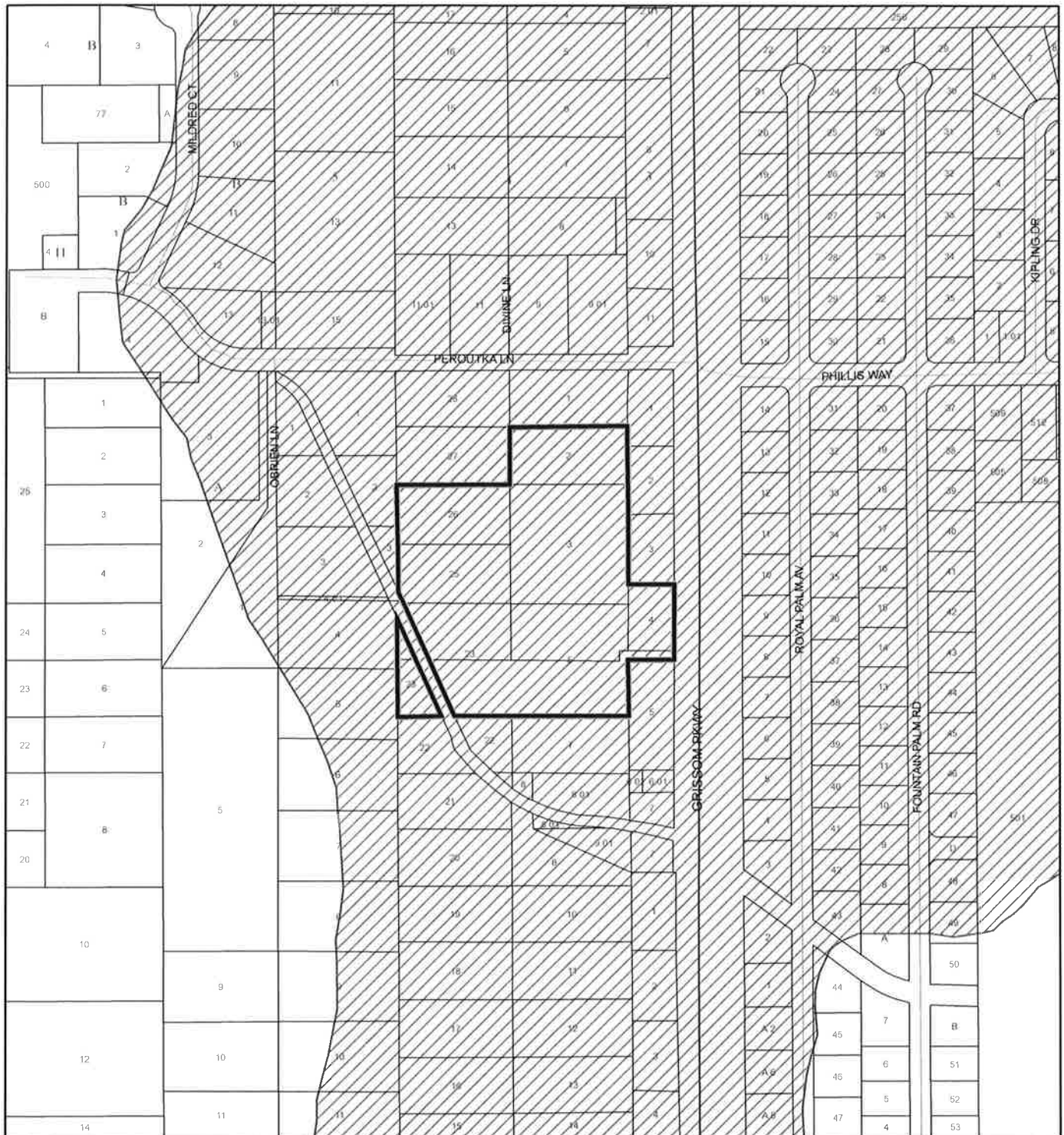


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



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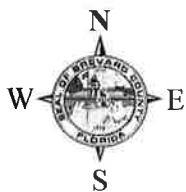
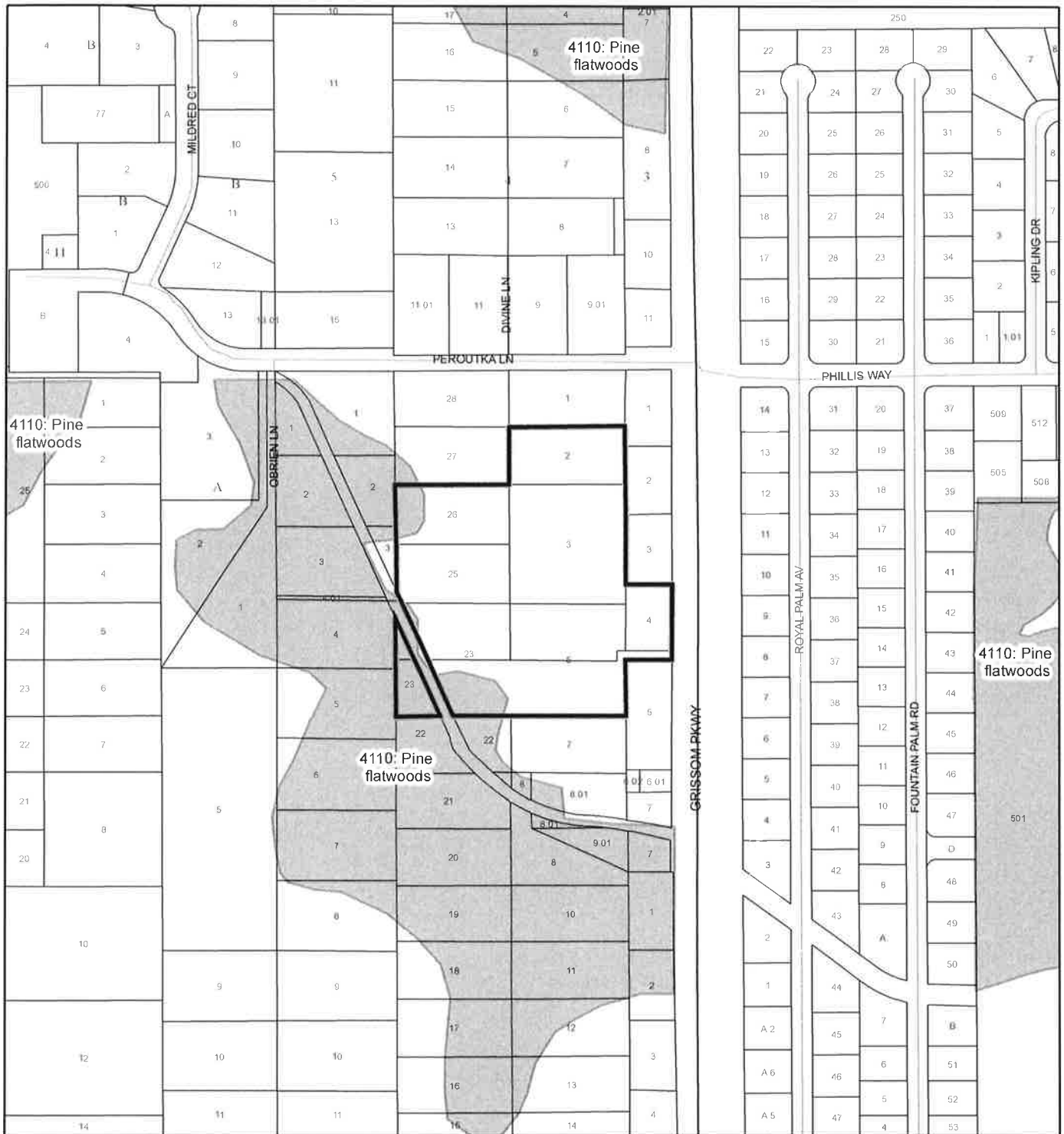
Produced by BoCC - GIS Date: 1/12/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

SJRWMD FLUCCS Upland Forests

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

 Subject Property

 Parcels

Prepared by: Kimberly Bonder Rezanka, Esquire
Address: 1290 U.S. Hwy 1, Ste. 201
Rockledge, FL 32955

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and BRIAN and DEBRA LAWSON ("Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A"; and

WHEREAS, Developer/Owner has requested the RR-1 zoning classification(s) and desires to develop the Property as single family residential, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting landowners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. The Developer/Owner shall limit density to allowable density under the Comprehensive Plan Land Use designation to four (4) units, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____, 2022. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

WITNESSES:

Brian Lawson

(Witness Name typed or printed)

(Witness Name typed or printed)

WITNESSES:

Debra Lawson

(Witness Name typed or printed)

(Witness Name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

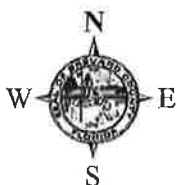
The foregoing instrument was acknowledged before me, by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by Brian Lawson and Debra
Lawson, who are personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)

AERIAL MAP

LAWSON, BRIAN G. AND DEBRA S.
22Z00005



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 1/12/2022

— Subject Property
□ Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 14, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Lorraine Koss (Alt. D2) (present for and voted on H.3. - H. 14.); Ben Glover (D3) (present for and voted on H.1. - H.13.); Mark Wadsworth, Chair (D4); Liz Alward (D4); David Bassford (Alt. D5) (voted on H.1. - H.12, and H.14; abstained on H.13.); and John Hopengarten (BPS).

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

Excerpt of Complete Minutes

Brian G. & Debra S. Lawson (Kim Rezanka)

A change of zoning classification from GU (General Use) to RR-1 (Rural Residential) with a BDP (Binding Development Plan). The property is 11.80 +/- acres, located on the west side of Grissom Pkwy., approx. 620 ft. south of Pertouka Lane. (Lot 23 = 4680 Grissom Pkwy., Cocoa; Lot 25 = 4700 Grissom Pkwy., Cocoa; Remaining Lots = No assigned address. In the Cocoa area.) (Tax Accounts 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, 2314709) (District 1)

Kim Rezanka, 1290 U.S. Highway 1, Rockledge, stated Mr. Lawson purchased the property in 2018 with the intent of creating seven separate parcels because they are already separated in the deed. She stated as they went through the process they found out in order to do that he would have to do a minor subdivision, which is very expensive. The lots are all zoned GU with a Future Land Use designation of RES 1:2.5. The RR-1 zoning classification was chosen because of the dimensions of the lots that are split and to limit some of the uses. The four lots that would be limited by a binding development plan. Lot 1 is the Lawson's residence, and lots 2 - 4 will require two administrative easements of 20 feet.

Jeffrey Ball noted the BDP condition is for a maximum of four units on the property, it does not bind the BDP with the concept plan.

No public comment

Ron Bartcher asked about the separated triangle piece of property. Ms. Rezanka replied it is Old Sharpes Road, it has been there a very long time, and it is pretty much a drainage ditch through quite a bit of the area.

Motion by Henry Minneboo, seconded by Ben Glover, to recommend approve of the change of zoning classification GU to RR-1 with a BDP limiting development to a maximum of four units. The vote was unanimous.