



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

4/6/2023

Subject:

Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. (23Z00001) (Tax Account 3008434) (District 3)

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 SEU (Suburban Estate Use), EA (Environmental Areas), and BU-1-A (Restricted Neighborhood Commercial) to AU (Agricultural Residential) and BU-1-A.

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from SEU, EA, and BU-1-A, to AU and BU-1-A to allow for the expansion of an Aquaculture Case II use on the current SEU portion of the parcel. The BU-1-A portion of the parcel will remain unchanged. There was a Conditional Use Permit for the use of Aquaculture Case II approved on the SEU portion of the parcel per zoning action Z-9871 on April 24, 1997. On March 19, 2002, Ordinance No. 02-014 removed the CUP use for Aquaculture Case II from the SEU zoning classification. On October 02, 2003, CUP Z-9871 was administratively removed from the parcel per zoning action Z-10847 (19). The subject parcel has continued as an established non-conforming Aquaculture Case II commercial use. The rezoning of the this property will allow for the expansion of the aquaculture use.

Aquaculture means the cultivation, production, and raising of the natural products of water, including associated activities such as landing, processing and transporting of shellfish. Case II Aquaculture is product is grown on site (i.e., hatchery or nursery) and transferred to the property owner's lease. On parcels having a commercial or industrial zoning classification, the product may also be sold to the customer directly from the site. Case II Aquaculture is permitted in the AU zoning classification.

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, 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 property is developed with a 2,156 square-foot single-family home and accessory structures for aquaculture use.

The subject property is bound by a 6.59 undeveloped parcel to the north with GML (Government Managed

Lands) zoning. To the east is Highway A1A. To the south is a 3.36-acre parcel developed with a single-family residence with SEU, BU-1-A and EA zoning.

The Board may wish to consider whether the requested rezoning action is consistent and compatible with 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 23Z00001

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

WHEREAS, Morris M. Taylor Revocable Living Trust has requested a change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on property described as follows; (SEE ATTACHED) 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 SEU, EA, and BU-1-A to AU and BU-1-A, 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.**

23Z00001

Legal Description (continued)

Parcel No. 1: The south 273.75 ft. of Government Lot 2, Section 7, Township 30S, Range 39E, Brevard County, Florida, less the south 125 ft. of said Lot 2. Together with the following described parcel: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: Thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft. to the point of beginning: thence run S89deg49'57"E, a distance of 188.01 ft.: thence run S00deg10'03"W, a distance of 123.75 ft.: thence run S89deg49'57"E, a distance of 326.75 ft.: thence run S44deg49'57"E, a distance of 1.77 ft.: thence S89deg49'57"E, a distance of 25 ft.: thence N45deg10'03"E, a distance of 6.89 ft.: thence S89deg49'57"E, a distance of 376.72 ft. to a point on the westerly right-of-way line of S.R. A1A (100-ft. total right-of-way): thence S29deg42'09"E, along said westerly right-of-way line, a distance of 28.28 ft.: thence S45deg10'03"W, a distance of 6.89 ft.: thence N89deg49'57"W, a distance of 25 ft.: thence N44deg49'57"W, a distance of 1.77 ft.: thence N89deg49'57"W, a distance of 521.04 ft. to a point on the west line of said Government Lot 1: thence N00deg58'52"E, a distance of 148.75 ft. to the point of beginning. Together with ripian and littoral right thereunto belonging. Said parcel No. 1 containing 1.90 upland acres more or less. Parcel No. 2: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft.: thence run S89deg49'57"E, a distance of 188.01 ft. to the point of beginning: thence run S89deg49'57"E, a distance of 353 ft.: thence run S00deg10'03"W, a distance of 125 ft.: thence run N89deg49'57"W, a distance of 25 ft.: thence run N44deg49'57"W, a distance of 1.77 ft.: thence run N89deg49'57"W, a distance of 326.75 ft.: thence run N00deg10'03"E, a distance of 123.75 ft. to the point of beginning. Containing in all, 1.00 acres more or less. Together with an exclusive and irrevocable easement for ingress and egress over the north 22.10 ft. or the north 273.75 ft. of Government Lot 1. Lying west of the right-of-way for S.R. A1A (100-ft. total right-of-way) less the west 541.01 ft. thereof. (3 acres +/-) Located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach)

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

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00001

**Morris M. Taylor Revocable Living Trust (Chelsea Anderson, Esq.)
SEU (Suburban Estate Use), EA (Environmental Areas) and BU-1-A (Restricted Neighborhood
Retail Commercial) to AU (Agricultural Residential and BU-1-A (Restricted Neighborhood
Retail Commercial)**

Tax Account Number: 3008434
Parcel I.D.: 30-39-07-00-13
Location: West side of Highway A1A, approximately 1,885 feet north of River Oaks
Road (District 3)
Acreage: 3 acres +/-

Planning and Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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 | SEU, EA, BU-1-A | AU and BU-1-A |
| Potential* | 1 unit | 1 unit |
| Can be Considered under the Future Land Use Map | YES RES 1 | YES RES 1 |

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

Background and Purpose of Request

The applicant is requesting to change the zoning classification from SEU (Suburban Estate Use), EA (Environmental Areas), and BU-1-A (Restricted Neighborhood Retail Commercial) to AU (Agricultural Residential and BU-1-A (Restricted Neighborhood Retail Commercial) to allow for expansion of an Aquaculture Case II use on the current SEU portion of the parcel. The BU-1-A portion of the parcel to remain BU-1-A. There was a Conditional Use Permit (CUP) for the use of Aquaculture Case II that was approved on the SEU portion of the parcel per zoning action **Z-9871** on April 24, 1997. On March 19, 2002, Ordinance **No. 02-014** removed the CUP use for Aquaculture Case II from the SEU zoning classification. On October 02, 2003, **CUP Z-9871** was administratively removed from the parcel per zoning action **Z-10847(19)**. The subject parcel has continued an established non-conforming Aquaculture Case II commercial use.

Section 62-1102. Definitions and rules of construction:

Aquaculture means the cultivation, production, and raising of the natural products of water, including associated activities such as landing, processing and transporting of shellfish. For the purposes of this chapter, aquaculture shall be divided into three categories:

Case I. Product is brought on-shore (landed) from a lease and transferred from that point to an off-site market.

Case II. Product is grown on site (i.e., hatchery or nursery) and transferred to the property owner's lease. On parcels having a commercial or industrial zoning classification as described below, the product may also be sold to the customer directly from the site.

Case III. Product is brought on-shore and then is further processed on site (depuration) before being transferred off site.

Aquaculture Case I and Case III are permitted in BU-2 or industrial classifications. Aquaculture, Case II is permitted in BU-1, BU-2 or industrial zoning classifications. All cases are permitted in AU, PA and AGR classifications.

The property is developed with a 2,156 sq. ft. single-family home and accessory structures for aquaculture use.

The original zoning of the subject property was GU (General Use). The parcel was rezoned to RU-3 (Multi-Family Residential) and BU-1 (Neighborhood Retail Business on the east 400 feet) on May 07, 1964 per zoning action **Z-1393**.

The RU-3 zoning on the parcel was Administratively replaced with the new zoning classification RU-2-10 (Medium-Density Multi-Family) in 1973 per Ordinance **73-13**.

The RU-2-10 portion of the parcel was Administratively rezoned from RU-2-10 to RU-2-4 (Low-Density Multi-Family) and the BU-1 portion to BU-1-A (Restricted Neighborhood Retail Commercial) on March 04, 1985 per zoning action **Z-6977**.

The parcel was rezoned from RU-2-4 and BU-1-A to SEU and BU-1-A on March 28, 1994 per zoning action **Z-9290**.

A CUP for Aquaculture Case II on the SEU zoned portion of the parcel was approved on April 24, 1997 per zoning action **Z-9871**.

On March 19, 2002, Ordinance **No. 02-014** removed the CUP use for Aquaculture Case II from the SEU zoning classification.

The parcel was denied a rezoned from SEU and BU-1-A to AU with a Binding Development Plan (BDP) with removal of existing CUP for Aquaculture Case II on February 07, 2002 per zoning action **Z-10668**.

The **CUP Z-9871** for Aquaculture Case II on the SEU zoned portion of the parcel was Administratively remove on October 02, 2003 per zoning action **Z-10847(19)**.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. Both the AU and BU-1-A zoning classifications may be considered consistent with the Residential 1 FLU designation.

Applicable Land Use Policies

Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit 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 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;

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. AU zoning permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, also permits the raising/grazing of animals, fowl and beekeeping. The agricultural/aquaculture commercial use 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.

- 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 historic land use pattern has been single-family homes built on lots of approximately two acres or more in size.

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

It appears no changes to the immediate area have occurred within the last three years.

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

It appears there has been no development approved within the last three years.

- 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 expanding the existing Aquaculture Case II use on the parcel. The commercial nature of the activity may impact the abutting parcels to the south with SEU zoning.

- 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 with established roads and river.

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 subject parcel has an established non-conforming Aquaculture Case II commercial use. The proposed request could be considered and introduction of AU zoning.

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 subject parcel has an established non-conforming Aquaculture Case II commercial use. The surrounding area is could be classified as residential on lots greater than one acre (1.0) and does not have commercial or industrial uses.

Surrounding Area

| | Existing Use | Zoning | Future Land Use |
|--------------|---------------------|------------------|------------------------|
| North | Vacant land | GML & EA | PUB-CONS |
| South | Single-Family | SEU, BU-1-A & EA | RES 1 |
| East | Right-of-Way | none | none |
| West | River | none | none |

The subject property is bounded by a 6.59 undeveloped parcel to the north with GML (Government Managed Lands) zoning. To the east is Highway A1A. To the south is a 3.36-acre parcel developed with a single-family residence with SEU, BU-1-A and EA zoning.

The existing SEU zoning permits suburban estate residential uses on lots of one acre (minimum) with a width of 125 feet and a depth of 200 feet. Minimum floor area is 2,000 square feet of living area.

The existing BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

The existing EA environmental area zoning classification recognizes the natural resource components as defined and provided for by the provisions of the Comprehensive Plan. The purpose of this classification is to conserve natural resource functions and features by retaining lands and waters in their pristine character and condition, but permit uses which are compatible with or which shall enhance or restore the functions and features of such natural resources. The EA classification permits single-family detached residential dwellings units and passive recreation. Minimum lot area is ten (10) acres with width and depth of 125 feet. This classification includes wetlands identified on the National Wetlands Inventory Maps, naturally formed or man-made islands and the dune beach.

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.

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

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

There are 11 single-family residences currently within a 500 feet radius.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway A1A between Strawberry Lane and Heron Drive, which has a Maximum Acceptable Volume (MAV) of 24,200 trips per day, a Level of Service (LOS) of D, and currently operates at 17.23% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 17.23% of capacity daily. 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 service the Brevard County utilities service area for public water or sewer. The closest Brevard County sewer line is approximately 9.4 miles north of the parcel at the west end of Glengarry Avenue. The closest Brevard County water line is approximately 9.4 miles north of the parcel at the south end of MacFarlane Street.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Floodplain Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

For Board Consideration

The Board may wish to consider whether the requested rezoning action is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00001**

Applicant: Chelsea Anderson, Esq.

Zoning Request: SEU, EA, & BU-1-A to AU & BU-1-A

Note: Wants to expand aquaculture use on property.

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

Tax ID No: 3008434

- 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:

- Wetlands/Hydric Soils
- Floodplain Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

Wetlands/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands along the property shoreline. Additionally, most of the parcel is mapped with hydric soils as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. 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.

Floodplain Protection

Nearly the entirety of the parcel is mapped within the estuarine floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. FEMA Special Flood Hazard Area (SFHA) VE is mapped along the shoreline, and SFHA AE on the uplands. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water, Outstanding FL Water (OFW), and Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). The removal of native vegetation located within the Buffer shall be avoided. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming, and can be reached at (407) 897-4101. The applicant is encouraged to contact NRM at 321 633 2016 prior to any activities, plan, or permit submittal.

Coastal High Hazard Area

Nearly the entire property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped NWI wetlands (Estuarine and Marine Deepwater) along the property shoreline. Additionally, most of the parcel is mapped with hydric soils (Bessie muck, tidal, and Canaveral-Anclote complex, gently undulating) as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. 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.

Floodplain Protection

Nearly the entirety of the parcel is mapped within the estuarine floodplain as identified by FEMA and as shown on the FEMA Flood Zones Map. FEMA SFHA VE is mapped along the shoreline, and SFHA AE on the uplands. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

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Coastal High Hazard Area

Nearly the entire property is located within the CHHA as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Palm Beach sand) as shown on the USDA Soil Conservation Service Soils Survey map. Canaveral-Anclote complex, gently undulating, may also function as aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

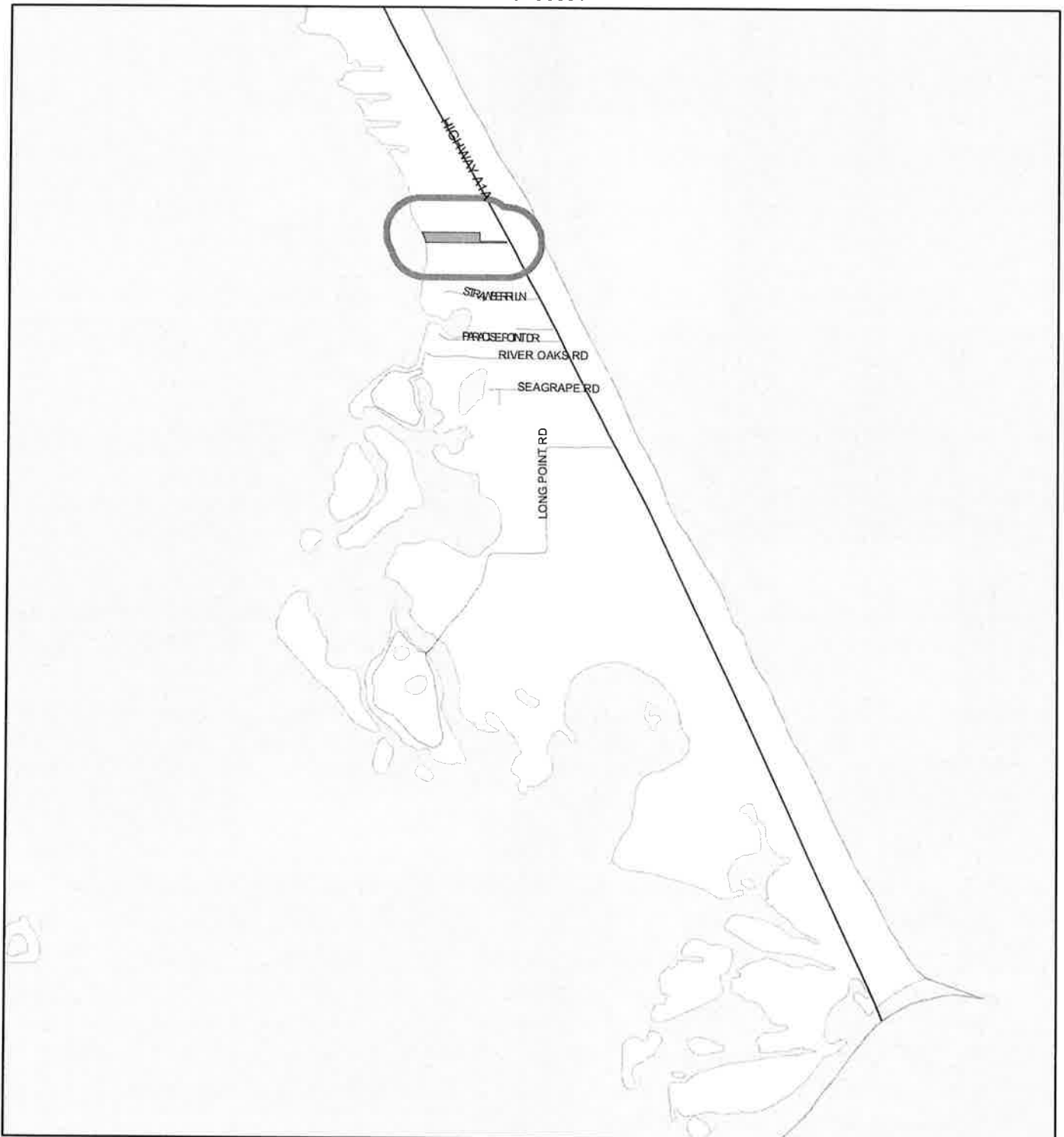
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Protected Species

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

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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

Buffer Distance: 500 feet

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

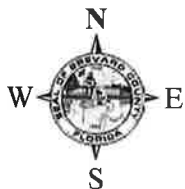
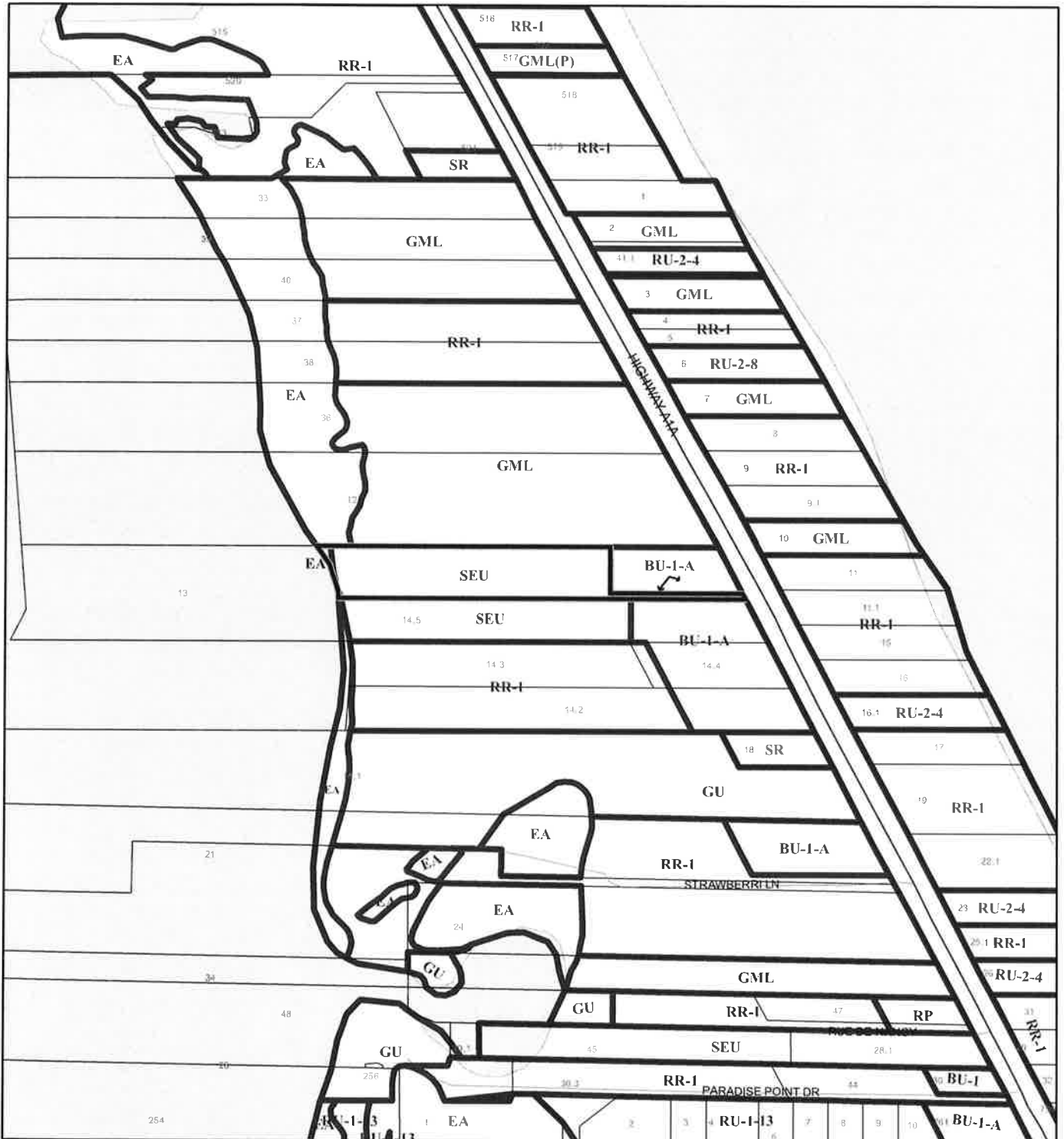
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— Buffer
■ Subject Property

ZONING MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



1:4,800 or 1 inch = 400 feet

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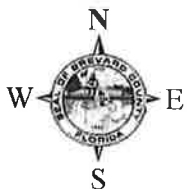
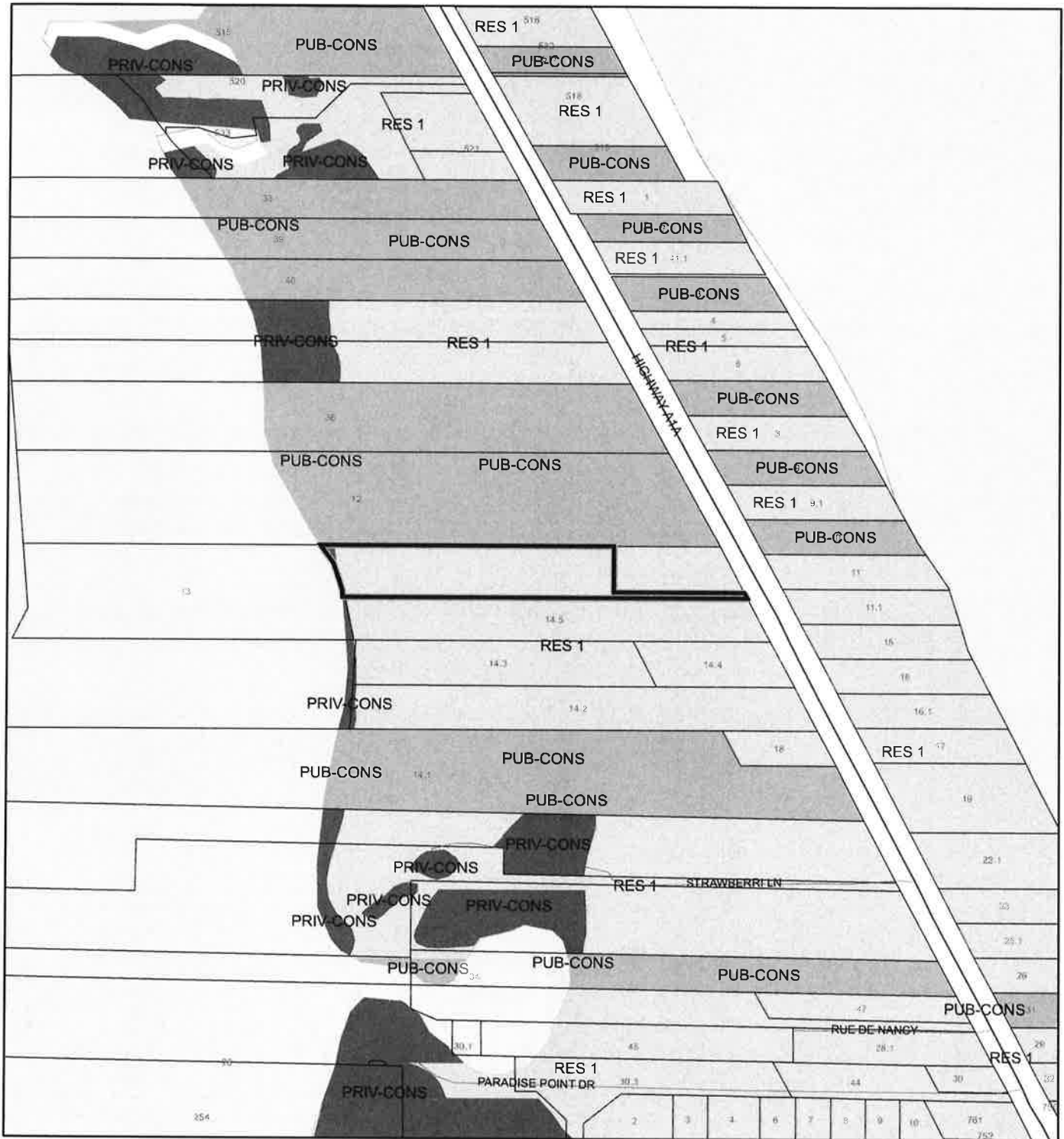
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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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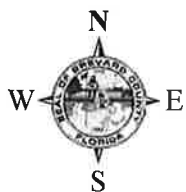
— Subject Property
 □ Parcels

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AERIAL MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

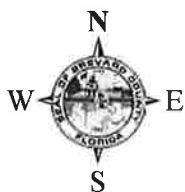
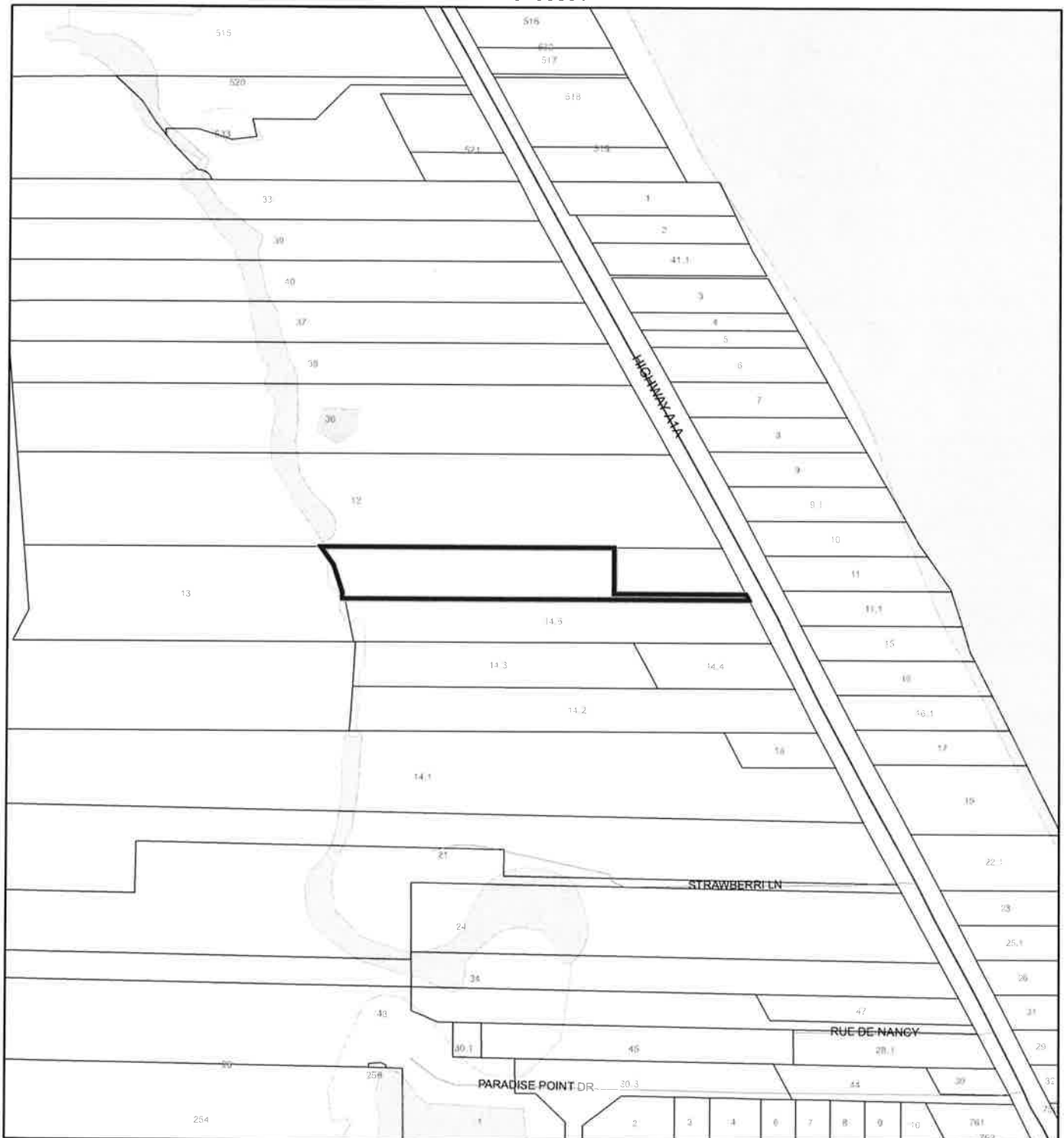
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— Subject Property
□ Parcels

NWI WETLANDS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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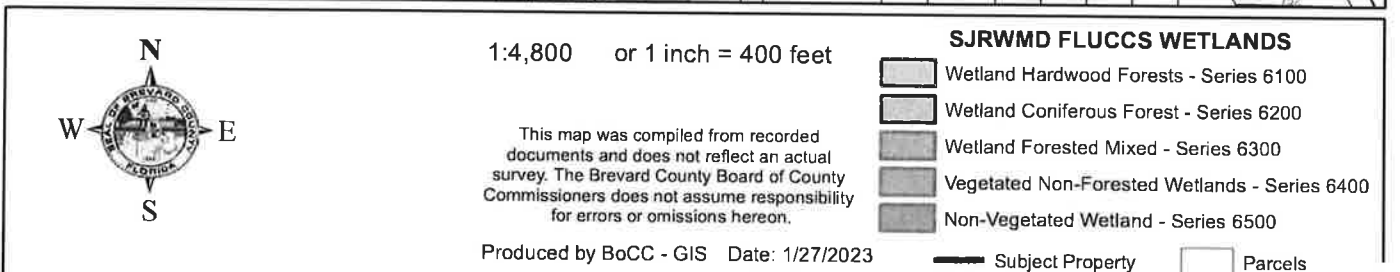
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National Wetlands Inventory (NWI)

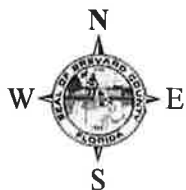
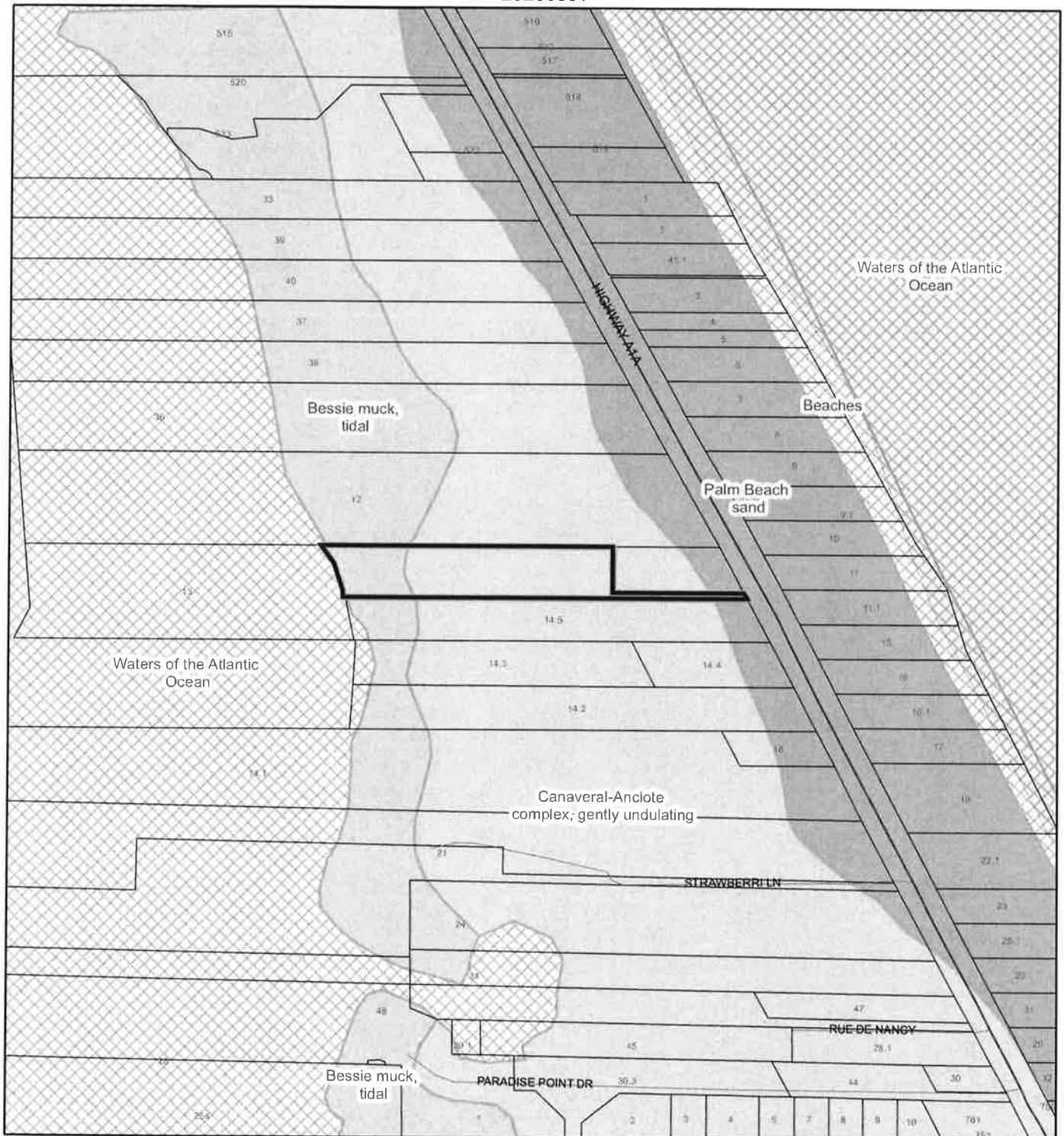
| | | | |
|--|-----------------------------------|--|-----------------|
| | Estuarine and Marine Deepwater | | Freshwater Pond |
| | Estuarine and Marine Wetland | | Lake |
| | Freshwater Emergent Wetland | | Other |
| | Freshwater Forested/Shrub Wetland | | Riverine |
| | Subject Property | | Parcels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

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



USDA SCSSS SOILS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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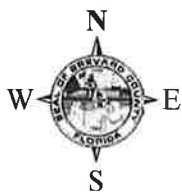
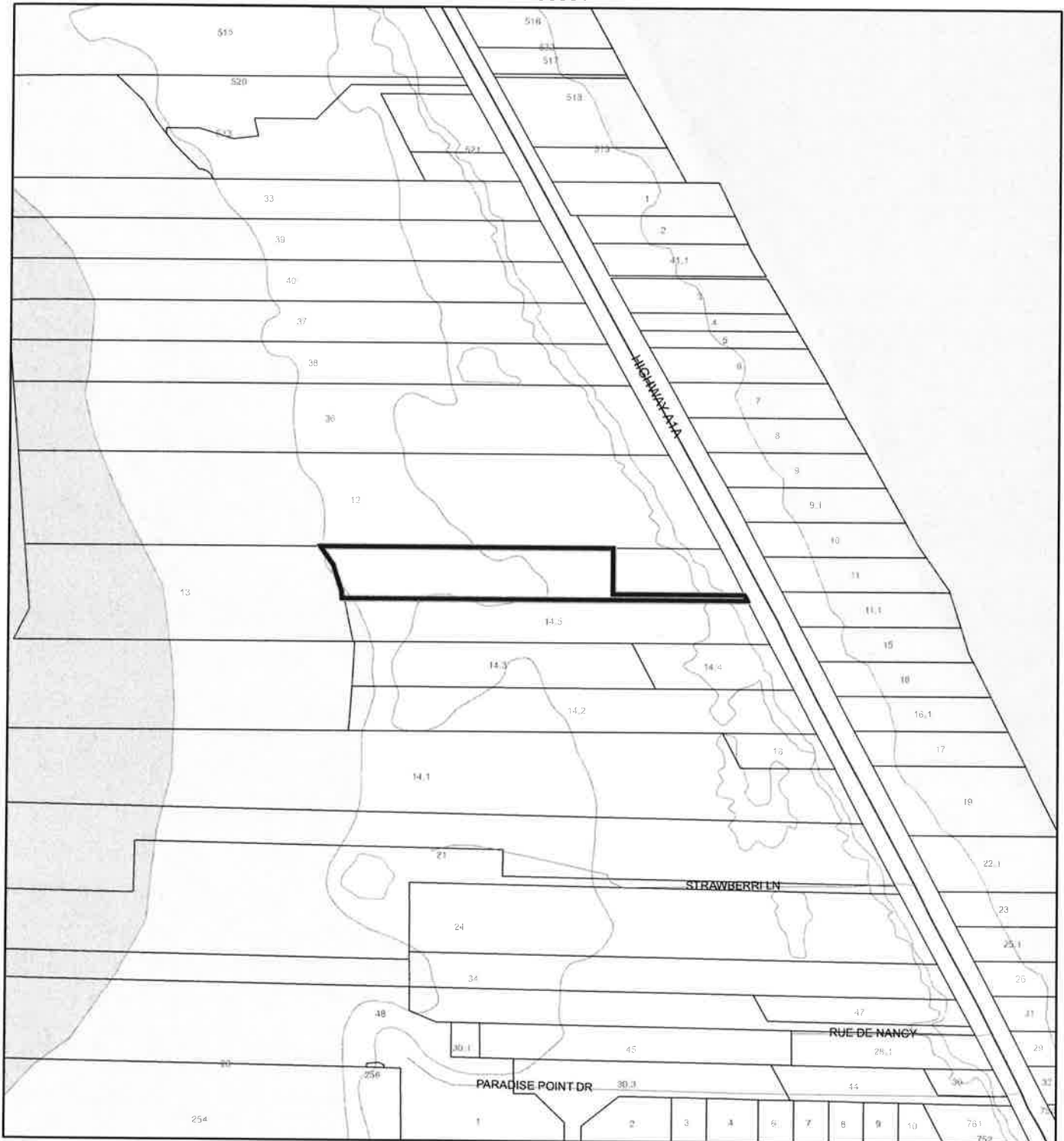
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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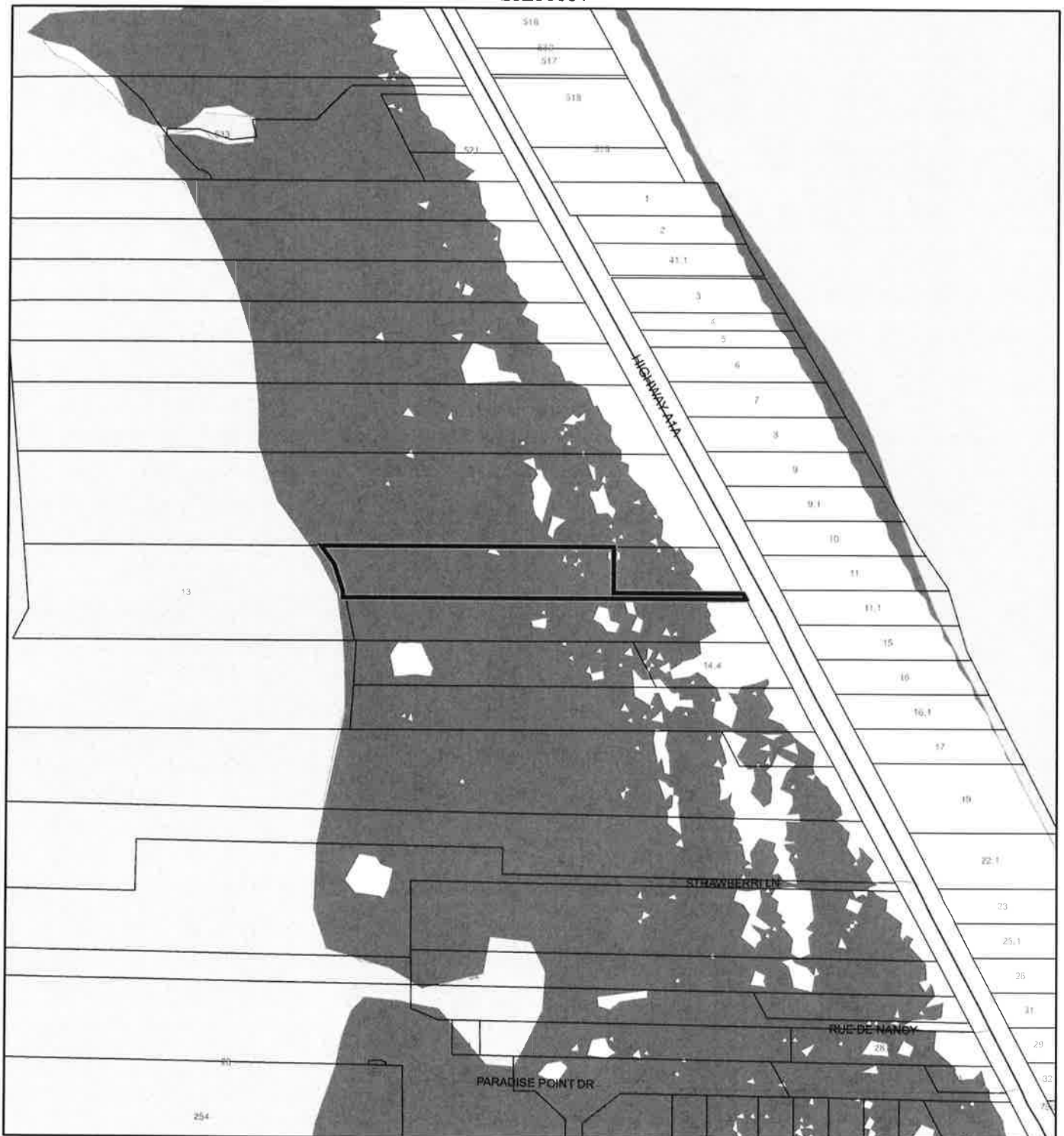
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FEMA Flood Zones

| | | |
|------------------|------------|---|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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 Subject Property

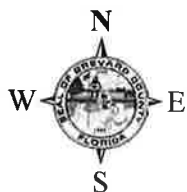
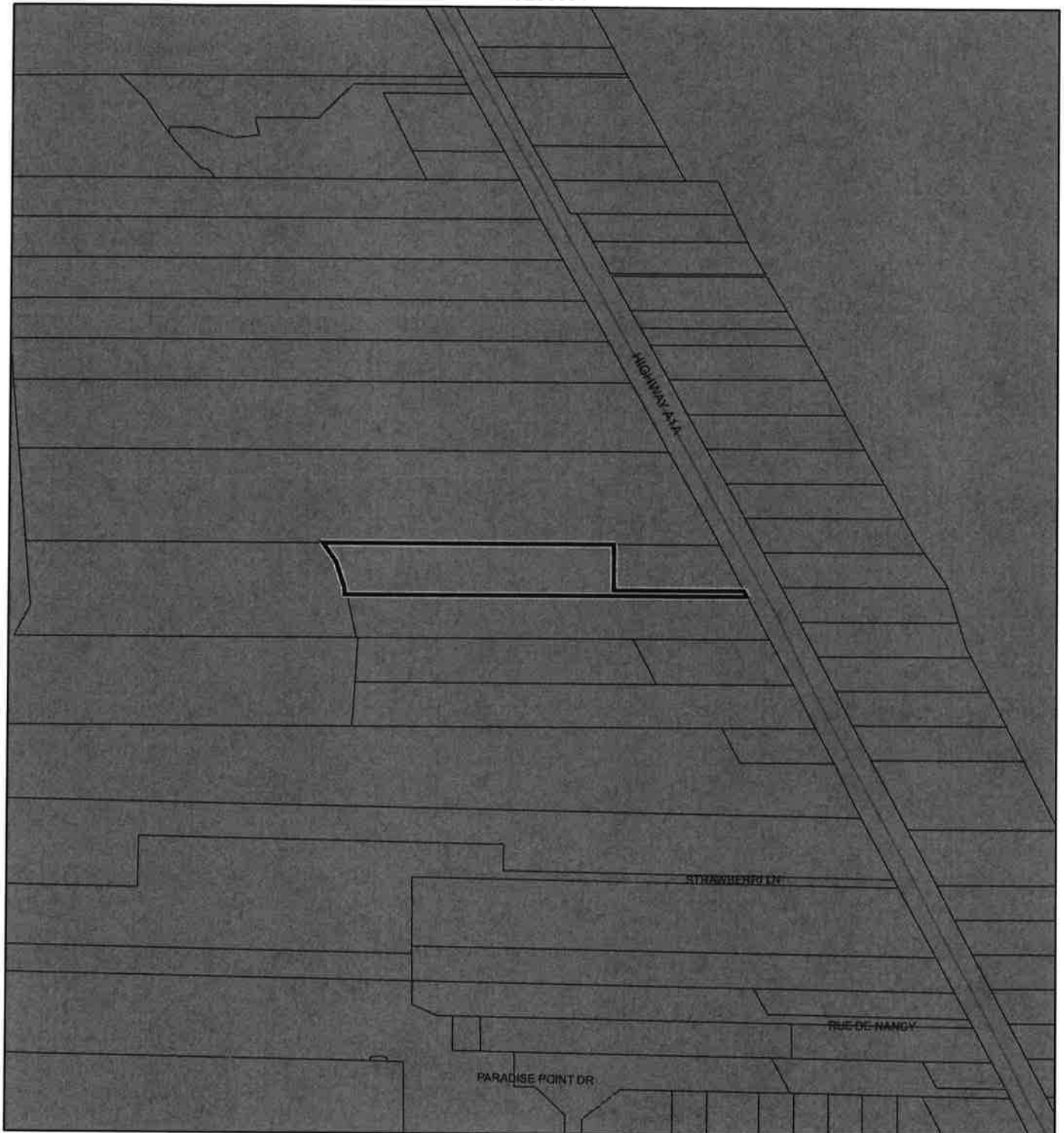
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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Produced by BoCC - GIS Date: 1/27/2023

 Subject Property

 Parcels

Septic Overlay

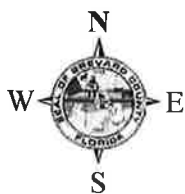
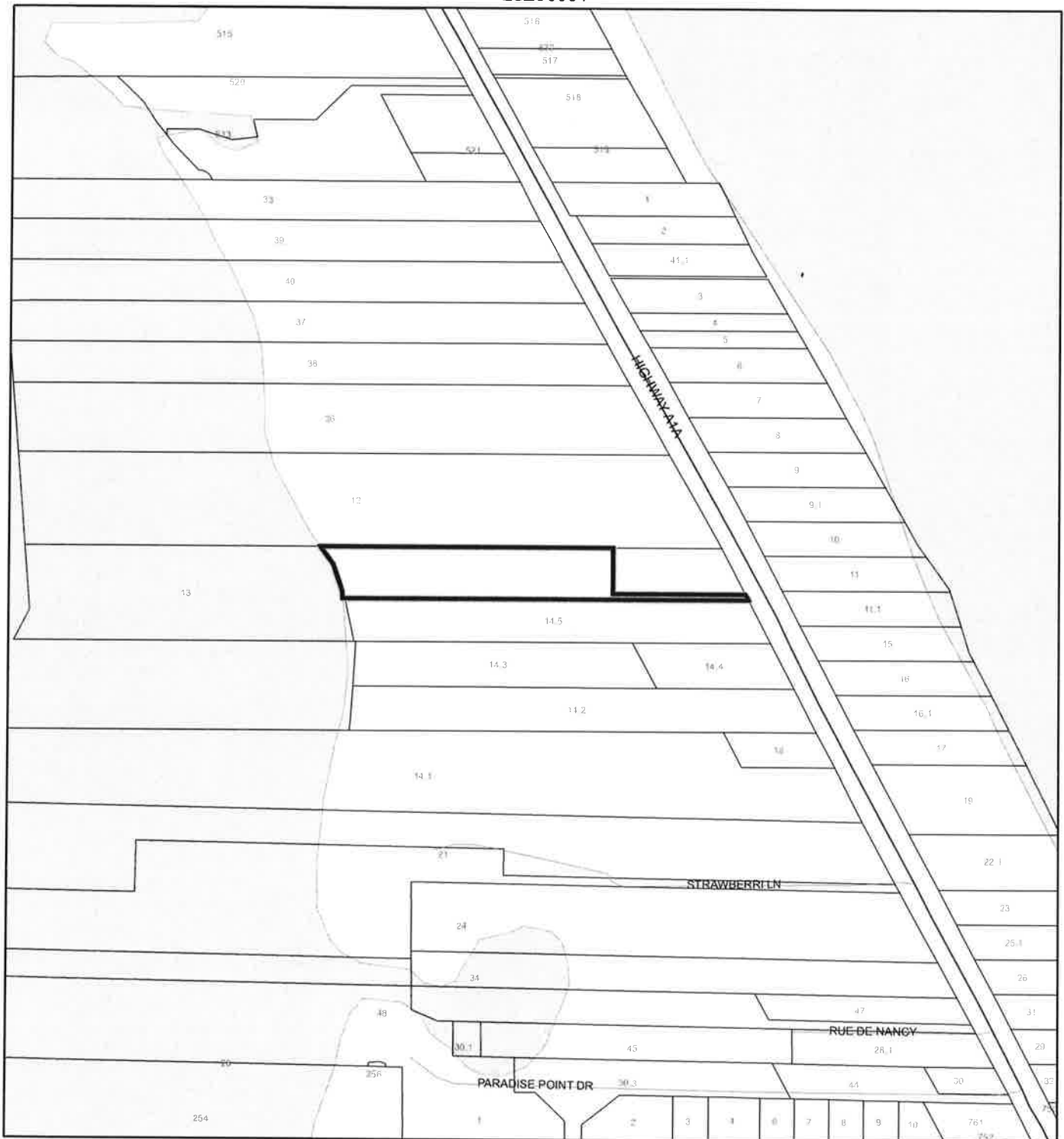
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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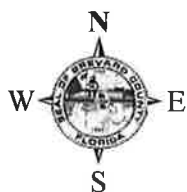
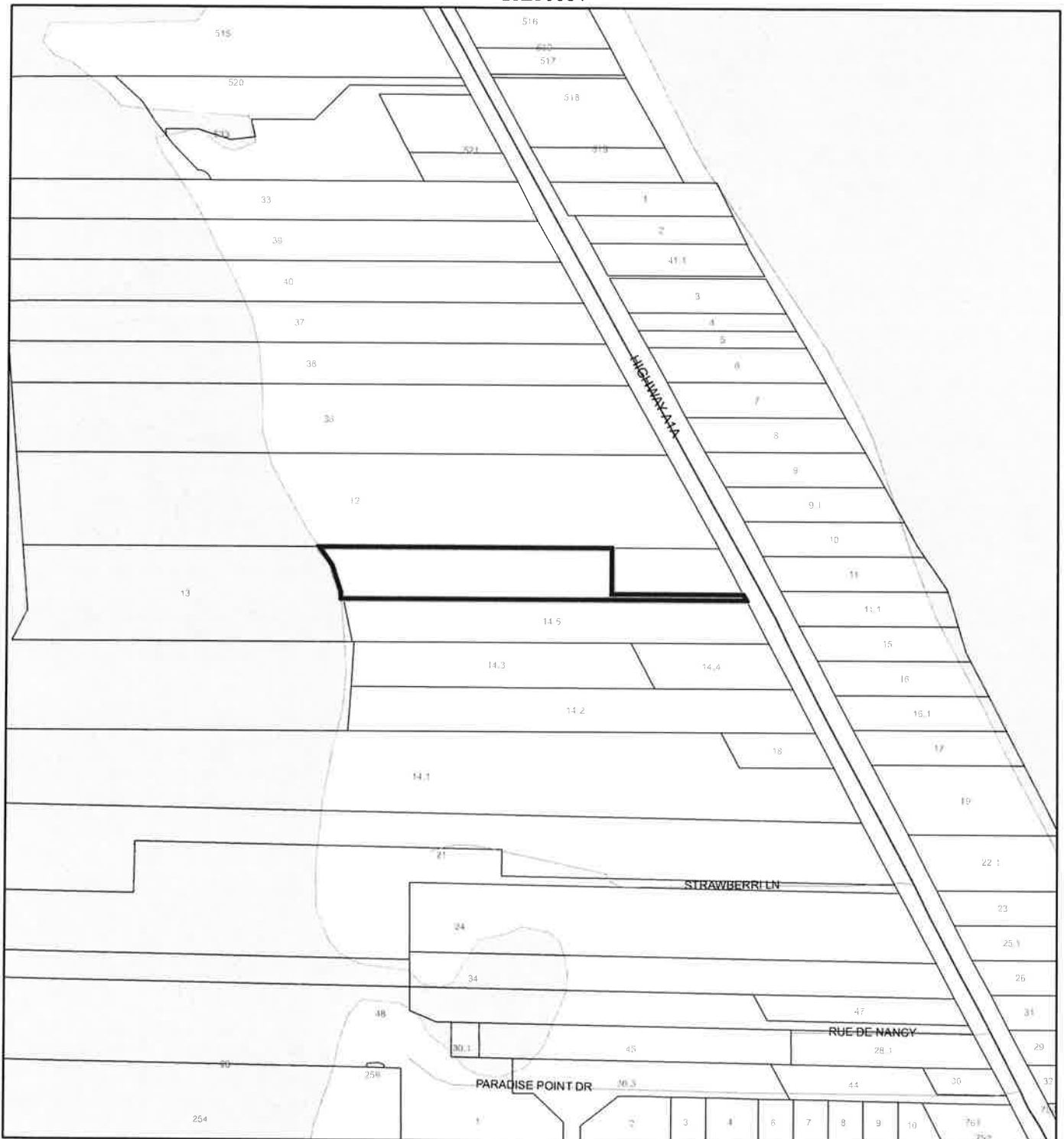
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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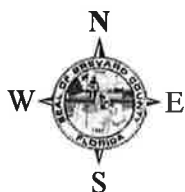
Produced by BoCC - GIS Date: 1/27/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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Produced by BoCC - GIS Date: 1/27/2023

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

Whitney Laboratory for Marine Bioscience

9505 Ocean Shore Boulevard

St. Augustine, FL 32080-8610

904-461-4000

904-461-4052 Fax

Ref: Taylor Property Rezoning

December 31, 2022

Brevard Planning and Zoning Board

Dear Board Members,

I write to you today in strong support of Mr. Ewan Leighton's request for a zoning change of the Taylor property located in Melbourne Beach. As you may be aware, over the last few years the myriad efforts to restore the Indian River Lagoon have made great progress using shellfish for the improvement of water quality. Specifically, hard clams have been exceptionally successful in this approach and the demand for clam production by licensed and qualified commercial producers has skyrocketed. However, state laws delineate specific areas in which this type of aquaculture can occur and unfortunately, the number of suitable locations in the IRL is severely limited. Further, the recent closure of a large-scale clam nursery facility at Harbor Branch Oceanographic Institute in Ft. Pierce has significantly reduced the capacity for clam seed production on the East Coast of Florida (both for restoration and commercial seafood production). Many current and planned restoration projects in the IRL utilize clams to a great extent and I have been working with Mr. Leighton to increase clam production in an effort to bolster projects and reduce costs by growing clams that will be utilized locally. It is my understanding that the Taylor property is a rarity as it is suitable by standards set forth by the Florida Department of Agriculture and Consumer Services making it an ideal location to conduct clam nursery and aquaculture activities. My collaborators and I at the Indian River Clam Restoration Project are proud to support Mr. Leighton's request and ultimately his efforts to help solve the environmental issues faced by the Indian River Lagoon. If I can be of any service to you in the decision making process, please do not hesitate to contact me by one of the means below.

Sincerely,



Todd Z. Osborne, Ph.D.
Associate Professor
Soil, Water and Ecosystem Sciences Department
Whitney Laboratory for Marine Bioscience
University of Florida

osbornet@ufl.edu
352-256-3826
9505 N Ocean Shore Blvd.
St. Augustine, FL 32080



GRETCHEN KELLY
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Pensacola

DAN SOLANO
Cedar Key

DJ STROTT
Tampa

FLORIDA SHELLFISH AQUACULTURE ASSOCIATION

To The Brevard County Planning and Zoning Board of Directors,

The Florida Shellfish Aquaculture Association (FSAA) is writing to you in support of rezoning The Taylor property in Melbourne Beach, FL. Our mission is to share best practices, inform policy makers and regulators, and seek funding for research that can improve our productivity and product safety in Florida shellfish aquaculture. In this pursuit, we are encouraged to see Ewan Leighton's innovative efforts to expand production, work in tandem with our cause for the betterment of Florida's economy and ecosystem.

The FSAA supports the growth of shellfish production in Florida for commercial purposes and environmental benefits. As the United States is seeing a 90% seafood trade deficit, shellfish act as an opportunity for American farmers to help reverse that percentage. In recent years, there has been growing scientific evidence of the key role shellfish play in providing ecosystem benefits to our nearshore marine environment. Efforts to produce more seed will aid in the many new and ongoing restoration projects across the state of Florida.

For these reasons, we certainly encourage the necessary growth of bivalve production at the hatchery level. Its importance cannot be overstated. Ewan Leighton is a member of the FSAA and we hope that you consider and support the request of a zoning change of the Taylor property in Melbourne Beach, FL. Please do not hesitate to reach out with any questions.

Sincerely,

Gretchen Kelly

Gretchen Kelly
Executive Director
gretchenkellyfsaa@gmail.com

CEDAR KEY SEAFOOD DISTRIBUTORS, INC.

PO Box 979

Cedar Key, FL 32625

Lori Schleede, President 352-221-0572

John F. Schleede, Vice President 352-221-5656

12/30/2022

To whom it may concern:

I am writing to express my concern and support of the rezoning of the Taylor Property in Melbourne Beach to AU (Agriculture.) The shellfish hatchery has been operating on the Taylor property for +/- 20 years. This is one of very few remaining hatcheries that supports the farmed clam industry in the state of Florida.

This industry is already stressed due to weather events, hatcheries closing, limited supply and high demand. The remaining hatcheries are currently operating at maximum capacity, trying to supply our industry, as well as support waterway restoration. Assurance to secure this property as agricultural is essential to aqua culturalists, their supporting industries, and water quality projects .

The farmed clam industry affects 275 farmers and 1500 employees directly. As a \$35,000,000 industry, hatcheries are essential, without one, the other will fail. For that reason, this is so important. Our industry needs your support.

Feel free to contact me at any time to discuss this issue. I have been in Cedar Key since 1997. Prior to that time, I was a resident of Melbourne Beach. As a grower and wholesaler, I am fully aware of the impact shellfish hatcheries have on our industry and the wellbeing of the Indian River Lagoon.

Sincerely,



Lori Schleede, President CEO



P.O. Box 725
Cedar Key, FL 32625
(O): 352-543-6346
(C): 352-215-6341
cantwellrr@bellsouth.net

December 29, 2022

To Whom It May Concern,

We are writing to you at this time in hopes of your willingness to visit a rezone request from The Taylor Property in Melbourne, Florida. The request pertains to the current property in hopes of enlarging the clam hatchery facility. By enabling The Taylor Property to rezone it would also enable the expansion of an already existing clam hatchery. This expansion would be a tremendous asset to our industry now and to our future. Currently our industry which is composed of over 200 certified clam farmers is in dire needs of having more opportunities for clam seed and this request would secure that issue.

As an industry we have been faced with numerous setbacks, such as BP Oil Spill, hurricanes, Red Tide etc. Those issues unfortunately deal with Mother Nature which we can't control however expanding a hatchery is something that is not Mother Nature related. Unfortunately, our large industry currently is at the mercy of 2-4 local clam hatcheries to purchase seed from. We have lost some major players in the recent past, one big issue has been to restoration projects. Which don't get us wrong that is definitely a direction we are very supportive of, but we also need hatcheries to substantiate our farmers to fill their immediate and future needs with clam seed. This year we lost one of our largest hatcheries Seaventure Clams, and we are all feeling the pain and need a "life line"

Please consider Mr. Leighton's request for rezoning and in turn expanding. This would certainly be the answer we all as an industry need to move forward with ease.

Thank you for your time with this matter. If you have any questions, please feel free to contact us at 352-215-6341 or cantwellrr@bellsouth.net.

Regards,

Rosanne Cantwell (President)
Dog Island Blues Clam Co., Inc.
P.O. Box 725
Cedar Key, FL 32625
352-215-6341



1-4-23

Brevard County Office of Planning and Zoning

Mark E. Headley

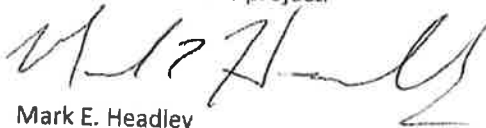
8894 South A1A Highway

Melbourne Beach, FL 32951

To whom it may concern: This communication is from Mark E. Headley. My home is located at 8894 South A1A Highway in Melbourne Beach, Brevard County Florida. The Parcel I.D. # on my property is 30-39-07-00-14.3. The Tax Account # is 3008434. It is Homesteaded property.

This message is to voice my approval and encouragement of my neighbor, Morris M. Taylor, in his effort to rezone his SEU property located at 8850 South A1A in Melbourne Beach, Brevard County, Florida to AU (Agricultural/Residential.) I understand this effort is in furtherance of a desire to increase production of bivalves to seed in the Indian River Lagoon. I understand also that this is part of a State/private program to use shellfish to begin the process of cleaning a badly damaged waterway in an ecologically sustainable manner.

Again, as a property owner adjacent to the proposed land use alteration, I repeat my wholehearted endorsement of this project.



Mark E. Headley



UF/IFAS Extension
Shellfish Aquaculture Extension Program

PO Box 89
Cedar Key, FL 32625
352-543-5057
Lnst@ufl.edu

January 4, 2023

To Whom It May Concern:

I am writing this letter in support of a request being made by Max Taylor and Ewan Leighton, owners and operators of a molluscan shellfish hatchery located in Melbourne Beach, Florida, to change zoning of the hatchery property from residential to agricultural. The hatchery facility maintains an Aquaculture Certificate of Registration from the Florida Department of Agriculture and Consumer Services, Division of Aquaculture and meets the agency's best management practices as defined in Chapter 5L-3, F.A.C. The Certificate authorizes production and sale of aquaculture products, identifies aquaculture products as cultured products, and entitles the producer to the same benefits bestowed on other agricultural producers.

As aquaculture production of shellfish, in particular hard clams, has increased throughout the state over the past 40 years, the demand for seed has likewise increased. There are over 250 certified shellfish growers who are dependent on a handful of private hatcheries producing from 400-500 million clam seed annually. Unfortunately, the number of hatcheries has not increased. With the closing last year of a large facility located at Harbor Branch Oceanographic Institute, seed supply will most likely not meet the demand. This hatchery has been in operation in Brevard County since 2000 and must expand to meet the current seed demand.

The clam aquaculture industry actually began in Brevard County in the 1980s as a result of a declining fishery. Today, the industry is centered along the north Gulf coast as the impaired waters of the Indian River Lagoon no longer support optimal production. This hatchery operates using highly filtered water to maintain the necessary water quality.

Clams are now being used for restoration efforts in the IRL, particularly for water quality improvement. Mollusks are filter feeders and have the capacity to reduce sediment loads, turbidity, and excess nutrients from the waters in which they are grown. Projects such as the Indian River Clam Restoration Project are using clams as natural biofilters and have out planted over 11 million clams in the Lagoon since 2019. In collaboration with the Brevard Zoo, a new clam gardener program has established 100 clam growout sites within Brevard County that are being monitored by citizen scientists. All of these efforts require hatchery-produced seed, thus increasing the overall demand for seed.

For these reasons, Mr. Taylor and Mr. Leighton would like approval of a land use change for their shellfish hatchery, an aquaculture facility which has minimal environmental impact.

Sincerely,

Leslie Sturmer
Shellfish Aquaculture Extension Specialist



FLORIDA SHELLFISH AQUACULTURE ASSOCIATION

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To The Brevard County Planning and Zoning Board of Directors,

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For these reasons, we certainly encourage the necessary growth of bivalve production at the hatchery level. Its importance cannot be overstated. Ewan Leighton is a member of the FSAA and we hope that you consider and support the request of a zoning change of the Taylor property in Melbourne Beach, FL. Please do not hesitate to reach out with any questions.

Sincerely,

Gretchen Kelly

Gretchen Kelly
Executive Director
gretchenkellyfsaa@gmail.com

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PO Box 979

Cedar Key, FL 32625

Lori Schleede, President 352-221-0572

John F. Schleede, Vice President 352-221-5656

12/30/2022

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This industry is already stressed due to weather events, hatcheries closing, limited supply and high demand. The remaining hatcheries are currently operating at maximum capacity, trying to supply our industry, as well as support waterway restoration. Assurance to secure this property as agricultural is essential to aqua culturalists, their supporting industries, and water quality projects .

The farmed clam industry affects 275 farmers and 1500 employees directly. As a \$35,000,000 industry, hatcheries are essential, without one, the other will fail. For that reason, this is so important. Our industry needs your support.

Feel free to contact me at any time to discuss this issue. I have been in Cedar Key since 1997. Prior to that time, I was a resident of Melbourne Beach. As a grower and wholesaler, I am fully aware of the impact shellfish hatcheries have on our industry and the wellbeing of the Indian River Lagoon.

Sincerely,



Lori Schleede, President CEO



P.O. Box 725
Cedar Key, FL 32625
(O): 352-543-6346
(C): 352-215-6341
cantwellrr@bellsouth.net

December 29, 2022

To Whom It May Concern,

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Please consider Mr. Leighton's request for rezoning and in turn expanding. This would certainly be the answer we all as an industry need to move forward with ease.

Thank you for your time with this matter. If you have any questions, please feel free to contact us at 352-215-6341 or cantwellrr@bellsouth.net.

Regards,

Rosanne Cantwell (President)
Dog Island Blues Clam Co., Inc.
P.O. Box 725
Cedar Key, Fl. 32625
352-215-6341

January 5, 2023

Brevard County Office of Planning & Zoning
2725 Judge Fran Jamieson Way
Viera, FL 32940

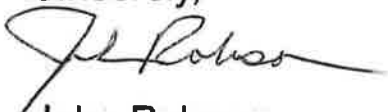
To Whom It May Concern,

I am writing to express my support and approval for the rezoning of the property at 8850 S. Highway A1A, Melbourne Beach, FL 32951 from the current SEU designation to an Agricultural (AU) designation. With the continuing rapid development of properties on and near the Indian River Lagoon contributing to its disastrous demise, it is vital to give relief to properties being used to bring health back to the Lagoon.

I understand that the property at 8850 is already being used to produce bivalves to be seeded in the Lagoon as a part of the State/Private program to use shellfish to rehabilitate the lagoon in an ecologically sustainable manner. However, the Agricultural designation is necessary to allow the property owner, Morris M. Taylor, to substantially increase his investment and expand the bivalve facility to become a more important contributor in the fight to save the Lagoon.

As a neighbor of the property at 8850, I believe they are leading the way in demonstrating how local residents can have a positive effect on the Lagoon ... before it is too late.

Sincerely,



John Robson
8898 S. Highway A1A
Melbourne Beach, FL

1-4-23

Brevard County Office of Planning and Zoning

Chris Sutton

8888 South A1A Highway

Melbourne Beach, FL 32951

To whom it may concern: This communication is from Chris Sutton. I am the Authorized Agent for Lisa A. Sagun. Her property is located at 8888 South A1A Highway in Melbourne Beach, Brevard County Florida. The Parcel I.D. # on this property is 30-39-07-00-14.5. The Tax Account # is 3009706.

This message is to voice my approval and encouragement of my neighbor, Morris M. Taylor, in his effort to rezone his SEU property located at 8850 South A1A in Melbourne Beach, Brevard County, Florida to AU (Agricultural/Residential.) I understand this effort is in furtherance of a desire to increase production of bivalves to seed in the Indian River Lagoon. I understand also that this is part of a State/private program to use shellfish to begin the process of cleaning a badly damaged waterway in an ecologically sustainable manner.

Again, as a property owner adjacent to the proposed land use alteration, I repeat my wholehearted endorsement of this project.

Chris Sutton

A handwritten signature in cursive script that reads "Chris Sutton". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

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 Esseeesse, 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

Morris M. Taylor Revocable Living Trust (Chelsea Anderson)

A change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on 3 acres +/-, located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach) (23Z00001) (Tax Account 3008434) (District 3)

Chelsea Anderson, 1530 U.S. Highway 1, Rockledge, stated the purpose of the rezoning is to allow the expansion of the existing clam hatchery use on the property with the intent of supplying clam seed for the Indian River Lagoon clam restoration efforts. The property has been continuously used for aquaculture and agricultural uses for over 30 years, and the uses are established as non-conforming, which cannot be expanded or enlarged without a rezoning. The change in zoning would allow a small expansion to have a huge beneficial impact on the county. She stated the property is the last privately owned clam hatchery in the county, and currently there is no insulation, which is one of the factors that determines production. All of the seed being produced currently is fulfilling obligations to the State aquaculture industry. She stated the Save Our Indian River Lagoon Project Plan has allocated funding to stimulate clam aquaculture in Brevard County. She said there are several Comprehensive Plan policies that the hatchery would be in furtherance of, and the Coastal Management Element Policy 5.15 states that during rezonings, the County should give immediate shoreline use priority to water dependent uses, including shellfish production.

No public comment.

Morris "Max" Taylor, 8850 Highway A1A, Melbourne Beach, stated his parents bought the property in the early 1960's after searching the south beaches looking for agricultural land that was high and dry. He said there is an existing grove on the property consisting of avocado, mango, leche, macadamia nuts, and cherries. He stated the Lagoon is under attack, and one of the things they have done with the clam operation is put in a water purification system, which is the only one remaining in Brevard, and one of only three on the entire east coast. He said they are trying to produce more clams; they have been supplying clams to commercial growers for over 20 years and are at capacity, and they would like to continue to supply to the farmers as well.

Motion by Robert Sullivan, seconded by Debbie Taylor, to approve the change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. The motion passed unanimously.

Morris "Max" Taylor
8850 S. Highway A1A
Melbourne Beach, FL 32951
gypsyscribe.max@gmail.com

March 15, 2023

Commissioner Rita Pritchett
Brevard County Board of County Commissioners, District 1
7101 S Highway 1
Titusville, Florida 32780
D1.Commissioner@BrevardFL.gov

RE: Rezoning Application 23Z00001
8850 S. Highway A1A, Melbourne Beach, FL 32951 (District 3)

Dear Commissioner Pritchett:

I am the owner of the property at 8850 S. Highway A1A, Melbourne Beach, FL 32951 located about two miles north of Sebastian Inlet. On March 13, 2023, the Brevard County Planning and Zoning Board unanimously recommended approval of my rezoning request 23Z00001 to rezone a portion of my property from SEU and EA to AU so that I can modernize the existing clam hatchery on my property. This rezoning is scheduled for the April 6th Commission meeting.

With the modernization of the hatchery, I will be able to supply clam seed to use in the Indian River Lagoon clam restoration efforts. The clam seed we will produce for restoration efforts will be dispersed over the entire lagoon system and will be beneficial to all five of the Commission Districts as they all border sections of the Indian River Lagoon.

As you are probably aware, the Indian River Lagoon is in failing health as a result of pollution carried by runoff. You may not be aware that a concerted effort is underway to reintroduce clams into the lagoon to filter out some of this pollution. As the owner of the only clam hatchery/nursery in Brevard County, I have been approached to participate in this effort.

As my facility is currently at production capacity as an established non-conforming use, I need to streamline and consolidate my operations. To accomplish this, I must rezone a portion of the property to AU which allows the Aquaculture Case II use. As most of my neighbors don't even know we have been producing clams on my property for over 20 years, there is currently no impact on the community and there will be none in the future.

The reason I am writing this personal note is to provide some background information on the request and the huge beneficial impact it could have on Brevard County as a whole. My hope is that this letter will prompt you to contact me if you have any concerns or questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. M. Taylor' with a large, stylized flourish at the end.

M. M. (Max) Taylor

cc: Chelsea Anderson, Esq. (canderson@mangrovelegal.com)
Ewan Leighton (ewan191@gmail.com)



Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

D4.Commissioner@Brevardfl.gov

March 30, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Meeting Disclosure – 23Z00001

Concerning **23Z00001** on the April 6, 2023, Brevard County Zoning meeting agenda; on March 28, 2023, Commissioner Feltner met with Mr. Morris "Max" Taylor, Ms. Chelsea Anderson, Esq. and Mr. Ewan Leighton in the District 4 Commission Office. The meeting lasted approximately 25 minutes. Subject of the discussion was the clam hatchery.

Rob Feltner



**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
COMMISSIONER JOHN TOBIA, DISTRICT 3**

2539 Palm Bay Rd NE, Suite 4
Palm Bay, FL 32905
www.Brevardfl.gov

Phone: (321) 633-2075
Fax: (321) 633-2196
John.Tobia@Brevardfl.gov

April 4, 2023

To: Jennifer Jones
From: John Tobia, Brevard County Commissioner, District 3
Re: Meeting Disclosure

Ms. Jones,

Regarding the upcoming agenda item H.8 on the Brevard County Zoning meeting on April 6, 2023, please be advised in advance that I met with the following parties in my district office on March 15, 2023.

Max Taylor
Ewan Leighton
Chelsea Anderson

The meeting lasted approximately thirty minutes, during which the above individuals provided information regarding the item.

Sincerely,

John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco

District 2 Disclosures
4/6/2023 BOCC Zoning Meeting

H.8. Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. (23Z00001) (Tax Account 3008434) (District 3)

- Between 2/28/2023 and 3/29/2023, there are several email exchanges with Chelsea Anderson requesting to meet with the Commissioner; providing information for the rezoning and how it would benefit the County as a whole due to the Indian River Lagoon clam restoration efforts it would support;
- On 3/14/2023, D2 office called UF/IFAS University of Florida and spoke with Leslie Sturmer with the Shellfish Aquaculture Extension Program to obtain additional information.
- On 3/15/2023, received email from Leslie Sturmer regarding shellfish leases in Brevard County, statewide leases, and further information about the shellfish aquaculture industry in Florida, and provided links to some of the data.