



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

7/9/2020

Subject:

4090 U.S. 1., LLC (Scott Lamb) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 and NC to CC. (20PZ00031) (Tax Account 2611636 - part of) (District 4)

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 Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to CC (Community Commercial).**

Summary Explanation and Background:

The applicant is seeking to amend two (2) portions of an overall parcel of .92 acres from the Future Land Use designations of RES 15 (Residential 15) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.68 acres, located on the west side of U.S. Highway 1, approximately 430 feet north of Post Road. The CC Future Land Use designation provides an array of retail, personal, and professional uses intended to serve several neighborhoods, sub-regional, and regional areas.

To the north of the subject property is a commercial building that has an existing dog kennel; to the east, across U.S. 1, are four single-family residences; to the south are three single-family residences; and to the west is one single-family residence. A companion rezoning application was submitted accompanying this request to change the zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial), to all BU-1.

This amendment proposes to maintain a 200-foot deep strip of CC or NC land uses on the western side of U.S. Highway 1. This land use change to CC would extend approximately 71 feet into the portion of the parcel that has a Future Land Use designation of RES 15.

The Board may wish to consider adopting the requested Future Land Use designation if CC is consistent and compatible with the surrounding area.

On June 15, 2020, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of ordinance, please file with the State and return a certified copy to Planning and Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

July 10, 2020

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Cheryl Campbell

RE: Item H.5., 20S.03 Small Scale Comprehensive Plan Amendment

The Board of County Commissioners, in regular session on July 9, 2020, conducted the public hearing and adopted Ordinance No. 20-08, setting forth Plan Amendment 20S.03 of the Small Scale Comprehensive Plan to change the Future Land Use designation from Residential 15 and Neighborhood Commercial to Community Commercial for 4090 U.S. 1., LLC (20PZ00031). Enclosed are two fully-executed Ordinances.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

for: Donna Scott
Kimberly Powell, Deputy Clerk

/ds

Encls. (2)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 21, 2020

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your corrected electronic copy of Brevard County Ordinance No. 20-08, which was filed in this office on July 21, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 20-08

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2020, 20S.03, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.03; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.03; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

CORRECTED COPY OFFICIALLY FILED WITH THE SECRETARY OF STATE JULY 21, 2020.

WHEREAS, on June 15, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.03, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on July 9, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.03; and

WHEREAS, Plan Amendment 20S.03 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.03 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.03 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.03, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

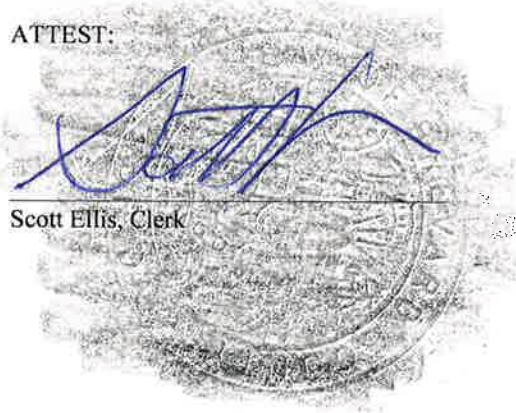
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

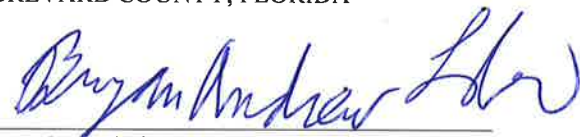
DONE AND ADOPTED in regular session, this 9th day of July, 2020.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Bryan Lober, Chair

As approved by the Board on July 9, 2020.

EXHIBIT A
20S.03 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

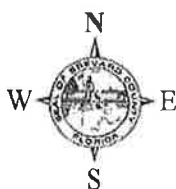
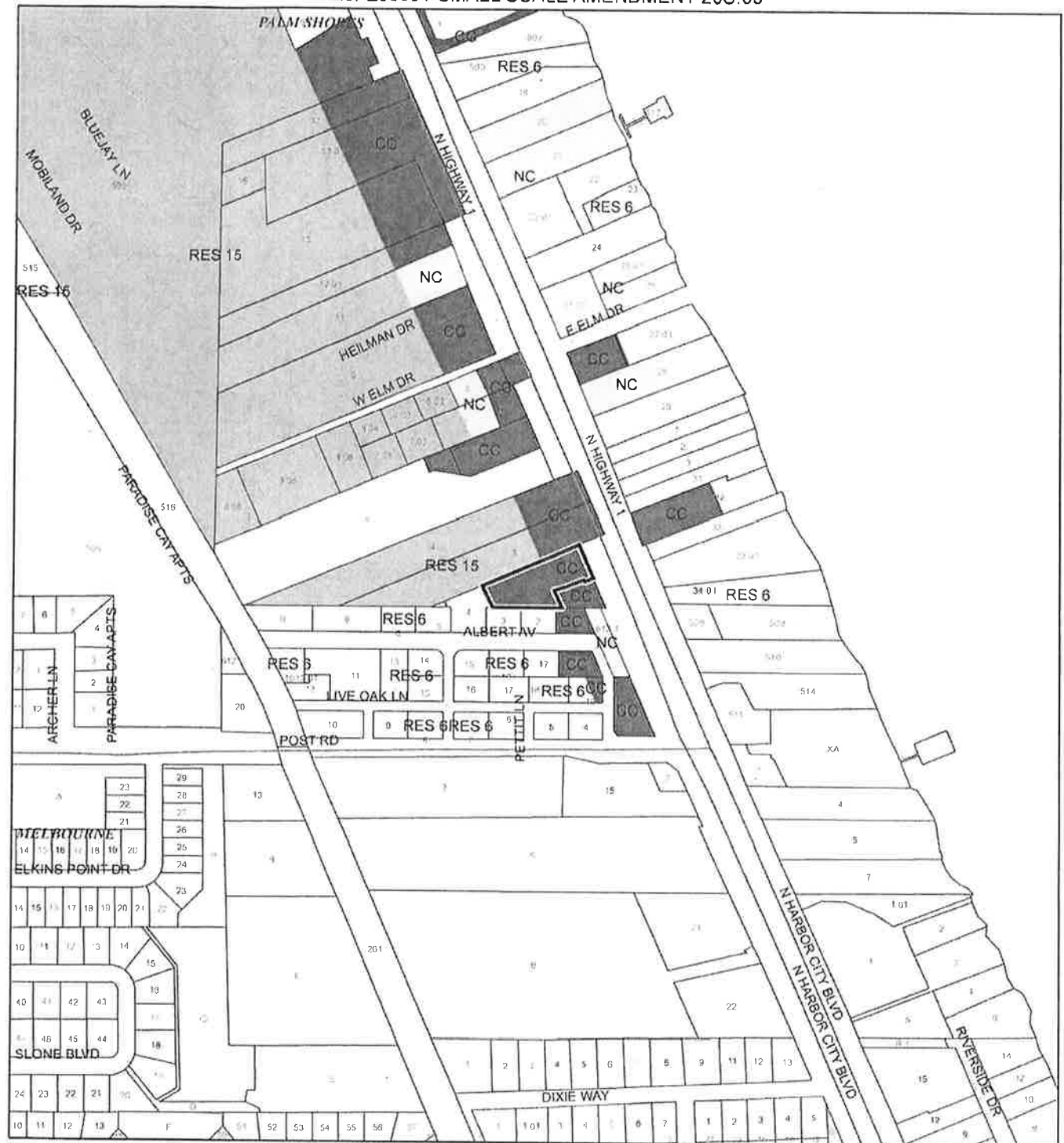
Contents

- 1. Proposed Future Land Use Map**

PROPOSED FUTURE LAND USE MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 5/6/2020

EXHIBIT B

Contents

1. Legal Description

[illegible]

(12BZ000027) 4090-055, 1, LLC (Scott Lomb) requests a change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1, on property described as Lot 1.01, Indian River Estates Villa, as recorded in ORB 8216, Pages 633 - 635, of the Public Records of Brevard County, Florida, Section 32, Township 26, Range 37, (0.92 acres) Located on the west side of U.S. Highway 1, approx. 400 feet north of Post Rd. (No assigned address), in the Micco area. DAVID and DAVID EITEL request a change of zoning classification from GU (General Use) to RRMI-1 (Rural Residential Mobile Home), on property described as Lot 1, Block 21, Canaveral Groves Subdivision, as recorded in ORB 8330, Page 2146 - 2147, of the Public Records of Brevard County, Florida, Section 32, Township 26, Range 35, (1 acre) Located on the southeast corner of Satellite Blvd. and Dayton Ave. (2221 Satellite Blvd., Cocoa) DISTRICT 3 7, (20P2000040) ZIFFER INVESTMENTS, LLC (Mark Kipp) requests a change of zoning classification from BU-1 to BU-1A (General Retail Commercial) Consumption, in conjunction with private club, in a BU-1A (General Retail Commercial) on property described as Tax Parcel 520, as recorded in ORB 6177, Pages 1523 - 1525, of the Public Records of Brevard County, Florida, Section 31, Township 30, Range 38, (2.79 acres) Located on the north side of Micco Rd, approx. 0.37 mile west of U.S. Highway 1. (No assigned address), in the Micco area. DISTRICT A 6, (20P2000032) MATTHEW WILSON and ERIN LEHR CORP request a change of zoning classification from RU-1-7 (Single-Family Residential) to RU-2-10 (Medium Density Multi-Family Residential), on property described as Tax Parcel 756.2, as recorded in ORB 8209, Pages 94 - 94b, of the Public Records of Brevard County, Florida, Section 23, Township 25, Range 36, (1.20 acres) Located on the north side of Melver Lane, approx. 215 ft. west of Rockledge Dr. (120 Melver Lane, Rockledge) 9, (20P000002) HOUNDAOUT PARTNERS, LLC (Jon Archer) requests a CUP (Conditional Use Permit) for Alcoholic Beverages or (full liquor) for On-Premises Consumption, in conjunction with a restaurant, in a Planned Unit Development, on property described as Tax Parcel 1152, of the Public Records of Brevard County, Florida, Section 34, Township 25, Range 36, (2.10 acres) Located on the southeast corner of Viera Boulevard and Star Rush Drive, (No assigned address, in the Viera area.) DISTRICT 2 1, (20P000017) - BUD AND MARY CAROL CUSAFULLI - request a change of zoning classification from GU (General Use) to SEU (Suburban Estate Use Residential), on property described as the north 405 ft. of Tax Parcel 502.1, as recorded in ORB 8160, Pages 589 - 589, of the Public Records of Brevard County, Florida, Section 32, Township 26, Range 37, (2.23 acres) Located on the west side of County Lane, approximately 162 ft. south of Kings-Way, (5305 County Lane, Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JUNE 15, 2020, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room Bldg., Viera, Florida, on THURSDAY, JULY 9, 2020, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings, if made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based, is made and recorded. Persons with disabilities, as defined in the Americans with Disabilities Act and Section 266.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Attn: Tad Calkins, Planning and Development Director, By: Jennifer Jones, Special Projects Coordinator.



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FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 14, 2020

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 20-08, which was filed in this office on July 13, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

017

ORDINANCE NO. 20- 08

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2020, 20S.03, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.03; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.03; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON JULY 13, 2020.

incorrect

WHEREAS, on April 6, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.03, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

incorrect

WHEREAS, on May 7, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.03; and

WHEREAS, Plan Amendment 20S.03 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.03 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

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Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.03 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.03, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 9th day of July, 2020.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Bryan Lober, Chair

As approved by the Board on July 9, 2020.

EXHIBIT A
20S.03 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

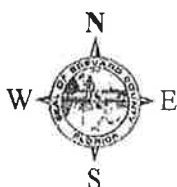
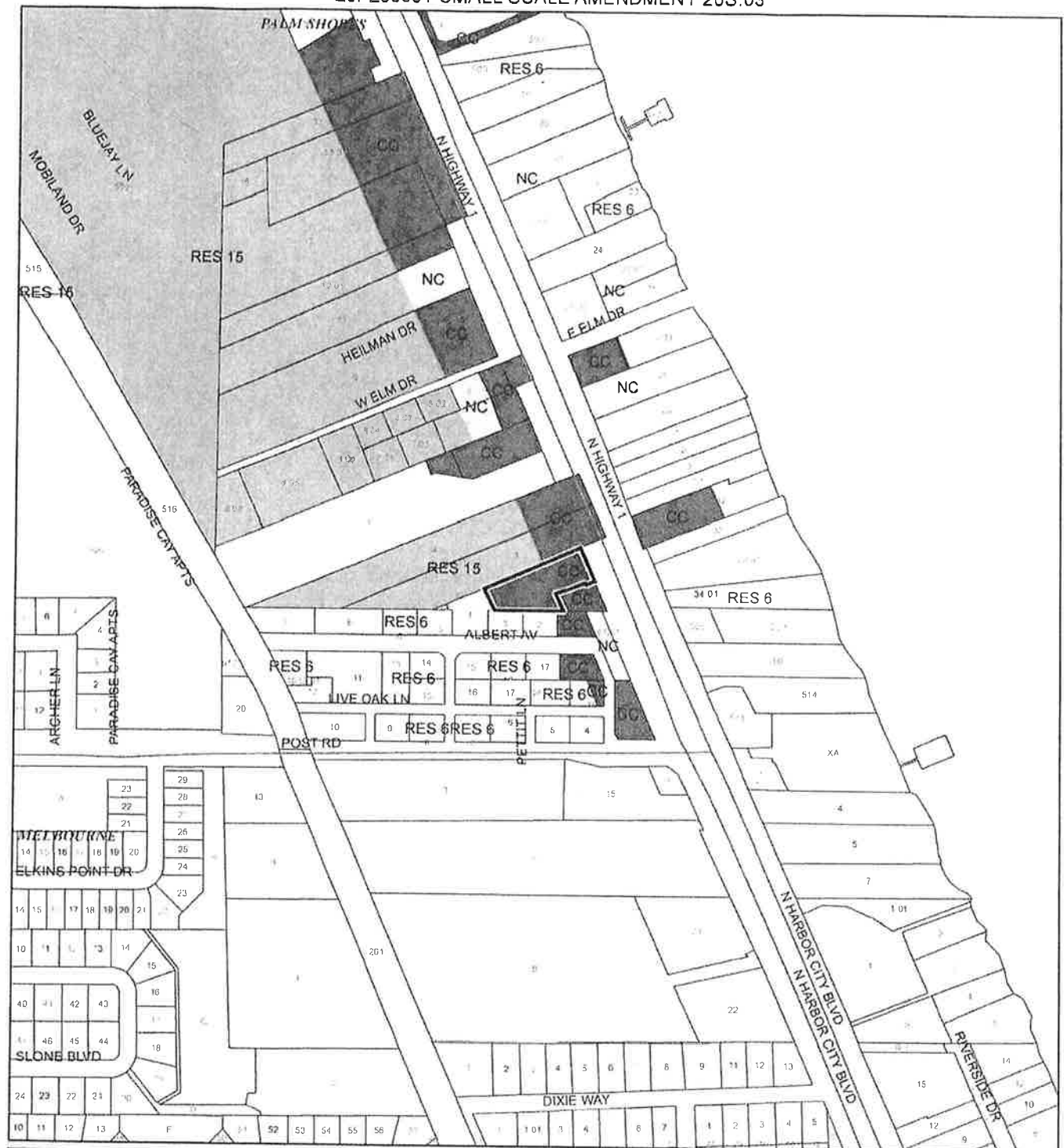
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PROPOSED FUTURE LAND USE MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 5/6/2020

EXHIBIT B

Contents

1. Legal Description

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Broward County Code, that the Broward County Planning and Zoning Board (Local Planning Agency), and the Board of County Commissioners will consider the following requests on MONDAY, JUNE 15, 2020, at THIRDSAY, JULY 9, 2020, DISTRICT 1. 1. (20P200024) THEODORE GOODENOUGH (Chad Gannon) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from P1 (Planned Industrial) to RES 2 (Residential 2), on property described as the south 1/4 of the NE 1/4 of the SW 1/4 of Section 21, Township 21S, Range 35E, Broward County, Florida, lying east of Hammock Rd. (4.85 acres) located on the east side of Hammock Rd., approx. 650 ft. south of Parrish Rd. (1930 Hammock Rd., Titusville). The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 205.02: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Broward County entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 2. (19P200158) THEODORE C. GOODENOUGH (Chad Gannon) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), with a BDP (Blending Development Plan) limited to 62 units, on property described as Tax Parcel 501, as recorded in ORB 2422, Page 809, of the Public Records of Broward County, Florida, Section 21, Township 21S, Range 35E, (31.43 acres) located at 1930 Hammock Rd., Titusville, Florida. DISTRICT 2. 3. (20P200015) JAMES AND MARY MURRAY (Dan Chistocovich) request a change of zoning classification from AU (Agricultural Residential) to RU (Single-Family Residential), on property described as Tax Parcel 314, as recorded in ORB 1682, Pages 1972 - 1976, of the Public Records of Broward County, Florida, Section 24, Township 22S, Range 36E, (0.57 +/- acres) located on the east side of S. Tropical Trail, approx. 850 ft. north of Old Settlement Road. (3720 S. Tropical Trail, Merritt Island).

DISTRICT 4. 4. (20P200031) 4090 U.S. 1, LLC (Scott Lamb) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1.5 (Residential 1.5) and NC (Neighborhood Commercial) to CC (Community Commercial), on property described as follows: PARCEL A: A portion of all parts of Lots 1 & 2, unrecorded plat of Indian River Estates, lying in Govt Lot 4, Section 32, Township 26S, Range 37E, Broward County, Florida, and property described in ORB 580, Page 588, Broward County Public Records, being more particularly described as follows: from the SW corner of Govt Lot 4, Section 32, Township 26S, Range 37E, run N along the west line of said Govt Lot 4, a distance of 410 ft., thence N89deg51'E parallel with the south line of said Govt Lot 4, 1,177 ft., more or less to the westerly r/w line of U.S. Highway No. 1, and the point of beginning of the herein described parcel; thence S89deg19'W along the north line of the R.L.H. Post Subdivision, as recorded in Plat Book 13, Page 45, Broward County Public Records, a distance of 405.26 ft. to the east boundary of ORB 866, Page 511, Broward County Public Records; thence N23deg03'W along the east boundary of said ORB 866, Page 511, a distance of 68.37 ft. to the northerly line of said Lot 2; thence N86deg57'E along the northerly line of said Lot 2, 374.24 ft. to the westerly r/w line of U.S. Highway No. 1; thence S23deg03'E along said westerly r/w line, 226.47 ft. to the point of beginning. (the above described parcel of land being described and recorded in ORB 4018, Page 1108, Public Records of Broward County, Florida) except the following: from a railroad spike at the NW corner of the NW 1/4 of Section 5, Township 27S, Range 37E, Broward County, Florida, run N89deg38'40"E 805.421 meters (2,642.45 ft.) along the north boundary of said Section 5 and the south boundary of Section 32, Township 26S, Range 37E to a nail and disc stamped "LS 1585 15 1819 LS 3186" at the NE corner of said NW 1/4; thence N89deg29'33"E 6.710 meters (22.01 ft.) along said south boundary of Section 32 to a point on the existing westerly r/w line of S.R. 5 as shown on Sheet 16 of the FDOT r/w map for said S.R. 5 Section 70020.2501; thence N23deg17'29"W 135.677 meters (445.13 ft.) along said existing westerly r/w line to a point on the south boundary of that certain parcel of land as described and recorded in ORB 1948, Page 904, Public Records of Broward County, Florida, for the point of beginning; thence N23deg17'29"W 69.179 meters (226.96 ft.) along said existing westerly r/w line to a point on the north boundary of that certain parcel of land as described and recorded in ORB 1948, Page 904, Public Records of Broward County, Florida; thence S86deg41'26"W 21.602 meters (70.87 ft.) along the north boundary of said parcel of land to a point on a line being parallel with and 21.602 meters (70.87 ft.) westerly of, when measured at right angles to, said existing westerly r/w line; thence S23deg17'29"E 60.031 meters (196.95 ft.) along said parallel line to a point on the aforementioned south boundary of that parcel of land as described and recorded in ORB 1948, Page 904; thence N89deg38'40"E 23.457 meters (76.96 ft.) along said south boundary to the point of beginning. Containing 0.374 hectares (0.924 acres) more or less. Being more particularly described as follows: Commence at the NW corner of the above description; thence N66deg36'09"E along the north line a distance of 174.24 ft. to the point of beginning; thence continue along said north line N66deg36'09"E a distance of 129.13 ft. to the westerly r/w line of U.S. Highway No. 1; thence S23deg17'29"E along said r/w line a distance of 89.06 ft.; thence S66deg36'09"W a distance of 89.06 ft.; thence S66deg16'09"W a distance of 105.27 ft.; thence S74deg45'00"W a distance of 24.13 ft.; thence N23deg16'19"W a distance of 85.64 ft. to the point of beginning. (0.68 acres) Located on the west side of N. U.S. Highway 1, approx. 430 ft. north of Post Road. (No assigned address. In the Melbourne area.) (Tax Account 2611636, portion of) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 205.03: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Broward County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

5. (20P200032) 4090 U.S. 1, LLC (Scott Lamb) requests a change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and RU-1 (General Retail Commercial) to all RU-1, on property described as Lot 1.01, Indian River Estates Villas, as recorded in ORB 8216, Pages 833 - 835, of the Public Records of Broward County, Florida, Section 32, Township 26S, Range 37E, (0.92 acres) located on the west side of U.S. Highway 1, approx. 400 feet north of Post Rd. (No assigned address. In the Melbourne area.) DISTRICT 1.

6. (20P200035) RUTH E. FRIDDLE AND DAVID ETEL request a change of zoning classification from GU (General Use) to RRM1-1 (Rural Residential Medium Density), on property described as Lot 1, Block 21, Canaveral Groves Subdivision, as recorded in ORB 8538, Page 2146 - 2147, of the Public Records of Broward County, Florida, Section 17, Township 24S, Range 35E, (1 acre) located on the southeast corner of Satellite Blvd. and Dwyer Ave. (2221 Satellite Blvd., Cocoa) DISTRICT 3. 7. (20P200040) ZIFFER INVESTMENTS, LLC (Mark Kipp) requests a CUP (Conditional Use Permit) for Alcoholic beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a RU-1 (General Retail Commercial) on property described as Tax Parcel 520, as recorded in ORB 6177, Pages 1523 - 1525, of the Public Records of Broward County, Florida, Section 11, Township 30S, Range 38E, (2.79 acres) located on the north side of Micco Rd., approx. 0.37 mile west of U.S. Highway 1. (No assigned address. In the Micco area.) DISTRICT 4. 8. (20P200042) MATTHEW WILSON AND ERIN LERAY CORN request a change of zoning classification from AU (Agricultural Residential) to RU (Single-Family Residential), on property described as Tax Parcel 756.2, as recorded in ORB 8204, Page 94 - 94S, of the Public Records of Broward County, Florida, Section 23, Township 25S, Range 36E, (1.20 acres) located on the north side of Melver Lane, approx. 215 ft. west of Rockledge Dr. (120 Melver Lane, Rockledge) 9. (20P200002) ROUNDABOUT PARTNERS, LLC (Dan Archer) requests a CUP (Conditional Use Permit) for Alcoholic beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a RUD (Planned Unit Development) zoning classification, on property described as Lot 1, Block A only, as recorded in ORB 8516, Pages 1147 - 1152, of the Public Records of Broward County, Florida, Section 34, Township 25S, Range 36E, (2.19 acres) located on the southeast corner of Vista Boulevard and Star Rush Drive. (No assigned address. In the Vista area.) DISTRICT 2. 1. (20P200017) RUD AND MARY CAROL CRISAFULLI request a change of zoning classification from GU (General Use) to SEU (Suburban Estate Use Residential), on property described as the north 485 ft. of Tax Parcel 502.1, as recorded in ORB 1160, Pages 588 - 589, of the Public Records of Broward County, Florida, Section 26S, Township 23S, Range 36E, (2.23 acres) located on the west side of County Lane, approximately 182 ft. south of Kings Way, (5305 County Lane, Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Broward County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JULY 15, 2020, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Broward County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, JULY 9, 2020, at 5:00 p.m. All interested parties can be heard at said time and place. If a person desires to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings, if made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 266.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Broward County Planning & Development Department, per: Ted Calkins, Planning and Development Director. By Jennifer Jones, Special Projects Coordinator.

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 20S.03 (20PZ00031)
Township 26, Range 37, Section 32*

Property Information

Owner / Applicant: **4090 US 1, LLC**

Adopted Future Land Use Map Designation: Residential 15 (RES 15) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: .68 acres Tax Account #: 2611636

Site Location: West side of U.S. Highway 1, approximately 430 feet north of Post Road.

Current Zoning: Single-Family Residential (RU-1-7), Medium-Density Multiple-Family
Residential (RU-2-10), and General Retail Commercial (BU-1)

Requested Zoning: General Retail Commercial (BU-1)

Background & Purpose

The applicant is seeking to amend two (2) portions of an overall parcel of .92 acres from the Future Land Use designations of Residential 15 (RES 15) and Neighborhood Commercial (NC) to Community Commercial (CC). The western portion of the overall parcel is .42 acres with a Future Land Use designation of RES 15 and the northeast portion is .26 acres with a Future Land Use of NC. The remainder of the property has a CC Future Land Use designation.

The subject property currently has three (3) Future Land Use designations of RES 15, NC and CC. This occurred as a result of the widening of U.S. Highway 1 and taking of said property.

At the time of the widening of this segment of U.S. 1, the Board of County Commissioners directed Planning and Zoning staff to complete an examination of both the existing and future land uses within the unincorporated areas along this section of U.S. 1. The request was to evaluate a Future Land Use change from RES 15 to CC or NC.

Because of the diverse nature of the area, the two (2) focal points of the study were to examine compatibility issues between existing commercial lands and established residential areas and to address the depth of commercial lands along the west side of U.S. 1.

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. Highway 1. Because of the right-of-way (ROW) acquisition, the current CC and NC designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use. The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The CC Future Land Use designation provides an array of retail, personal and professional uses intended to serve several neighborhoods, sub-regional and regional areas.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change from Single-Family Residential (RU-1-7), Medium-Density Multiple-Family Residential (RU-2-10), and General Retail Commercial (BU-1).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Dog Kennel	RU-1-7 & BU-1	RES 15 & CC
South	Three (3) Single-Family Residences	RU-1-7 & BU-1	RES 6 & CC
East	Across Highway 1, four (4) Single-Family Residences	RU-1-9 & BU-1	RES 6 & CC
West	One (1) Single-Family residence	AU, GU	RES 15

To the north of the subject property is a commercial building that has an existing dog kennel, to the east across U.S. 1, are four (4) single-family residences, to the south are three (3) single-family residences and to the west is one (1) single-family residence.

Environmental Resources

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject .68 acre portion of the overall .92 acre parcel has frontage on U.S. Highway 1, an urban principal arterial roadway which runs north and south.

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

The subject .68 acre portion of the overall .92 acre parcel is adjacent to Community Commercial (CC) land to the north, south and east across U.S. Highway 1. To the west of the subject parcel there is a Residential 15 (RES 15) Future Land Use designation.

The parcel to the north has an existing dog kennel. Inter-connectivity could be provided between the subject parcel to the commercial parcel to the north. The parcels to the east, south and west have existing single-family residences. No inter-connectivity could be provided to the parcel to the south which has a NC Future Land Use designation.

- C. Existing commercial development trend in the area;

The existing commercial uses have been in existence since as early as 1979. There are no established trends for this area.

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

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

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

The subject parcel can be served by potable water and sewer by the City of Melbourne.

The .68 acre portion of the overall .98 acre parcel has direct access to U.S. Highway 1. Approximately 430' of the subject parcel is the intersection of U.S. Highway 1 and Post Road. U.S. Highway 1 is an urban principal arterial roadway and Post Road is an urban major collector roadway. Currently this section of U.S. Highway 1 is operating at a level of service (LOS) of C. The additional impact to the roadway resulting from this development would lower the acceptable level of service to E.

- F. Spacing from other commercial activities;

The segment of U.S. Highway 1 was designated as a commercial corridor through the Future Land Use Map that was adopted in September of 1988.

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

The FLU designation change from RES 15 and NC is proposed on a .68 acre portion of the overall .98 acre parcel of land is Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan. Community commercial development is intended to serve several neighborhoods and provide commercial uses.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for property with a FLU designation of CC. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern. The subject property would be considered infill within an established strip commercial area and would not be considered an extension of the strip commercial pattern and not contiguous to existing CC.

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

Policy 2.7

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

- a) Existing strip commercial;

This segment of U.S. Highway 1 serves as a commercial corridor along this urban principal arterial roadway. This commercial corridor serves several neighborhoods, sub-regional and regional areas.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

This commercial corridor along U.S. Highway 1 is not located at an arterial/arterial intersection and is not considered a commercial cluster. This is commercial corridor intended to serve neighborhoods, sub-regional and regional areas with commercial services.

- B Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The subject site is not considered a commercial cluster.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

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

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

The overall subject site has the potential for a 40,075 square foot building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

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) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

There is a historical land use pattern of commercial along this section of U.S. Highway 1 from Post Road to Pineda Causeway to the north. The majority of Future Land Use designations are NC and CC with some intermittent Residential 6 (RES 6) to the east across U.S. Highway 1.

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

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

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

There have been no development approvals within the past three (3) years that have not yet been constructed.

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

The proposed use would not result in a material violation of the relevant policies in any elements of the Comprehensive Plan.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from RES 15 and NC to CC on a .68 acre portion of an overall .92 acre parcel of land. This area of Unincorporated Brevard County is comprised of mainly commercial development along the U.S. Highway 1 corridor between Palm Shores to the north and the City of Melbourne to the south.

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. Highway 1. Because of the right-of-way (ROW) acquisition, the current CC and NC

designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use. The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The Board may wish to consider adopting the requested Future Land Use designation of CC on the entire .68 portion of the total .92 acre parcel in order to be consistent with the adopted Comprehensive Plan Amendment 2005A. This amendment proposes to maintain a 200' deep strip of CC or NC land uses on the western side of U.S. Highway 1. This land use change to CC would extend approximately seventy-one (71') feet into the portion of the parcel that has a Future Land Use designation of RES 15. The RES 15 portion would be reduced to a size not suitable for residential use.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use Review & Summary
Item # 20PZ00031

Applicant: Scott Lamb

Future Land Use Request: RES-15, NC to CC

Note: Applicant wants BU-1 zoning

P&Z Hearing Date: 06/15/20; **BCC Hearing date:** 07/09/20

Tax ID No: 2611636

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands

Information available to NRM indicates that wetlands may be present on the property. Aerials indicate the site was filled in 2003 and 2004, and may have impacted wetlands. A wetland determination/delineation will be necessary prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet wetland impact avoidance, minimization and mitigation requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine 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 Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, 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.

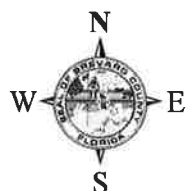
Protected and Specimen Trees

Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, 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. A landscape plan and mitigation requirements will be required at time of site plan permit application submittal. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03





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.

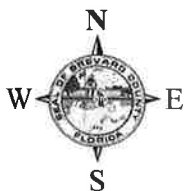
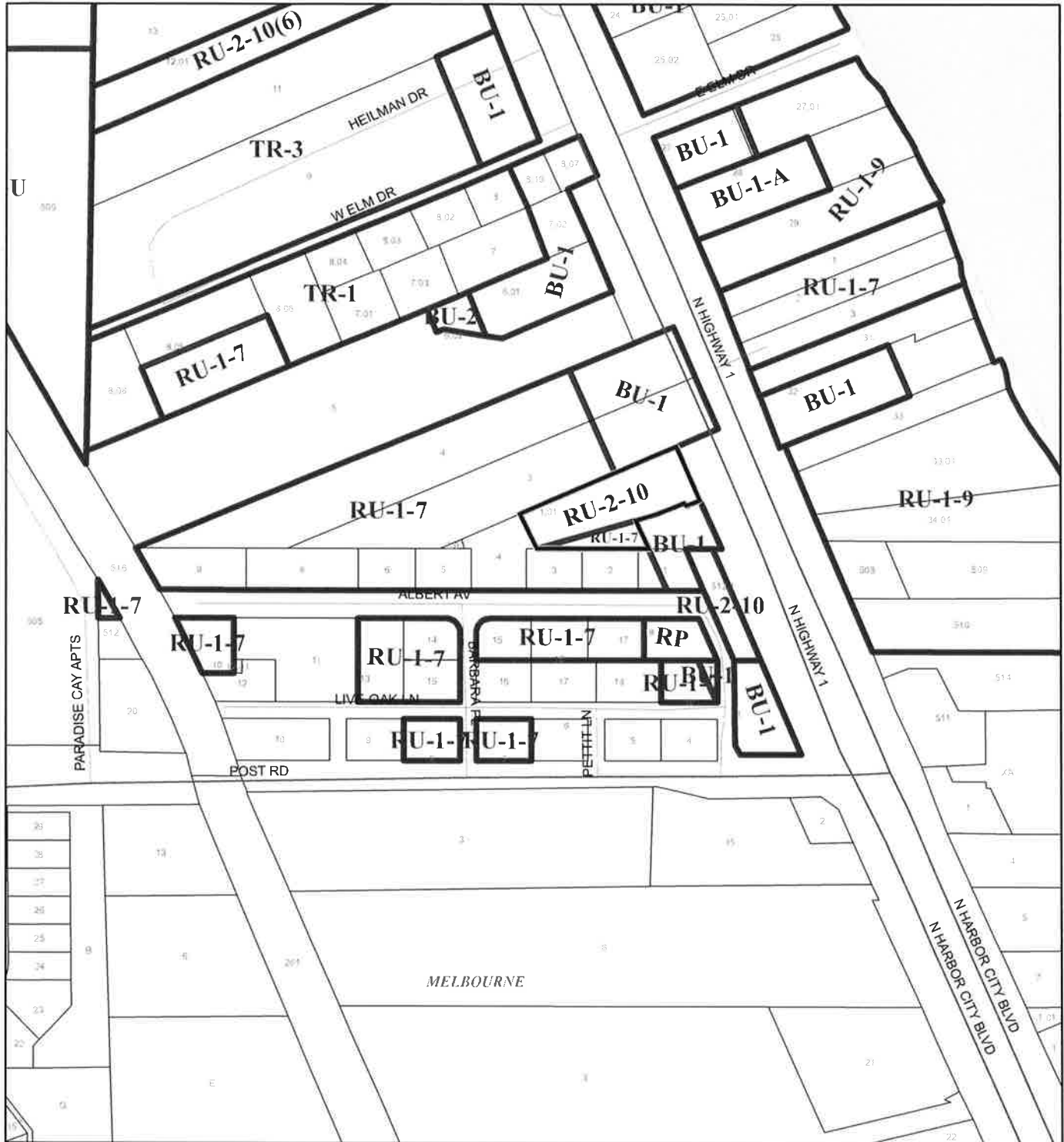
Produced by BoCC - GIS Date: 5/6/2020

-  Buffer
-  Subject Property

ZONING MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:3,000 or 1 inch = 250 feet

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Subject Property

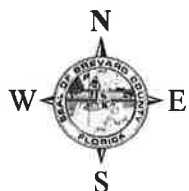
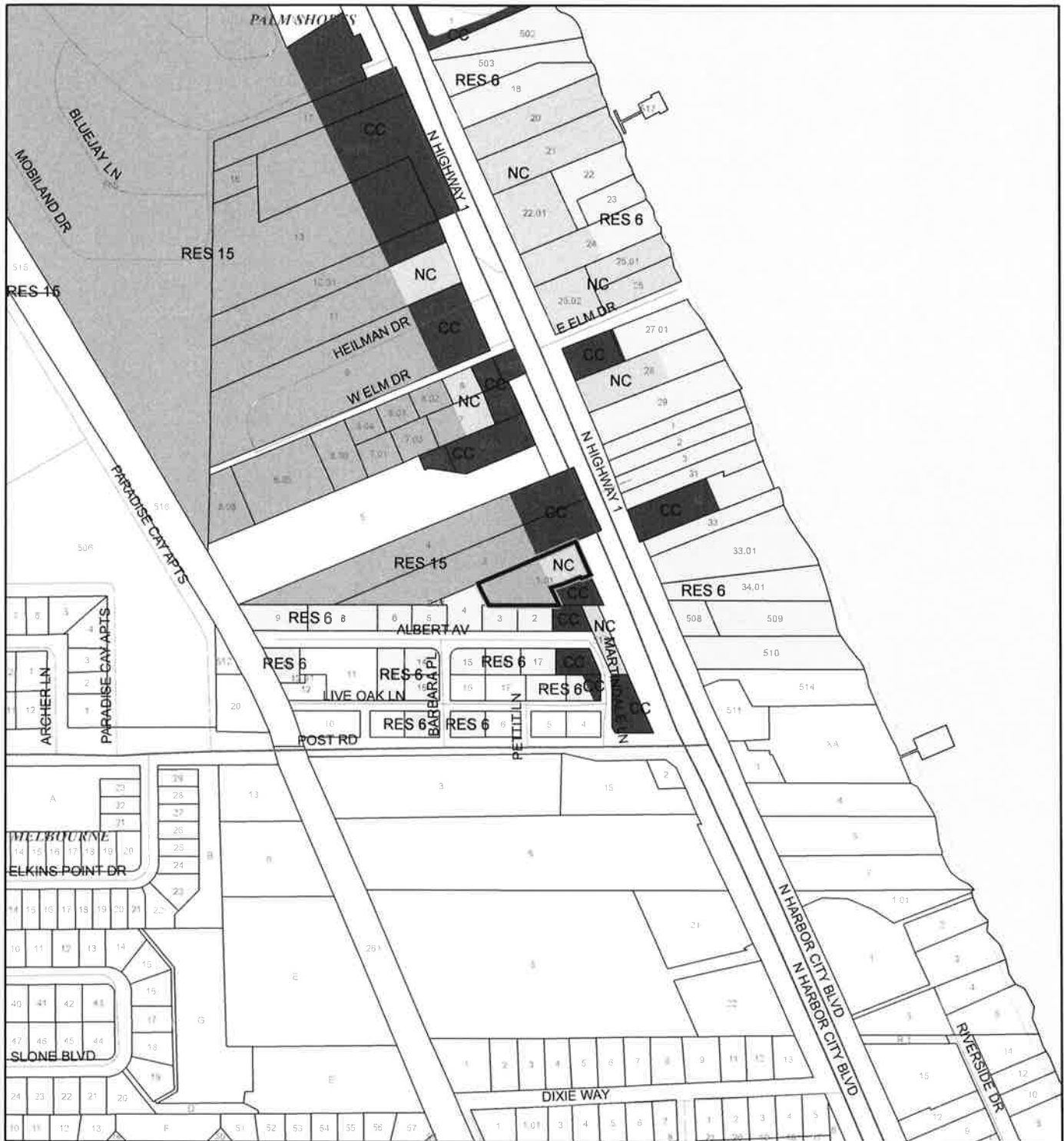
 **Parcels**

 **Zoning**

FUTURE LAND USE MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

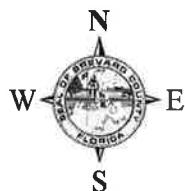
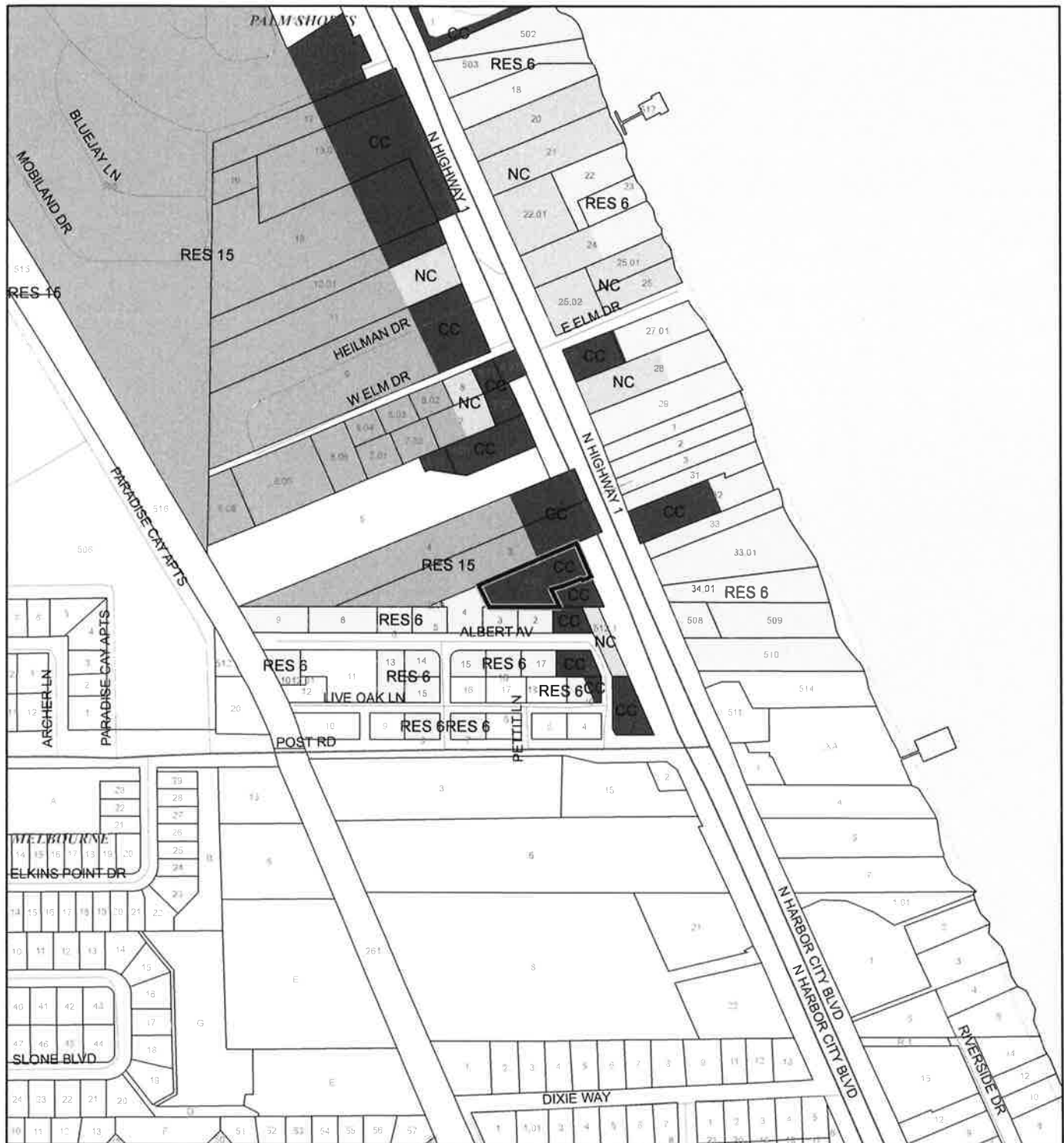
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/6/2020

PROPOSED FUTURE LAND USE MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

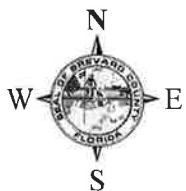
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/6/2020

AERIAL MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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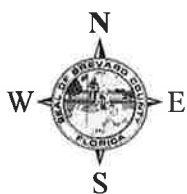
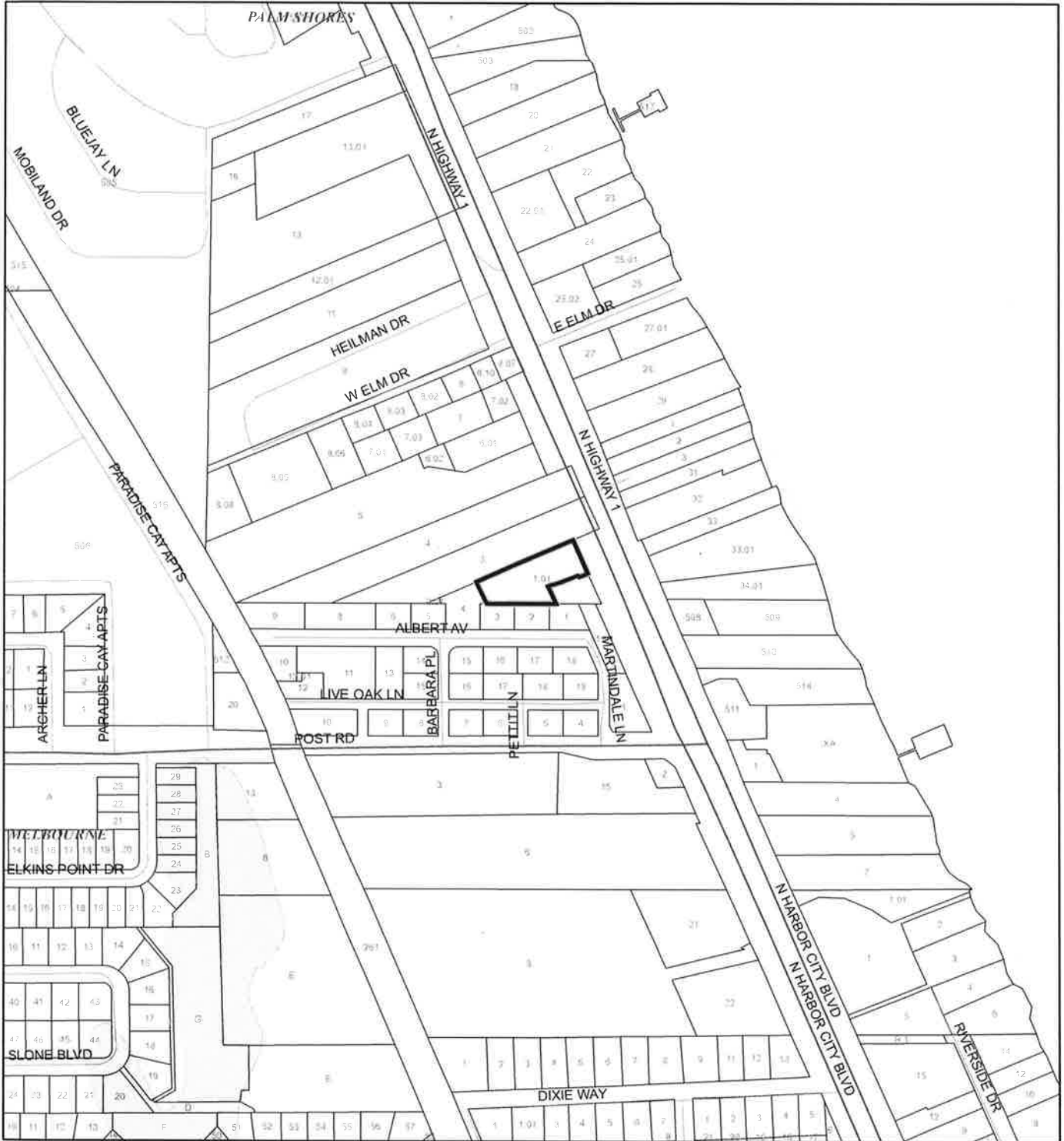
— Subject Property

□ Parcels

NWI WETLANDS MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

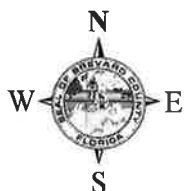
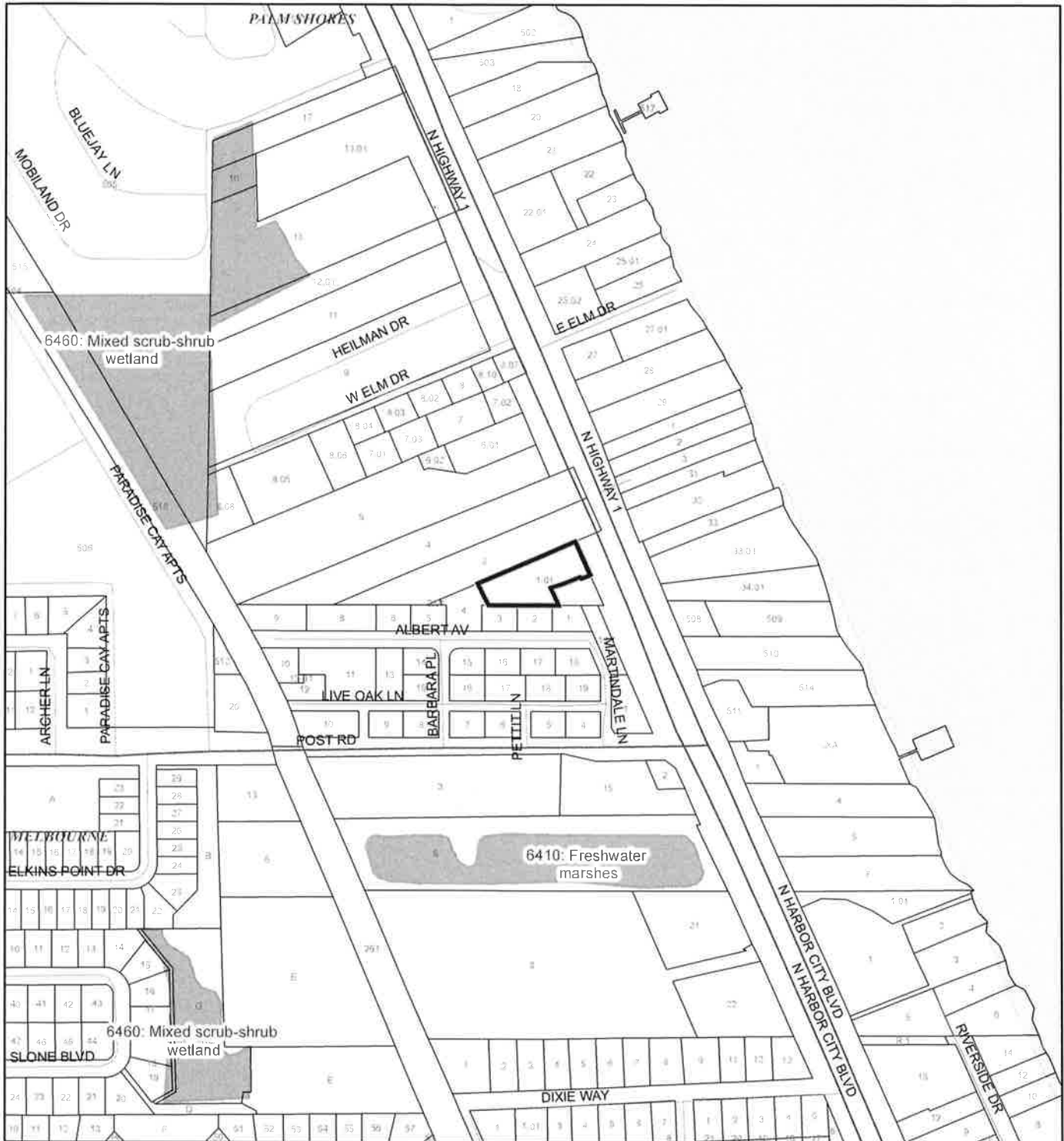
National Wetlands Inventory (NWI)

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

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

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

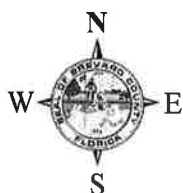
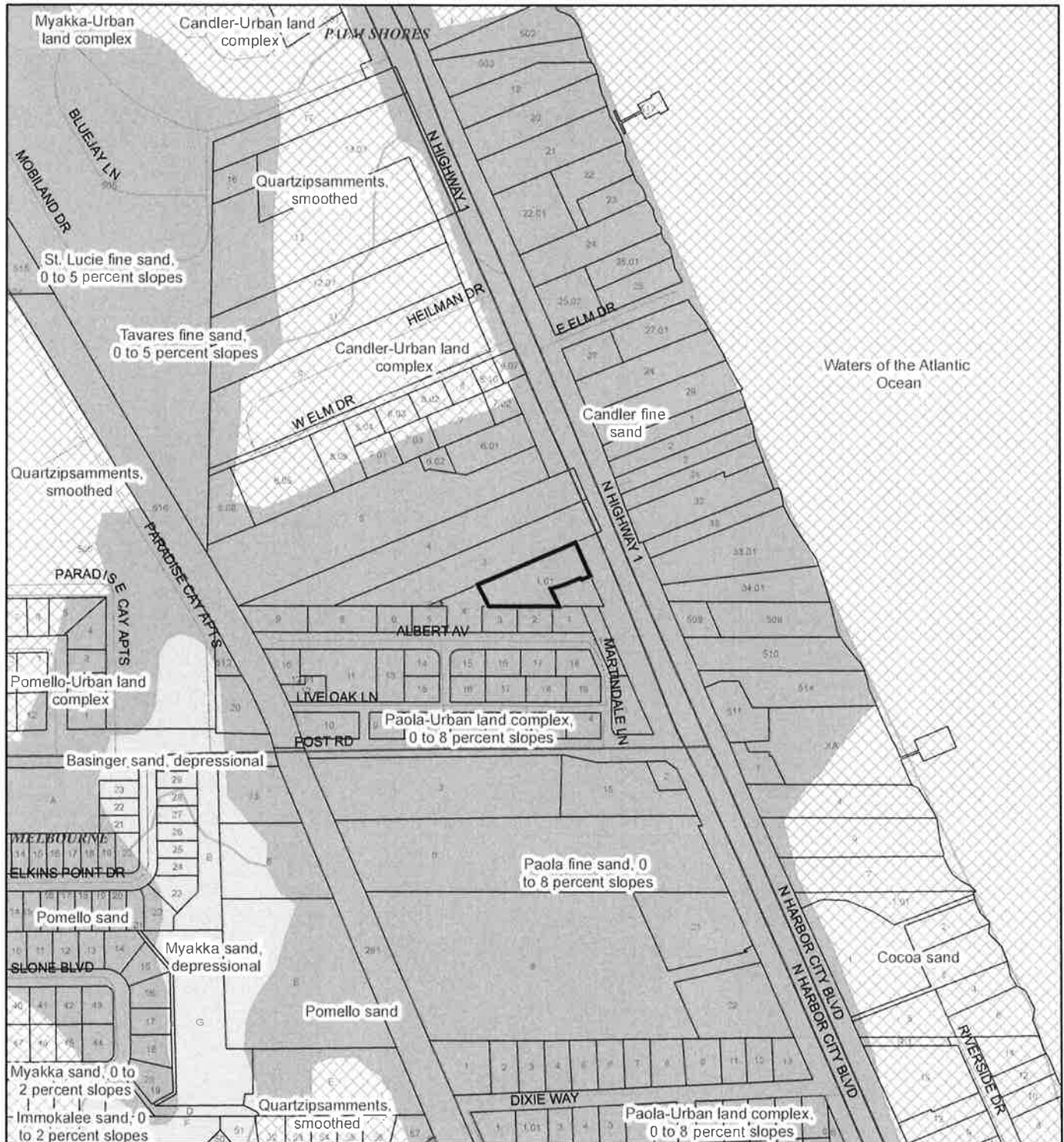
Subject Property

Parcels

USDA SCSSS SOILS MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

USDA SCSSS Soils

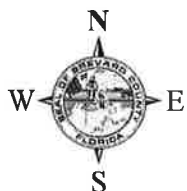
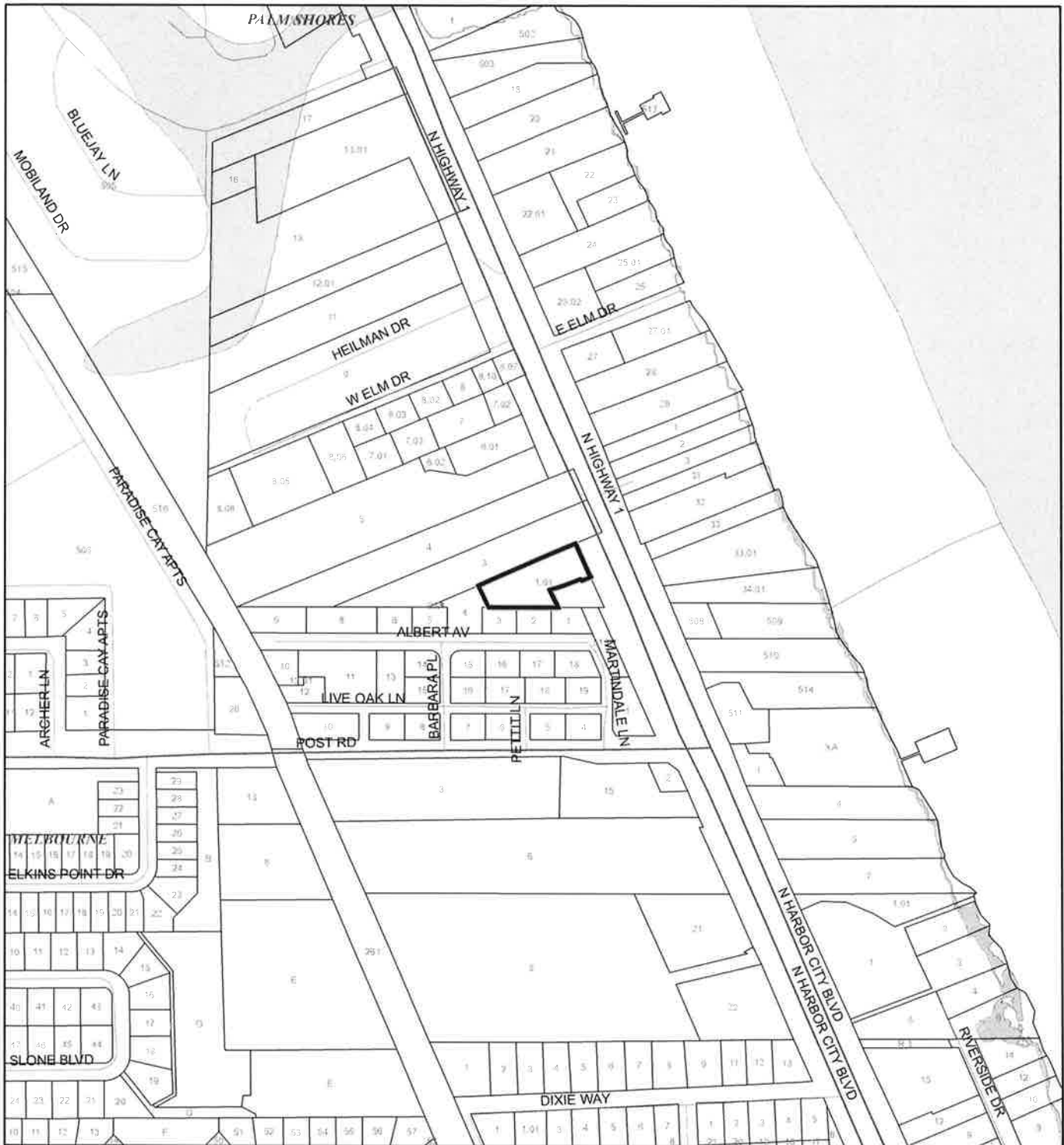
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

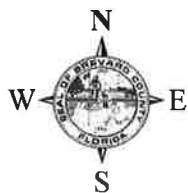
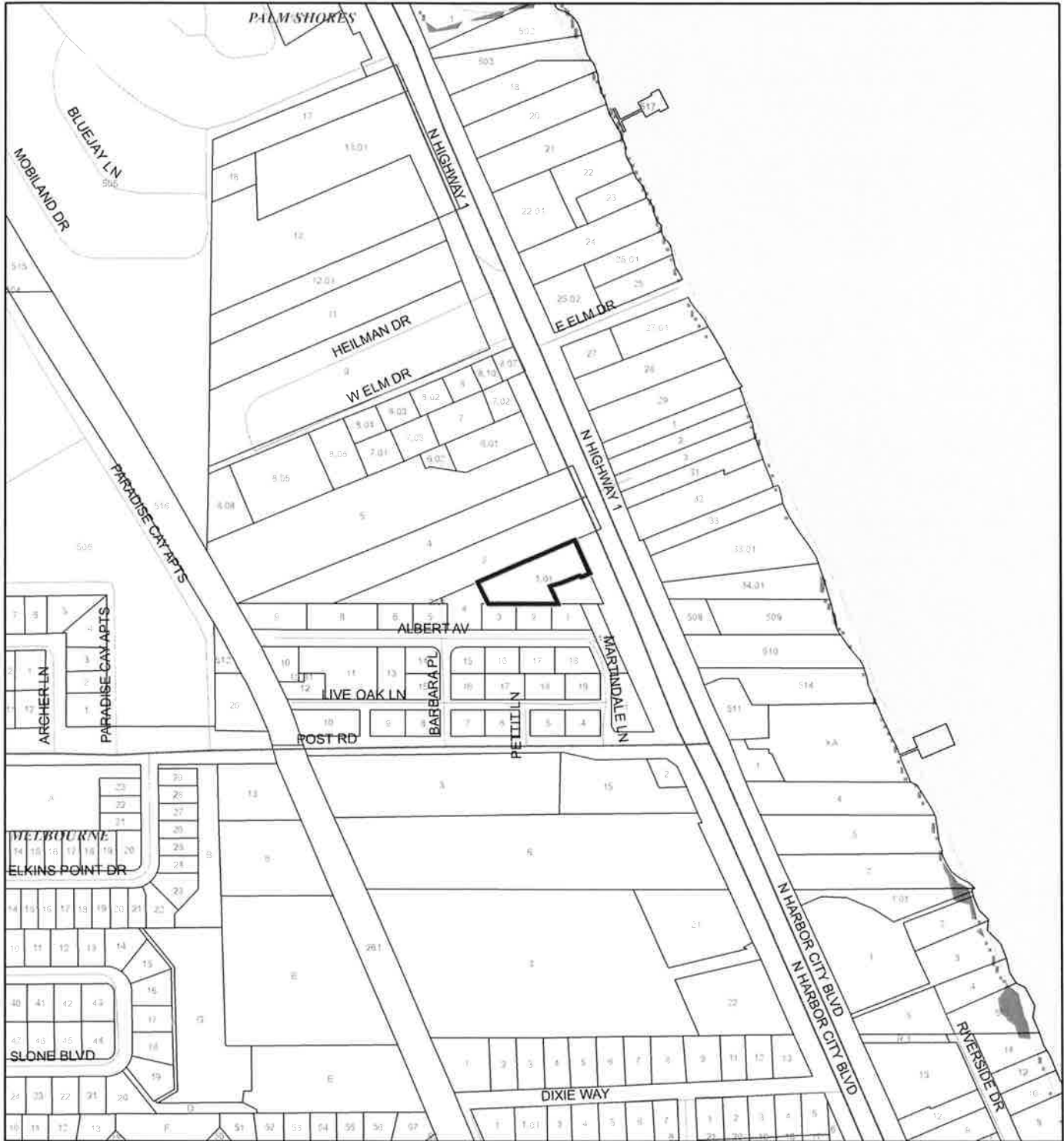
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

— Subject Property

□ Parcels

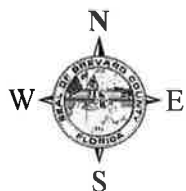
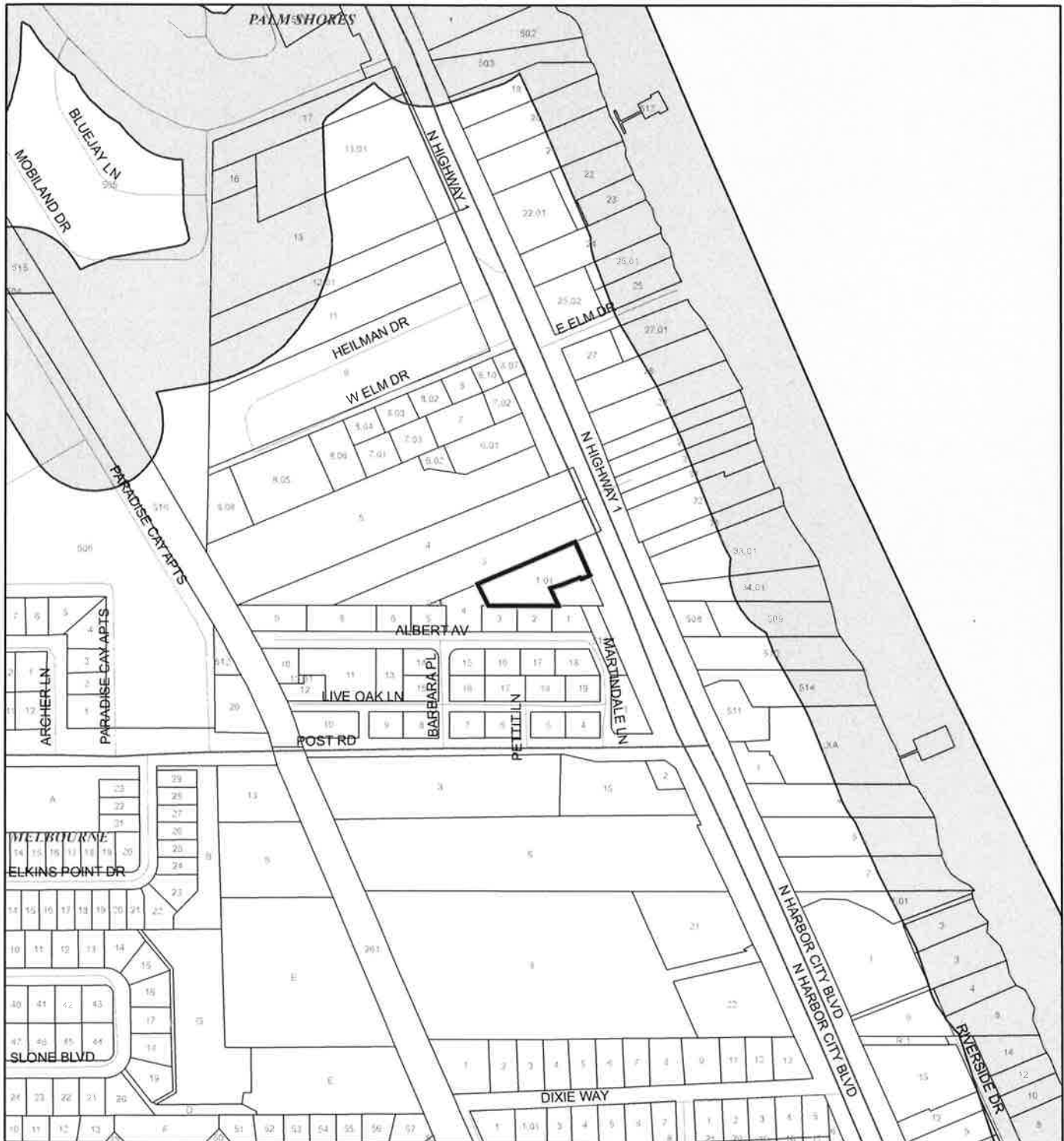
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

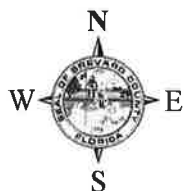
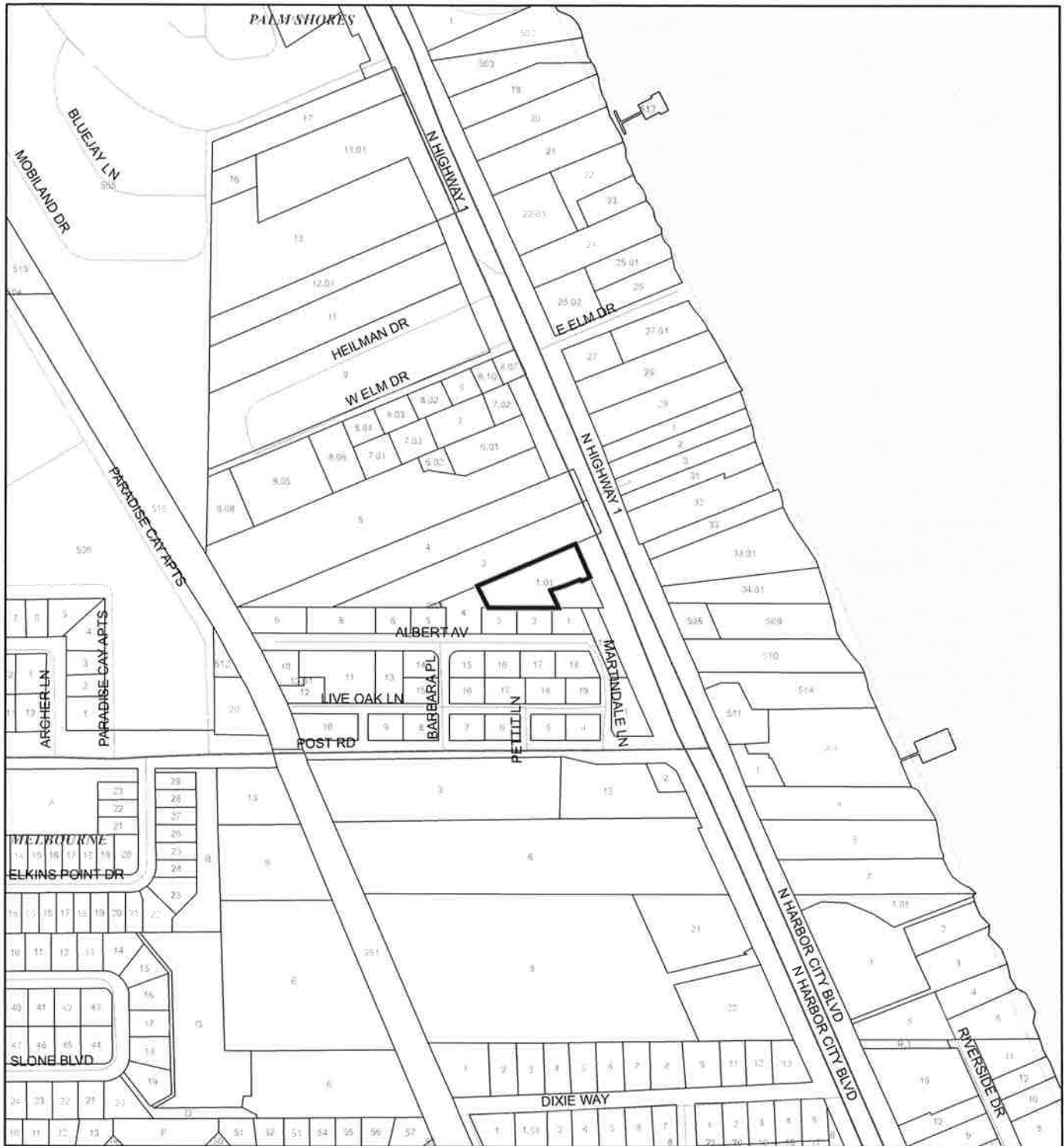
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/6/2020

 Subject Property

 Parcels

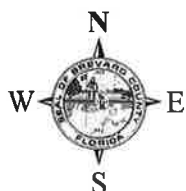
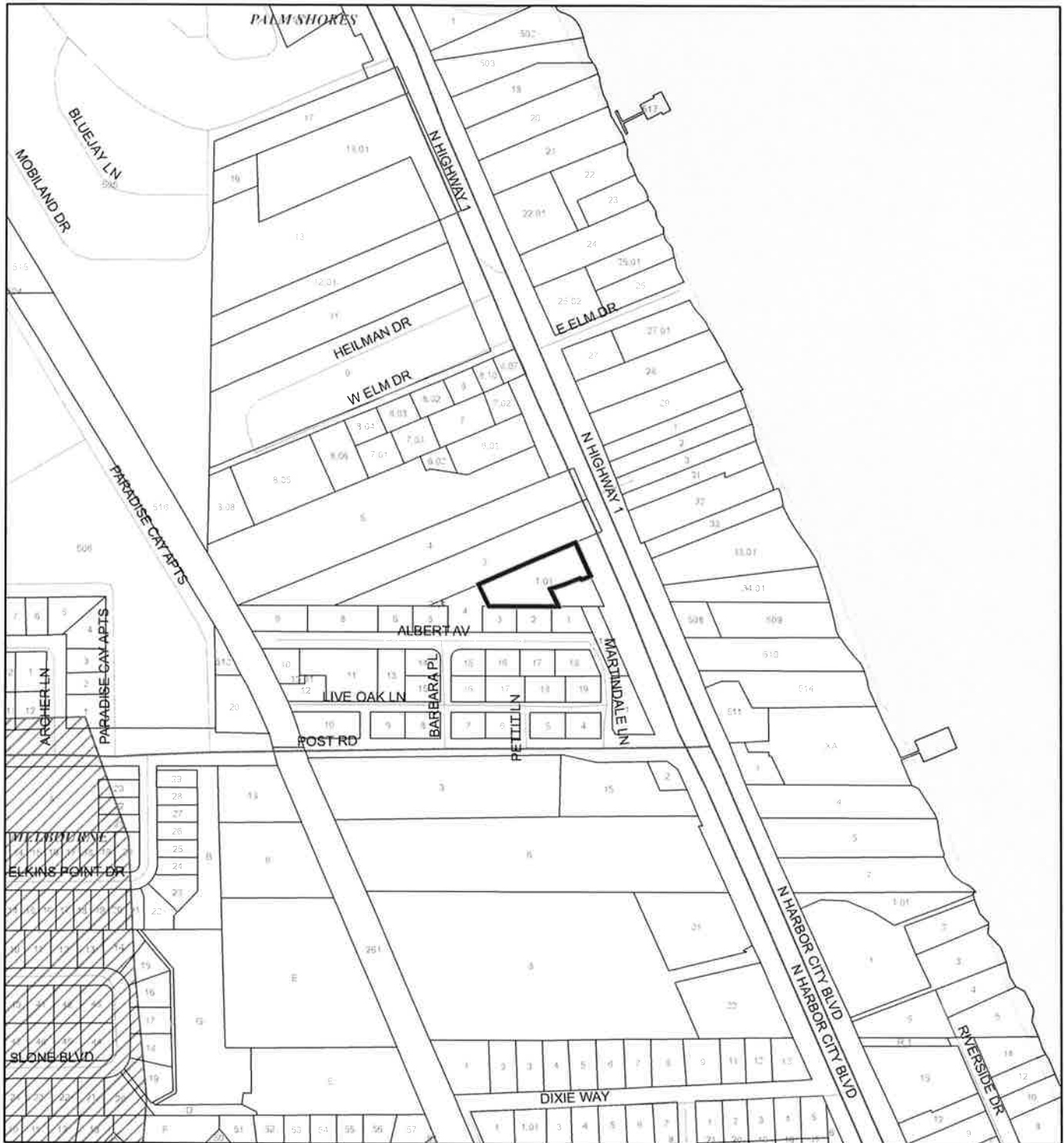


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

4090 US1, LLC




20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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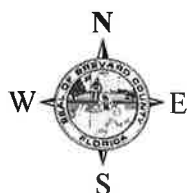
Produced by BoCC - GIS Date: 5/6/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

4090 US1, LLC

20PZ00031 SMALL SCALE AMENDMENT 20S.03



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/6/2020

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

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 15, 2020**, 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: Ron Bartcher; Brian Hodgers; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Peter Filiberto, Vice Chair; Bruce Moia; Joe Buchanan; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

4090 U.S. 1, LLC (Scott Lamb)

A Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.68 acres, located on the west side of U.S. Highway 1, approximately 430 feet north of Post Road. (No assigned address. In the Melbourne area.) (20PZ00031) (Tax Account 2611636 – portion of) (District 4)

4090 U.S. 1, LLC (Scott Lamb)

A change of zoning classification from RU-1-7 (Single-Family Residential), RU-2-10 (Medium Density Multi-Family Residential), and BU-1 (General Retail Commercial) to all BU-1. The property is 0.92 acres, located on the west side U.S. Highway 1, approximately 400 feet north of Post Road. (No assigned address. In the Melbourne area.) (20PZ00032) (Tax Account 2611636) (District 4)

Scott Lamb, 4251 Careywood Drive, Melbourne, stated the north half of the property was BU-1 on the front and a previous property owner rezoned it to RU-2-10, splitting the zoning into the three existing zonings that are there now. The land use has also changed over time, and originally it was 200 feet back from the U.S. 1 right-of-way and designated commercial. In 2005 the County changed the land use designation all along the new right-of-way along U.S. 1 from Residential 15 to commercial, with the goal to keep the corridor commercial and establish the commercial land use. He said he is asking for BU-1 because there is BU-1 on the north and south side of the property, and it would be a suitable zoning for the land use.

Ben Glover asked if Mr. Lamb plans on developing the property. Mr. Lamb replied there has been some interest from people who want a home-based business, or a small office, but until the zoning is cleaned up there are no plans.

Public Comment:

Bert Radbury, 4075 North Harbor City Boulevard, Melbourne, stated he owns the property across from the subject property. He said there is some mixed-use zoning in the area, but 90% of the surrounding property is residential; therefore, he is opposed to it. The drainage from the subject property drains across his property and directly into the Indian River Lagoon.

Ben Glover stated if the property is developed, they would have to retain the water, so it would actually benefit the Lagoon.

Bruce Moia stated because the property is on a State road they are going to be held to a higher standard of treatment and will have to meet the requirements for a 100-year storm.

Mr. Radbury stated his primary concern is that 90% of the surrounding zoning is residential.

Mr. Lamb stated site planning would handle the drainage. The east side of U.S. 1 is very different and he would never request to have this sort of change fronting the river, but there is a 7-Eleven 500 feet to the south of us, a VFW, an abandoned dog kennel to the north, and a used car lot to the north of that.

Motion by Bruce Moia, seconded by Ben Glover, to approve the requested Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 and NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Joe Buchanan, to approve the requested change of zoning classification from RU-1-7, RU-2-10, and BU-1 to all BU-1. The motion passed unanimously.