



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

3/2/2023

Subject:

Norman Leigh Sherman, Jr., and Karen Denise Turowski request a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC to RES 1. (22SS00014) (Tax Account 2002089) (District 1)

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 Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from AGRIC to RES 1 on 4.4 acres. The subject property has retained the Future Land Use (FLU) designation of AGRIC since the adoption of the FLU map in 1988. The subject property has been developed with one single-family mobile home since 1994; in May 2003, the property was subdivided less the south 330 feet to the current 4.4 acres.

A Future Land Use Map amendment from Agric to Res 1 is required for consistency with the Comprehensive Plan and to permit the owners to replace their current mobile home with a new mobile home. RRMH-1 requires a minimum size of 1 acre lots and is consistent with RES 1 land use designation which permits low density residential development with a maximum density of up to 1 unit per acre.

The developed character of the surrounding area is a mix of undeveloped land, single-family detached dwellings and mobile homes on lots of 10 acres to 1+ acres, zoned GU, AU, RRMH-5, and RRMH-1.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

On February 13, 2023, the Local Planning Agency heard the request and voted 9:1 to recommend approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return 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

March 3, 2023

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Jeffrey Ball

RE: H.3., Norman Leigh Sherman, Jr. and Karen Denise Turowski Request a Small Scale Comprehensive Plan Amendment (22S.18) to Change the Future Land Use Designation from AGRIC to RES 1. (22SS00014) (Tax Account 2002089)

The Board of County Commissioners, in regular session on March 2, 2023, continued the request from Norman Leigh Sherman, Jr. and Karen Denise Turowski for a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC to RES 1, until a better description of the property is obtained.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".
Kimberly Powell, Clerk to the Board

/sm

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 22S.17 (22SS00014)
Township 20G, Range 34, Section 22*

Property Information

Owner / Applicant: **Norman L. Sherman Jr; Karen D. Turowski**

Adopted Future Land Use Map Designation: Agricultural (AGRIC)

Requested Future Land Use Map Designation: Residential 1 (RES 1)

Acreage: 4.4 acres

Tax Account #: 2002089

Site Location: Southeast Corner of Pine Needle Street and Hog Valley Road,

Commission District: 1

Current Zoning: Rural Residential mobile home (RRMH-1)

Requested Zoning: N/A

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Agricultural (AGRIC) to Residential 1 (RES 1) on 4.4 acres of land. The subject property has retained the Future Land Use (FLU) designation of AGRIC since the adoption of the FLU map in 1988. The developed character of the surrounding area is a mix of undeveloped land, single family detached dwellings and mobile homes on lots of 10 acres to 1+ acres zoned GU, AU, RRMH-5, and RRMH-1.

Underlying this area is a 1914 plat initially recording 10-acre tract/lot sizes. By 1958, the General Use (GU) zoning classification was applied to the area requiring lots to be a minimum size of 1 acre. October 1973, a request by the previous owner to change the GU zoning classification to Rural Residential Mobile Coach (RRMC-1) was approved. For the rest of the surrounding, lot size requirements for the GU zoning classification changed from 1 acre to 5 acres. In 1988, Brevard County Comprehensive Plan went into effect applying the AGRIC Future Land Use to the subject property and the surrounding area. Included in the minimum criteria governing activities in this land use designation calls for residential densities not exceed one dwelling unit per five (5) acres. At this time, the FLU and zoning classification were consistent.

The subject property is currently developed with one (1) single-family mobile home residence developed in 1994. According to Official Records Book 2342/ Page 2164 dated December 17, 1981, the subject property was recorded as Lot 4, Block 2, approximately 9.22 acres. Based on Warranty Deed recorded in Book 4912/Page 0798 dated May 14, 2003, the subject property had been subdivided less the South 330 feet (as measured along the tract lines) to the current 4.4 acres.

The subject parcel's RRMH-1 zoning classification is not consistent with the AGRIC Future Land Use designation provided on the FLU map series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan.

The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within the Future Land Use element. However, the subject parcel's existing RRMH-1 zoning cannot be considered consistent with the RES 1:2.5 FLU designation.

A Future Land Use Map amendment from (Agric) to (Res 1) is required for consistency with the Comprehensive Plan and to permit the owners to replace their current mobile home with a new mobile home. RRMH-1 requires a minimum size of 1 acre lots and is consistent with RES 1 land use designation which permits low density residential development with a maximum density of up to 1 unit per acre.

A previous comprehensive plan amendment from AGRIC to RES 1 was approved in February 2009 (zoning file #11461) for a property directly northeast fronting on the northside of Pine Needle Street. This request to amend the FLU designation from AGRIC to RES1 could provide consistency of the zoning classification with the comprehensive plan and would permit the applicant to replace the existing mobile home with a new mobile home. Additionally, the FLU change would potentially permit the 4.4 acres property to be subdivided into 4 lots.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single-Family Residence	GU/RRMH-1	AGRIC
South	Single-Family Residence	RRMH-1	AGRIC
East	Vacant Residential	RRMH-1	AGRIC

West	Single-Family Residence	RRMH-1	AGRIC
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To the south, east and west of the subject property are single-family residences. To the north, three properties front the subject property. One is vacant, undeveloped residential land and the other two are single-family residences.

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.

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:

- 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 subject property has retained the Future Land Use (FLU) designation of AGRIC since the adoption of the FLU map in 1988. Typical Future Land Use designations in the area are AGRIC. Most recent FLU change occurred in 2009 from AGRIC to RES 1 on the same street. The request could be considered further introduction of RES 1 into an area that is predominately AGRIC.

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

No single-family residence was constructed adjacent to the subject site in the preceding three (3) years.

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

There have not been any development approvals that are pending construction within the past 3 years.

Administrative Policy 4

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The developed character of the surrounding area is mobile-home rural residential lots approximately one (1) acre or larger in size. There is an existing pattern of single-family and mobile home residential zoning surrounding the subject parcel.

The developed character of the surrounding area is a mix of undeveloped land, single family detached dwellings and mobile homes on lots zoned GU, AU, RRMH-5, and RRMH-1.

The applicant is proposing to split the subject property into 2 lots comprising of a one (1) acre and a two and half (2.5) acre lot. The Northwest corner portion of the property would remain a one (1) acre lot with RRMH-1 zoning classification and the remaining three (3)+ acres would be rezoned as AU. Additionally, the FLU change would potentially permit the 4.4 acres property to be subdivided into 4 lots.

Residential 1 (maximum of 1 dwelling unit per acre) Policy 1.9

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing AGRIC land use designation; or

The subject parcel across the street to an existing parcel of land with RES 1 Future Land Use due to a change of land use in 2008.

- B. Areas which serve as a transition between existing land uses or land use

designations with density greater than one (1) unit per acre and areas with lesser; or

The subject parcel does not serve as a transition between greater and lesser densities.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

The subject parcel is not adjacent to an incorporated area.

Concurrency

The closest concurrency management segment to the subject property is US Hwy 1, from Burkholm Rd. to the Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 10.10% of capacity daily. The maximum development potential from the proposed Future Land Use change increases the percentage of MAV utilization by 0.07%. The corridor is anticipated to operate at 10.17% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The closest available Brevard County potable water line or sewer connection to the subject property is approximately two and half (2.5) miles southeast across I-95 HWY at the north end of Sanctuary Drive.

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

Environmental Resources

Mapped resources include Protected and Specimen Trees, Protected Species, Floodplain and Wetlands.

Protected and Specimen Trees may exist on the subject property.

Natural Resource Management indicates that federally and/or state protected species may be present on the property.

Floodplain has been mapped on the subject property as SFHA A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map.

Wetlands have been mapped on the subject property.

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.

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item #22SS00014**

Applicant: Norman Leigh Sherman, Jr. and Karen Denise Turowski

FLU Request: AGRIC to all RES1

Note: Applicant wants to rezone entire parcel RES1 for Zoning consistency.

P&Z Hearing Date: 02/13/23; **BCC Hearing Date:** 03/02/23

Tax ID No: 2002089

- 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:

- Floodplain
- Wetlands
- Protected and Specimen Trees

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

Land Use Comments:

Floodplain

The northwest corner of the property is within an area mapped as SFHA A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area, often associated with increased density, increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. 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."

Wetlands

Aerial images indicate a potential of wetlands in the property. A wetland assessment may be required at permitting for development.

Protected and Specimen Trees

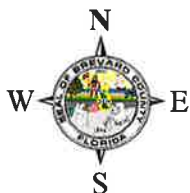
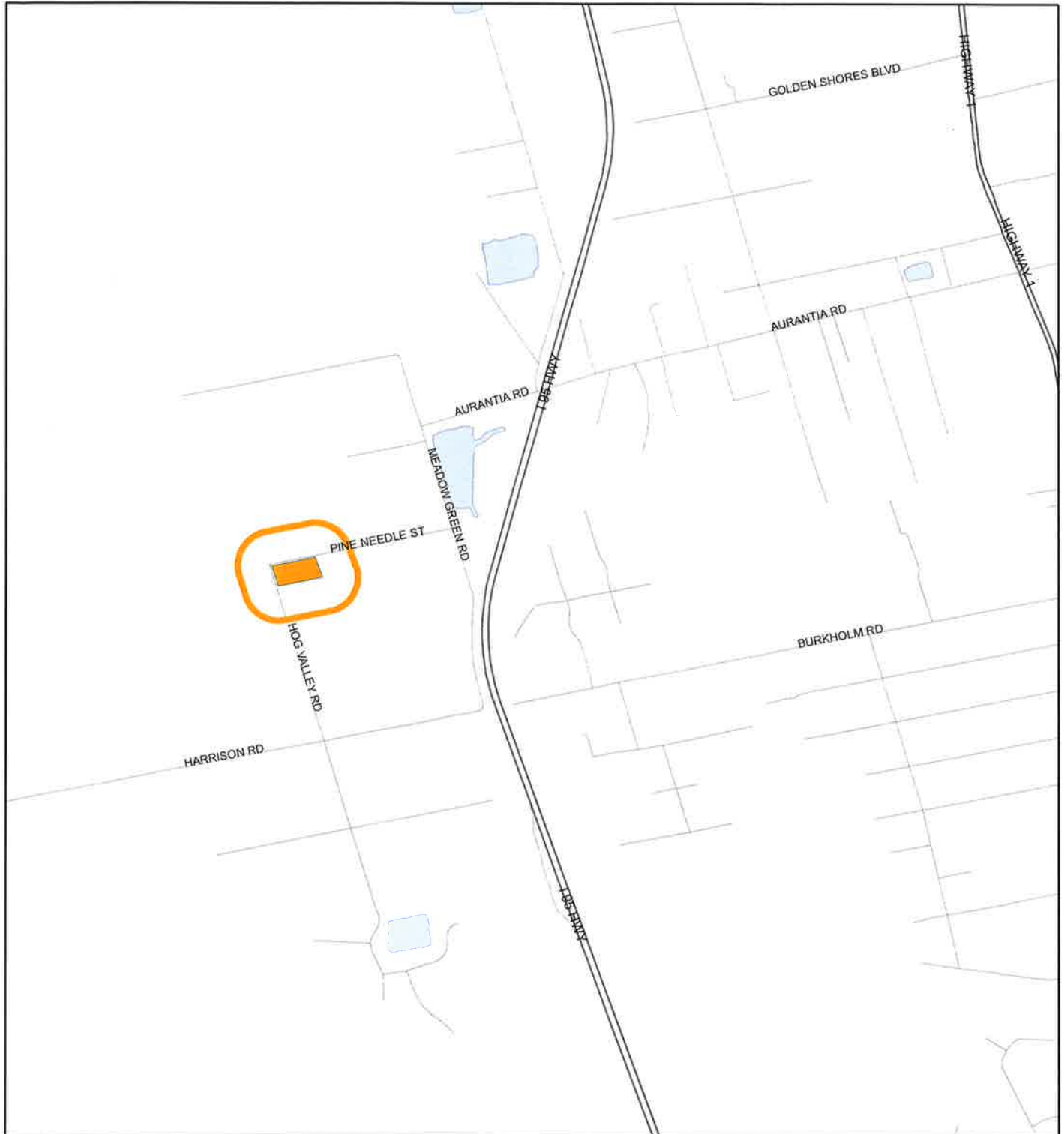
Protected and Specimen Trees may exist on the parcel. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building 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 tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

SHERMAN, NORMAN LEIGH, JR
22SS00014



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: 12/14/2022

— Buffer
— Subject Property

ZONING MAP

SHERMAN, NORMAN LEIGH, JR
22SS00014



1:4,800 or 1 inch = 400 feet

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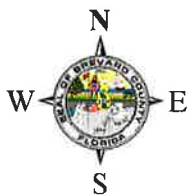
Produced by BoCC - GIS Date: 12/14/2022

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

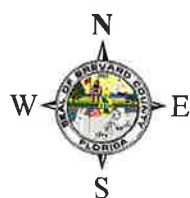
 Subject Property

 Parcels

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Produced by BoCC - GIS Date: 12/14/2022

22SS00014

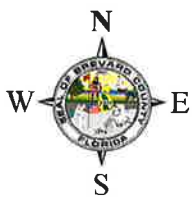


Parcels

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AERIAL MAP

SHERMAN, NORMAN LEIGH, JR
22SS00014



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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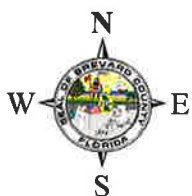
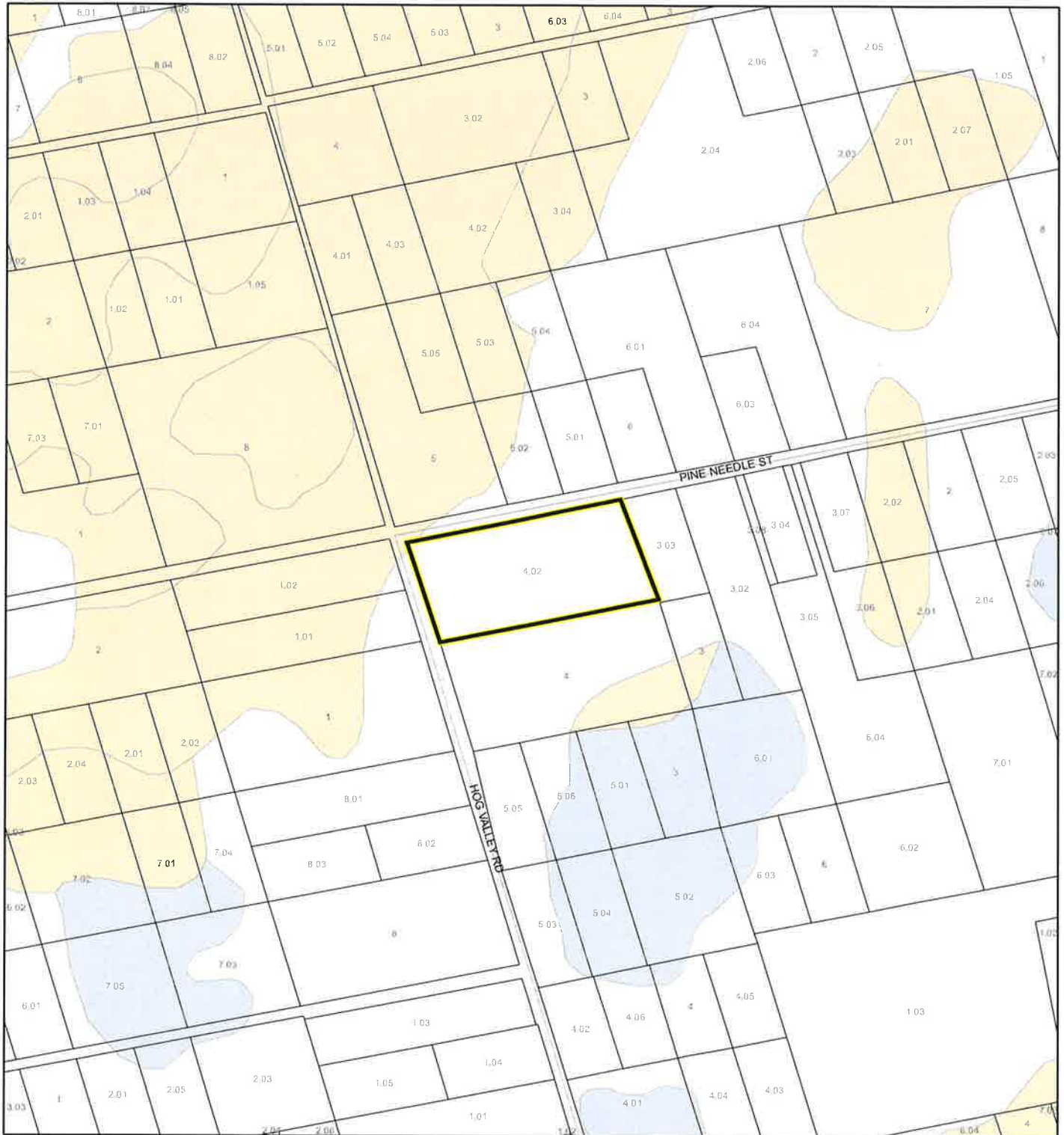
 Subject Property

 Parcels

NWI WETLANDS MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

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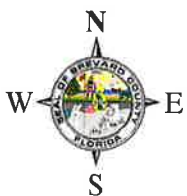
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

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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

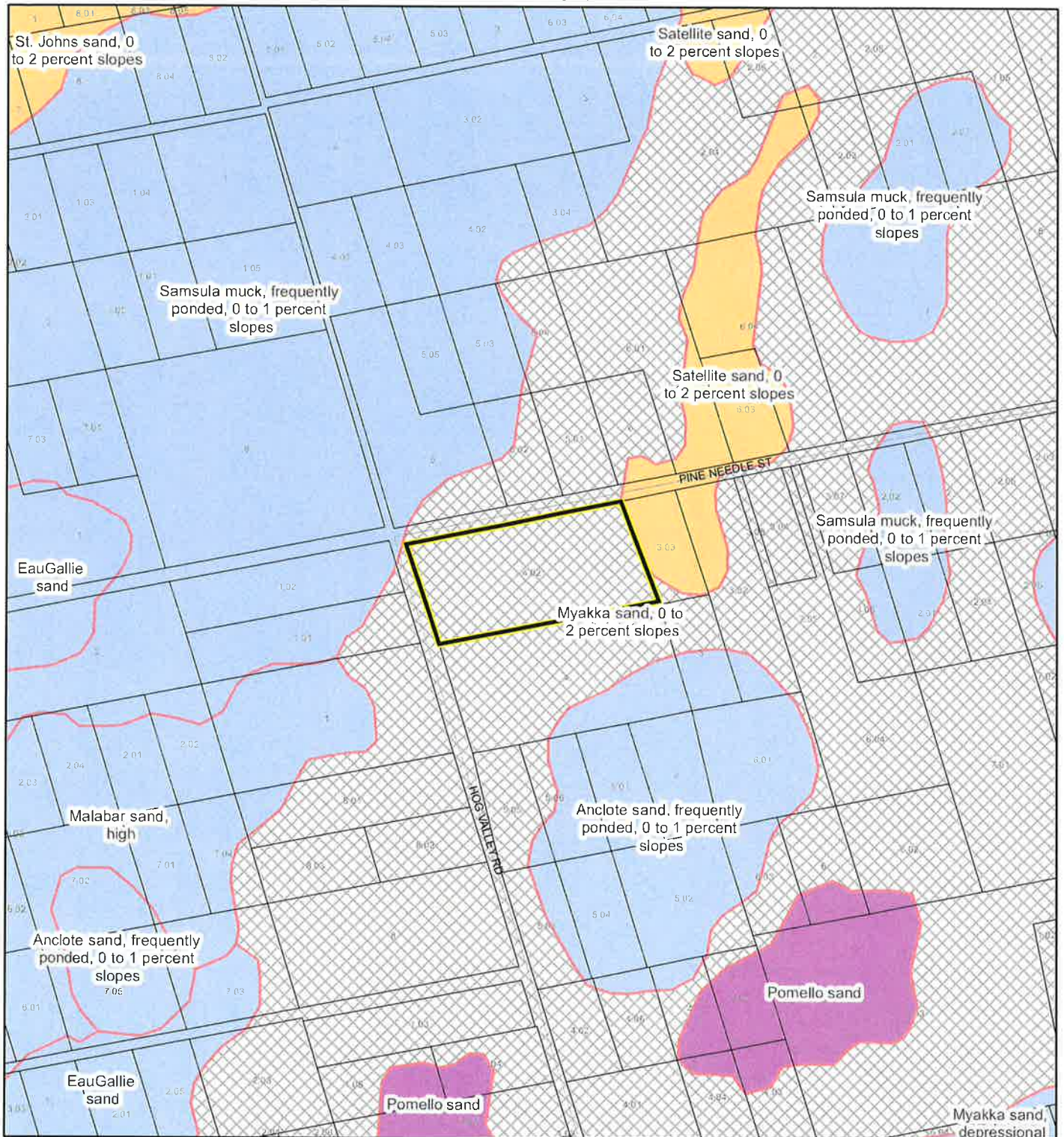
Subject Property

Parcels

USDA SCSSS SOILS MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

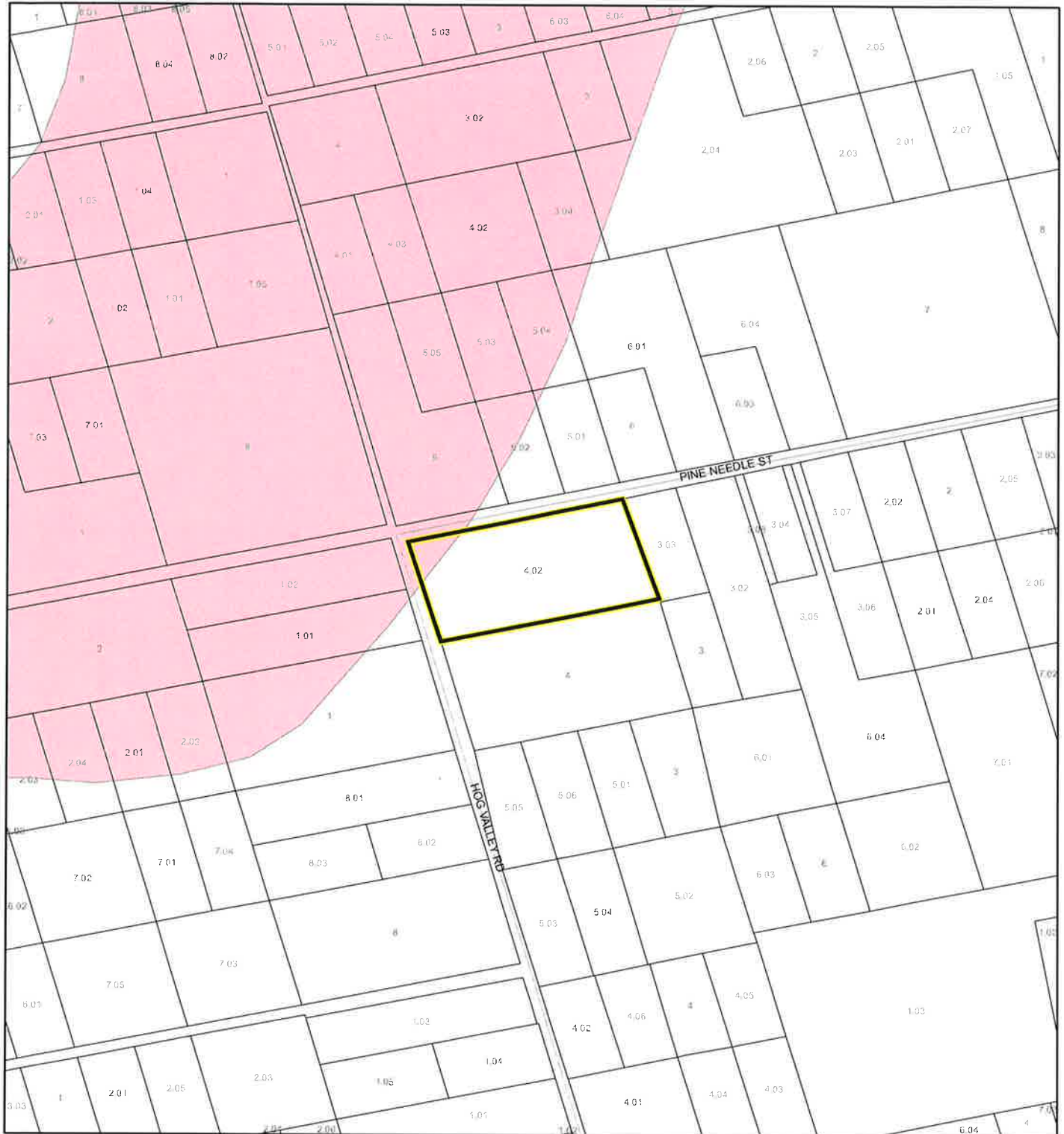
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FEMA FLOOD ZONES MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



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FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/14/2022

 Subject Property

 Parcels

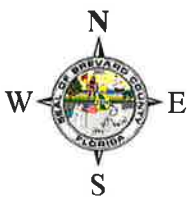
Coastal High Hazard Area

 SurgeZoneCat1

EAGLE NESTS MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



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Produced by BoCC - GIS Date: 12/14/2022

 Subject Property

 Parcels

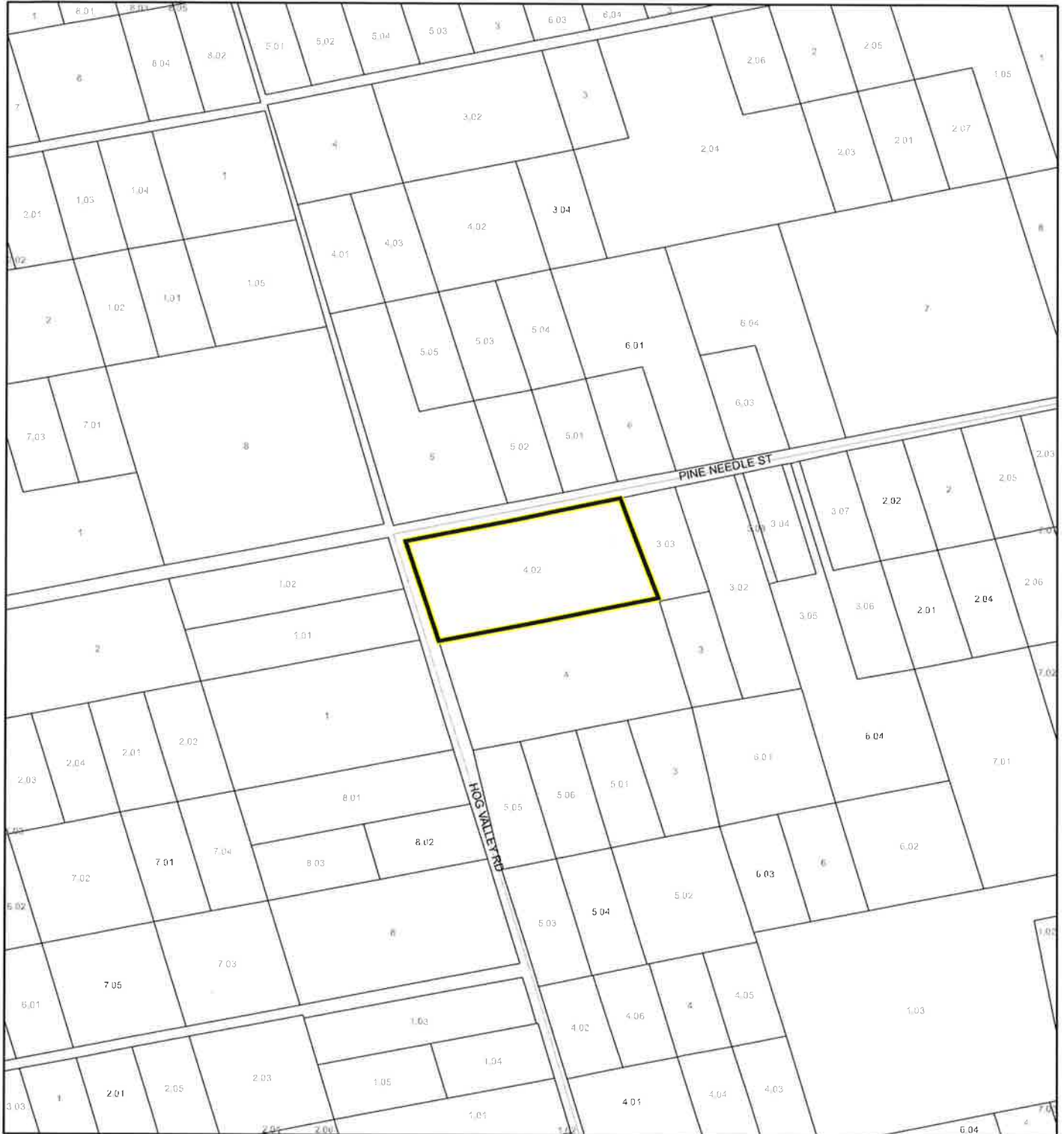


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



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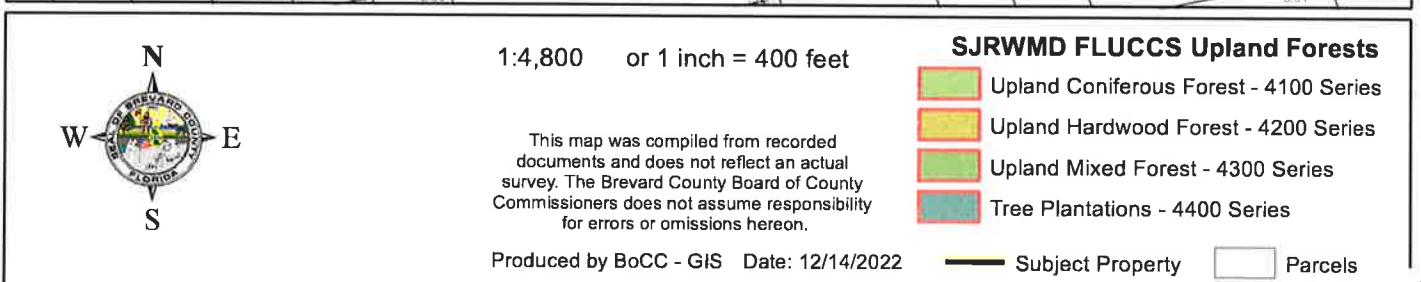
Produced by BoCC - GIS Date: 12/14/2022

 Subject Property

 Parcels

 Scrub Jay Occupancy

22SS00014



PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 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); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Bruce Moia; Logan Luse (D4-Alt.) (D5); 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

Norman Leigh Sherman, Jr., and Karen Denise Turowski

A Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1), on 4.40 acres, located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) (22SS00014) (Tax Account 2002089) (District 1)

Jeffrey Ball stated it has come to staff's attention that the subject property has been split and the staff comments do not reflect that, so the board can make a recommendation based on that information or return the application back to staff for review in order to update the staff comments to reflect the change.

Ron Bartcher asked if staff knows how the lot has been split. Trina Gilliam replied the property was 4.4 acres, and one acre of the northwestern portion fronting Pine Needle Street has been split from it.

Mark Wadsworth asked if the board can hear from the applicant. Alex Esseeesse replied yes, the board can hear the applicant and gather more information, and then either send it back to staff or make a recommendation.

Karen Turowski, 1979 Garwood Drive, Orlando, stated they purchased the 4.4-acre property and then applied for a building permit, which is how everything came about. She said they purchased a portable structure that they are turning into a single-family home, and there is a single-wide mobile home that is only being used for storage of furniture, but because there are two living structures on a single-structure lot, they were told they had to go through this process. She noted at some point they will try to change the zoning on the lot with the mobile home because that is where they want to retire. She said the main purpose is to get the house built, but they can't do it with two structures on the same property so they had to split the property. She stated the Building Department required them to have a Quit Claim deed showing the property had been split, but apparently that should have not been done before the rezoning. She noted they do not intend to sell either lot.

No public comment.

Motion by Robert Sullivan, seconded by Debbie Thomas, to hear the request. The motion passed unanimously.

Motion by Bruce Moia, seconded by Brian Rodgers, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from AGRIC to RES 1. The motion passed unanimously, with Hopengarten abstaining.

ORDINANCE NO. 23- _____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE EIGHTEENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.17, 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 2022 as Plan Amendment 22S.17; 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 22S.17; 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

WHEREAS, on February 12, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.17, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on March 2, 2023, 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 22S.17; and

WHEREAS, Plan Amendment 22S.17 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.17 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 22S.17 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 22S.17, 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,

Cont. #3 '12

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 ____ day of _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2023.

EXHIBIT A
22S.17 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

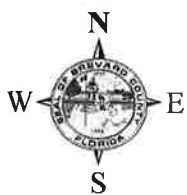
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

SHERMAN, NORMAN LEIGH, JR

22SS00014



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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Produced by BoCC - GIS Date: 12/14/2022

EXHIBIT B

Contents

1. Legal Description

PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, FEBRUARY 13, 2023, and THURSDAY, MARCH 2, 2023. DISTRICT 5.1. (22200066) Lori Ann Halbert (Jason Steele) requests a change of zoning classification from RU-1-15 (Single-Family Residential) to RU-2-15 (Medium Density Multi-Family Residential), on property described as Lot 8, Block 2, Plat of Eden Estates according to the map or plat thereof, as recorded in Plat Book 10, Page 29, of the Public Records of Brevard County, Florida, Section 13, Township 27, Range 37, (0.57 acres) located on the north side of Coral Way, approx. 685 ft. west of Highway A1A, (124 E. Coral Way, Indian Shores) DISTRICT 1.2. (22200064) Brian and Dana Scholz (Stuart Buchanan) request a change of zoning classification from AU (Agricultural Residential) to RS-1 (Rural Residential), on property described as Lot 7.03, Block 6, Indian River Park, as recorded in ORB 9045, Pages 1291 - 1292, of the Public Records of Brevard County, Florida, Section 20, Township 20G, Range 35, (3.91 acres) located on the north side of Orlando Ave., approx. 0.25 mile east of U.S. Highway 1 (3620 Orlando Ave., Mims) 3. (225500014) Norman Leigh Sherman, Jr., and Karen Denise Turowski request a Small Scale Comprehensive Plan Amendment (225.18) to change the Future Land Use designation from AGRIC (Agricultural) to RES-1 (Residential 1), on property described as Tract 4, Block 2, Section 22, Indian River Park, according to the plat thereof, as recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida, less and except the south 330 feet measured along the Tract lines, Section 22, Township 20G, Range 34, (4.40 acres) located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard 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. 4. (22200065) Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust (Richard Bartley Spangler) request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 774, as recorded in ORB 7657, Pages 2771 - 2773, of the Public Records of Brevard County, Florida, Section 06, Township 21, Range 35, (2.88 acres) located on the east side of U.S. Highway 1, approx. 0.21 mile north of Brockett Rd. (No assigned address. In the Mims area.) 5. (22200049) Edita Realty (James McKnight) requests a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-10 (Medium Density Multi-Family Residential), on property described as Lots 4 & 5, Block 33, North Port St. John, Unit 3, as recorded in ORB 9647, Pages 2868 - 2872, of the Public Records of Brevard County, Florida, Section 13, Township 23, Range 35, (0.40 acres) located on the north and northeast corner of Avon St., approx. 200 ft. east of Osceola Ave. (950 & 960 Avon St., Port St. John) 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, FEBRUARY 13, 2023, 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. C, Viera, Florida, on THURSDAY, MARCH 2, 2023, 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, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.