



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.9.

12/7/2023

Subject:

FL and NC Investment Properties, LLC (Don & Janice Opatha) requests a change of zoning classification from RR -1 to AU. (23Z00066) (Tax Account 2106726) (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 change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential)

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from RR-1 to AU on a 3.12-acre lot for the purpose of raising exotic birds. The subject parcel is currently developed with a single-family residence and a pole barn. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning; however, the raising of exotic birds are not permitted in this classification.

The AU zoning requires a minimum of 2.5 acres, having a minimum width and depth of 150-feet, and a minimum house size of 750 square feet. The AU zoning allows agricultural pursuits and single-family residential development of spacious character. This classification permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, as well as the raising of exotic birds.

The surrounding area is characterized as single-family homes on lots containing 1 or more. The parcel to the north is 19.5-acre public school zoned P (Public) within the City of Titusville. This request can be considered an introduction of the AU zoning classification to the east of War Eagle Boulevard. RR-1 is the predominant zoning classification west and east of War Eagle Boulevard.

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

On October 16, 2023, the Planning & Zoning Board heard the request and voted 6:3 to recommend approval.

On November 2, 2023, the Board continued the request for the applicant to work with staff on a BDP. The applicant is not willing to impose a BDP on the property.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

23Z00066

FL and NC Investment Properties, LLC

RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2106726
Parcel I.D.: 21-35-30-00-781
Location: 1225 War Eagle Blvd., Titusville. Approx. 0.4-miles south of Dairy Rd. and approx. 840-feet north of Canon Ct. (District 1)
Acreage: 3.12 acres

Planning & Zoning Board: 10/16/2023

Board of County Commissioners: 11/02/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RR-1	AU
Potential*	3 SF units	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 15	YES RES 15

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a 3.12-acres for the purpose of being able to raise exotic birds on the property. The subject parcel is currently developed with a single-family residence and a pole barn. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning; however, the raising of exotic birds are not permitted in this classification.

The subject parcel originally consisted of a 2.06-acre flag lot, approved June 26, 1989, as administrative action **A-0454**. The subject parcel was recorded into the current configuration per Official Records Book 3148, Page 2639 and 3153, Page 1750 on September 10, 1991. The original zoning on the property was AU.

Zoning Resolution **Z-8458** rezoned the parcel from AU to RR-1 effective August 28, 1989.

There are no open code enforcement cases.

AU requires a minimum of two and one-half (2.5) acres, having a minimum width and depth of 150-feet. The barn setbacks in the proposed AU zoning classification are the same as the current RR-1 classification. The existing single-family residence and barn were built prior to 2000. It appears that the existing barn meets the setbacks.

The applicants plan to use the property to keep exotic birds (non-poultry). The applicants will have to meet the noise/nuisance ordinance Sec. 14-57.

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

There are zero (0) properties classified as bona fide agricultural with the Brevard County Property Appraiser's office located within 500-feet of the subject property.

The proposed Agricultural Residential (AU) classification allows agricultural pursuits and single-family residential development of spacious character. This classification permits cattle, goats, bees, rabbits, horses, mules, lambs, and pigs/hogs (limited to 3) without a Conditional Use Permit (CUP). Hog farms requires a minimum of 10 acres. A plant nursery is also a permitted use. It permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises as well as the raising of exotic birds.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	City of Titusville (Public school)	P (Public)	Educational
South	Single-Family Residence	RR-1	RES 15
East	Single-Family Residences	RR-1	RES 15
West	Single-Family Residences	RR-1 & AU	RES 15

To the north is a 19.5-acre parcel through the City of Titusville zoned Public (P).

To the south is a single-family residence on 1-acre with RR-1 zoning.

To the west are four (4) parcels across the ROW. The northern most parcel is a 5.06-acre single-family residence with RR-1 zoning. The next parcel is a flag lot with a single-family residence on 2.66-acres with AU zoning. The next parcel is another flag lot with a single-family residence on 1.17-acres with RR-1 zoning. The southern most parcel is 1.04 acres with a single-family residence zoned RR-1.

To the east are also four (4) parcels. The northern most parcel is a 1.36-acre single-family residence with RR-1 zoning. The next parcel is a 1.85-acre parcel with a single-family residence with RR-1 zoning. The next parcel is a 1.27-acre single-family residence with RR-1 zoning. The last parcel is a 1.2-acre parcel with a single-family residence with RR-1 zoning.

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

The proposed AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals including exotic birds and plant nurseries. It allows for commercial uses and sale of items grown on the property. The applicants will have to meet the noise/nuisance ordinance Sec. 14-57 and Sec. 62-2271.

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

There are no pending zoning actions within a half-mile radius of the subject property.

Future Land Use

The subject property is currently designated as Residential 15 (RES 15) FLUM. The proposed AU zoning can be considered consistent with the existing RES 15 FLUM designation per Sec. 62-1255. Both the current RR-1 zoning and proposed AU zoning classification are consistent with the RES 15 FLUM designation based on #62-1255. There is only one Future Land Use Designation, RES 15, within 500-feet of the subject property. Per **FLUE Policy 1.4**, the Residential 15 land use designation permits the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre. Because of the AU zoning, only one single-family home would be allowed on this parcel.

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

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

Criteria:

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

The subject parcel is located in an established single-family residential area. The applicants will have to meet the noise/nuisance ordinance Sec. 14-57 and Sec. 62-2271. The Board may recognize the close proximity (7) seven single-family homes.

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

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

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

1. historical land use patterns;

The surrounding area is characterized as single-family homes on lots ranging from one (1) acre or more. There is one (1) FLU designation within 500-feet of the subject site: RES 15.

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

It appears no changes to the immediate area have occurred within the last three (3) years.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

There are no pending zoning actions within one-half mile of the subject property.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

This request can be considered an introduction of the AU zoning classification to the east of War Eagle Blvd. RR-1 zoning is the predominant zoning classification west and east of War Eagle Blvd. AU allows the commercial sale of items grown on the property as well as all agricultural pursuits such as the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration. Abutting the property there are 5 properties with SFR's zoned RR-1. The Board should recognize the residential character of the area.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The developed character of the area is single-family residential. The subject property is surrounded by single-family homes zoned RR-1. Further north is a public school on a 19.98-acre parcel located in the City of Titusville zoned Public. The immediate surrounding parcels are all developed with single-family homes on 1-acre or larger lot sizes zoned RR-1.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

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

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

This area is not considered transitional because there are no commercial, industrial or other non-residential uses within 0.5-miles of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Dairy Rd., between Holder and Singleton which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 37.61% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 37.67% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel has access to City of Titusville water to the front of the property line between the sidewalk and War Eagle Blvd. The closest sewer gravity main is 0.2-miles south at the intersection of Fuji Dr. and War Eagle Blvd.

Environmental Constraints

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

For Board Consideration

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

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

Item No. 23Z00066

Applicants: Don and Janice Opatha (Owner: FL & NC Investment Properties LLC)

Zoning Request: RR-1 to AU

Note: requesting agricultural zoning to keep exotic birds (non-poultry)

Zoning Hearing: 10/16/2023; **BCC Hearing:** 11/02/2023

Tax ID No: 2106726

- 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 Protection
- Hydric Soils
- Protected Species
- Protected and Specimen Trees
- Titusville Area of Critical Concern

The property is mapped within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Special Flood Hazard Area (SFHA) Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** 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." The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal, or performing any land clearing activities.

A large portion of the subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design or building permit submittal.**

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt.

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one dwelling unit per five acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696.

Florida Scrub Jay occupancy is mapped on the entire parcel. 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.

Land Use Comments:

Floodplain Protection

The property is mapped as being within the St. Johns Riverine floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Special Flood Hazard Area (SFHA) Map. **The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage and density restrictions.** Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985).

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." The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal, or performing any land clearing activities.

Hydric Soils

A large portion of the subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design or building permit submittal.**

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt.

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one dwelling unit per five acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696.

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at (321) 633-2016 prior to any plan or permit submittal.**

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, Florida Scrub Jay occupancy is mapped on the entire parcel. 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.

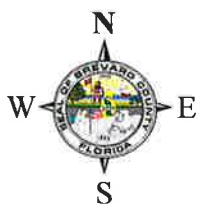
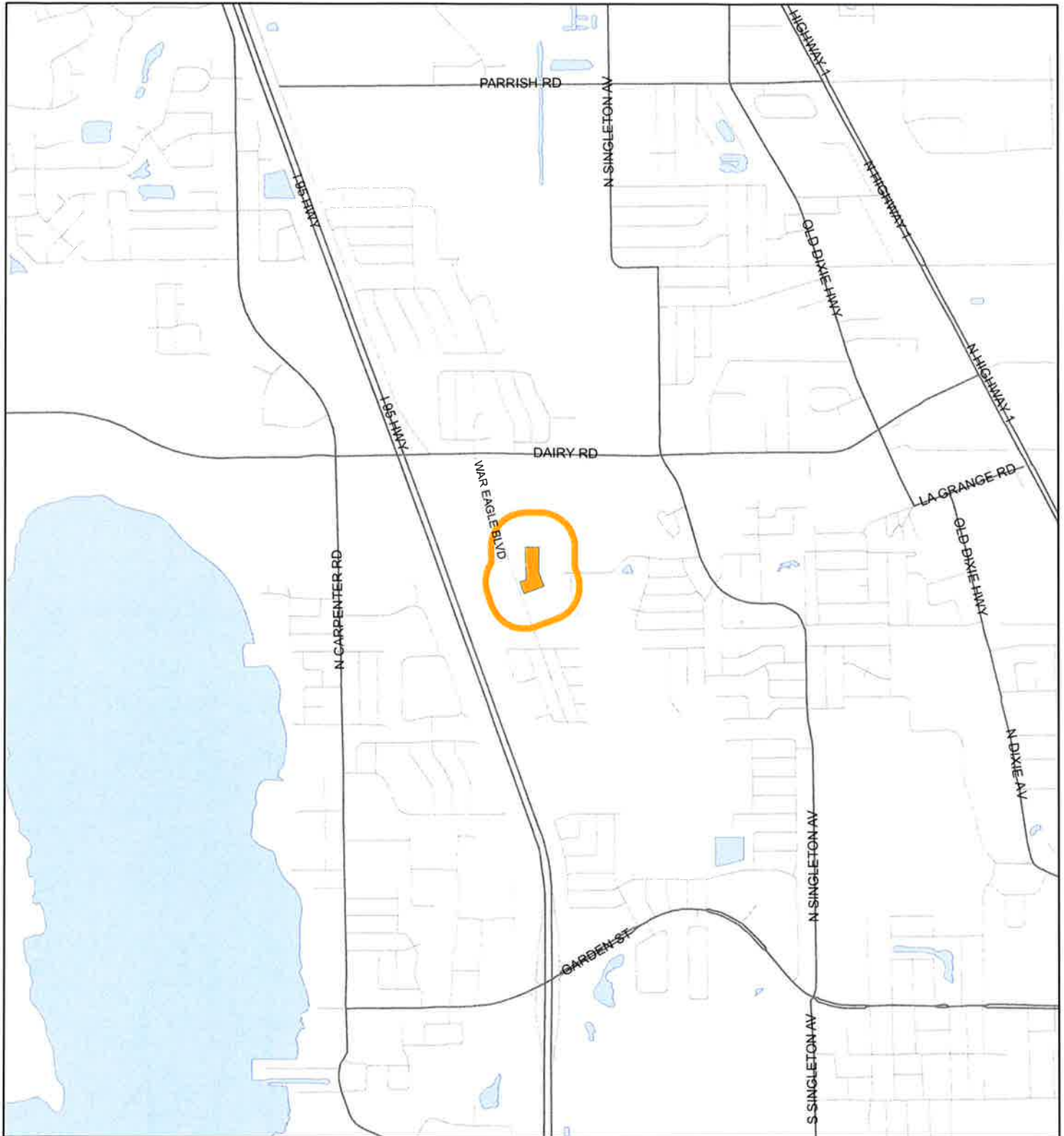
Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements.

Titusville Area of Critical Concern

The property is mapped within the Titusville Area of Critical Concern. However, aquifer recharge soils are not mapped on the property; thus, prime wellhead protection does not apply.

LOCATION MAP
FL & NC INVESTMENT PROPERTIES, LLC
23Z00066





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.

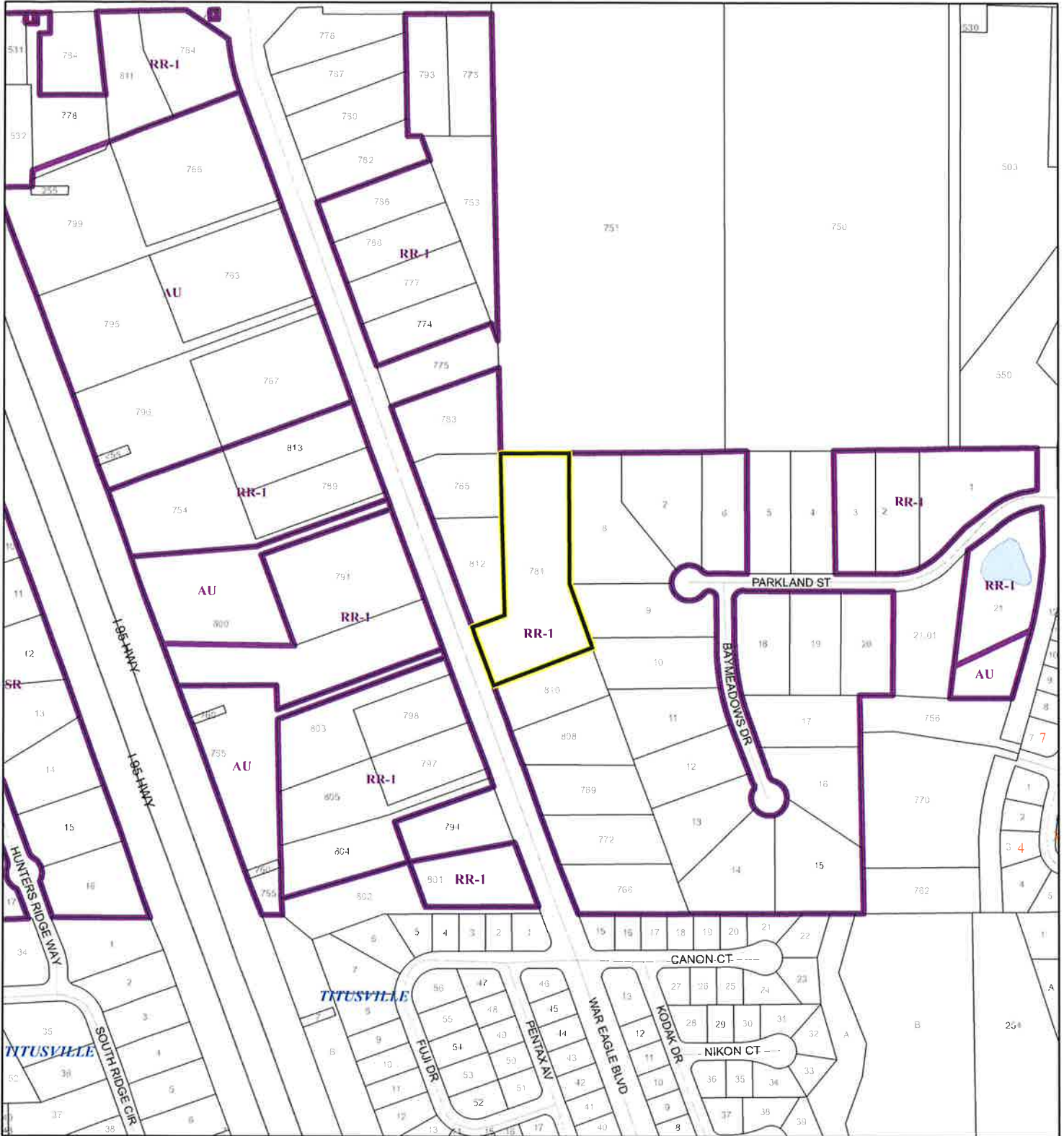
Produced by BoCC - GIS Date: 8/4/2023

-  Buffer
-  Subject Property

ZONING MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



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: 8/4/2023

Subject Property

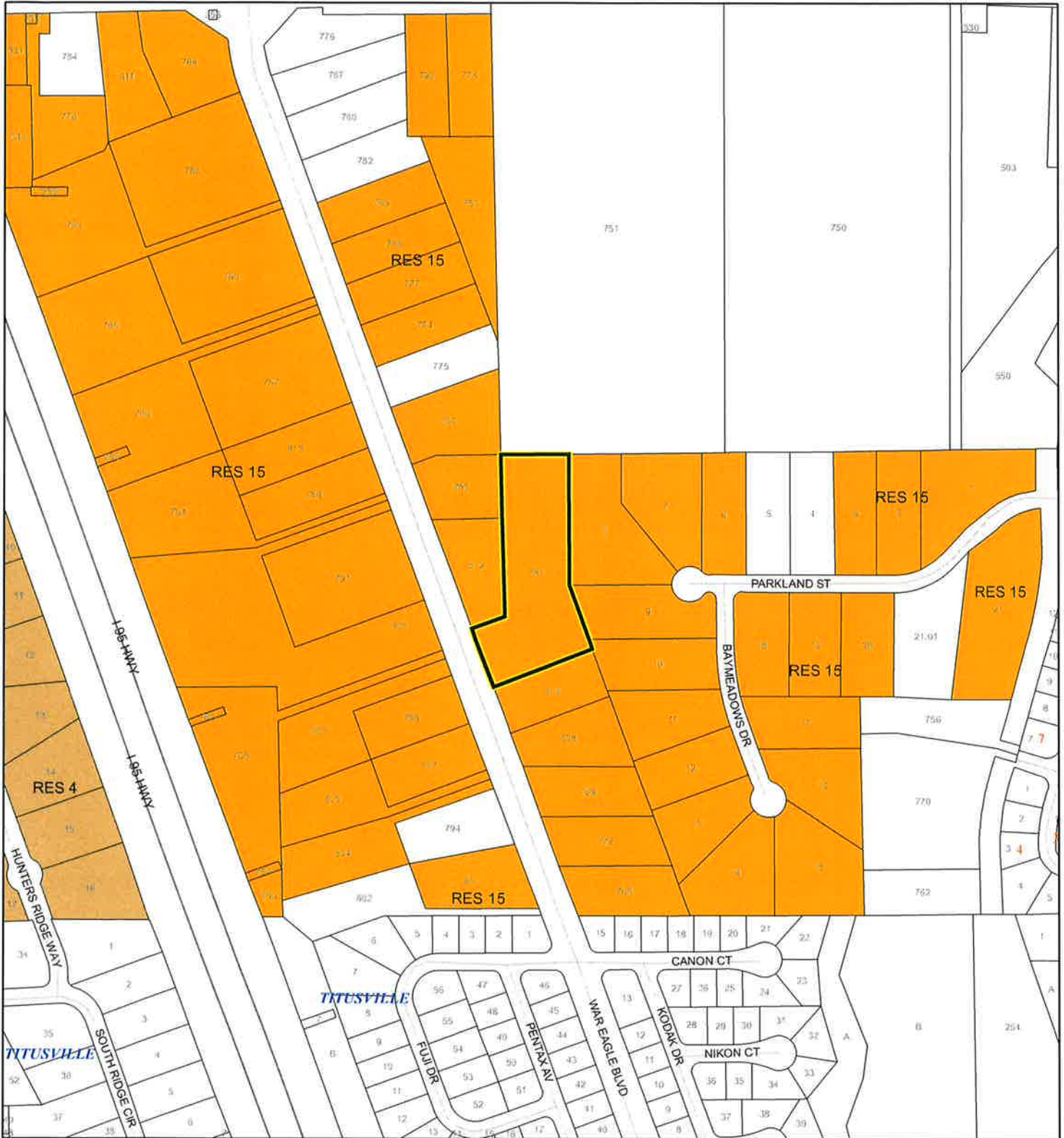
Parcels

Zoning

FUTURE LAND USE MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



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: 8/4/2023

AERIAL MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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

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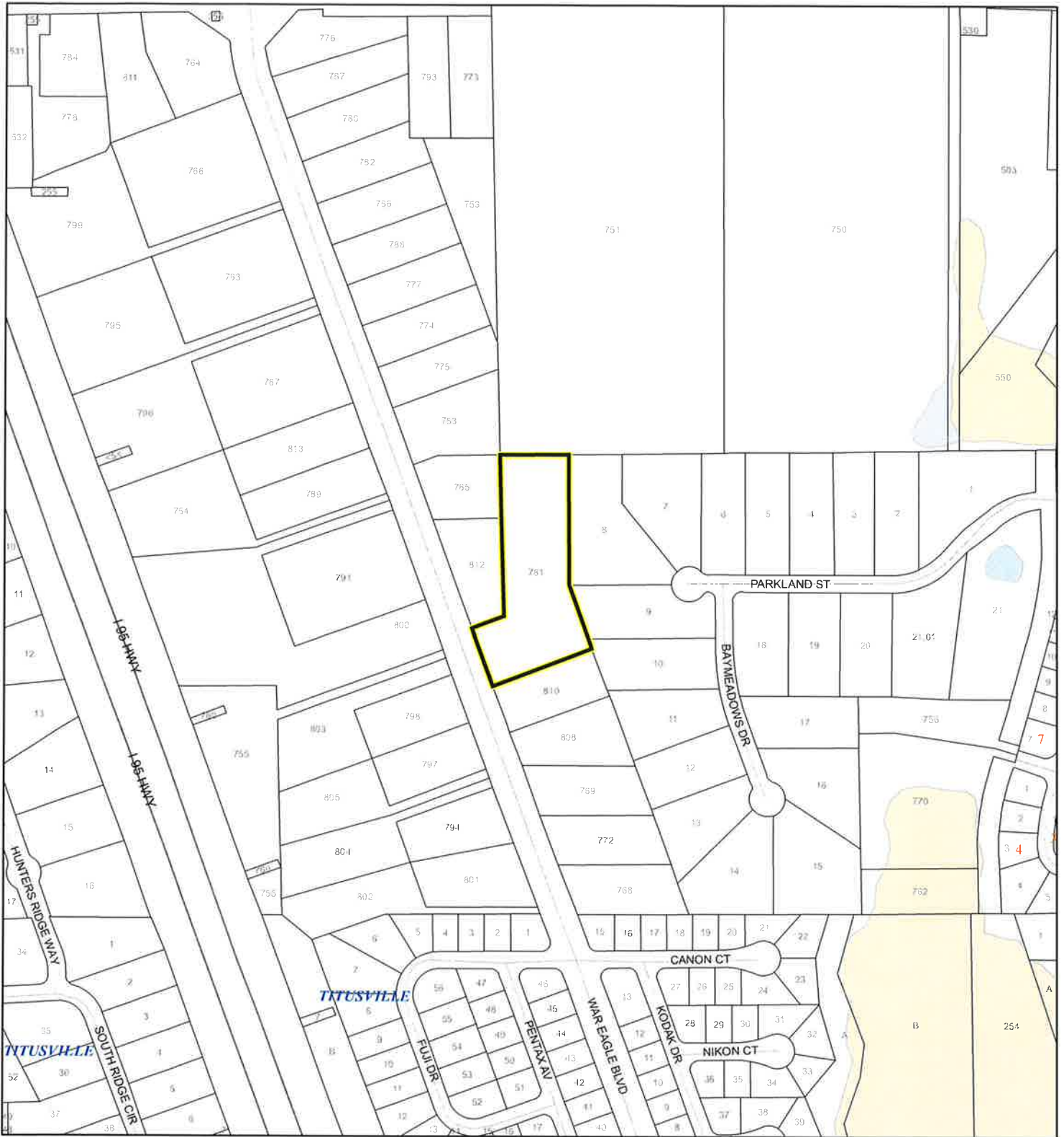
 Subject Property

 Parcels

NWI WETLANDS MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066










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: 8/4/2023

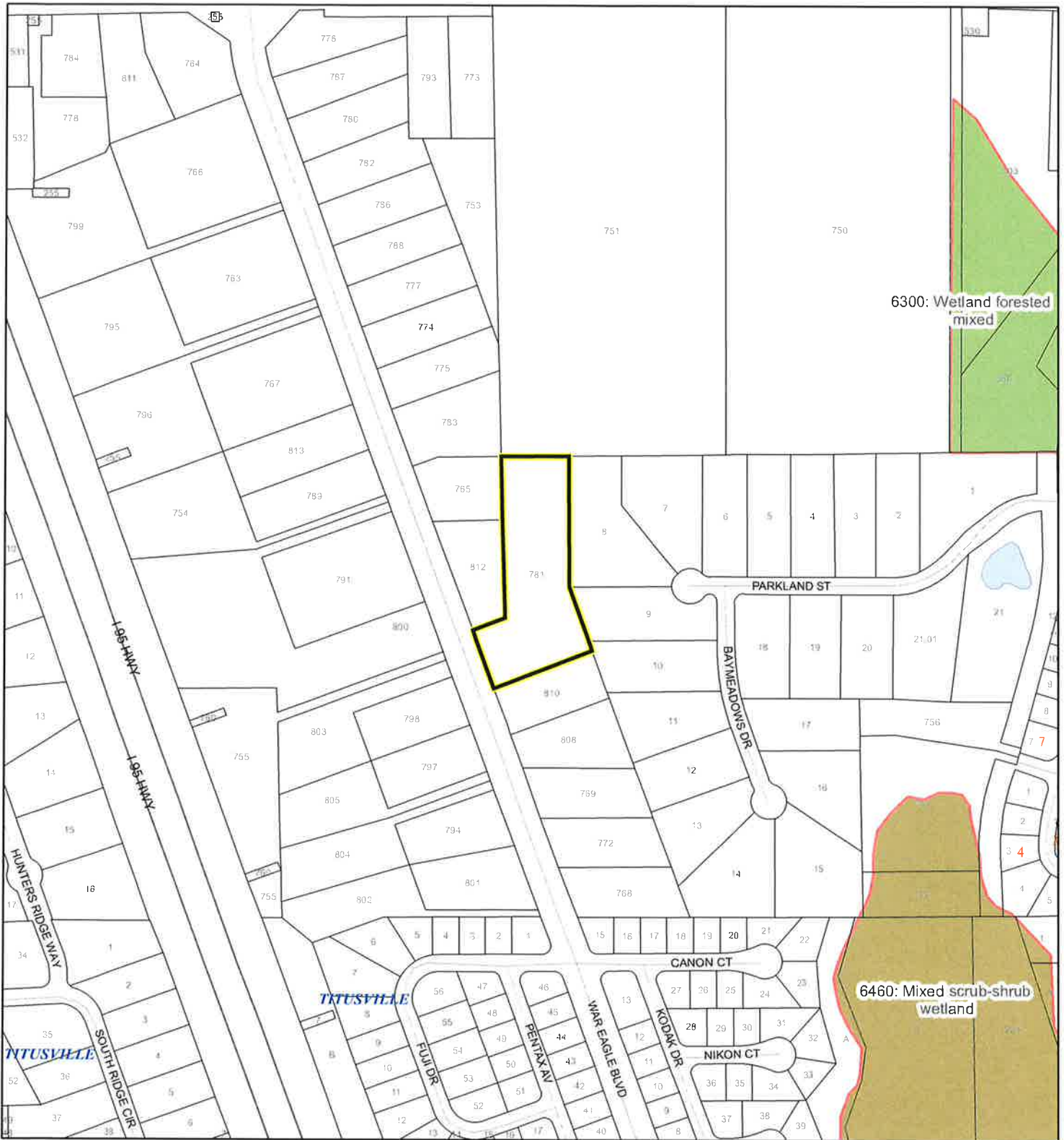
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



6300: Wetland forested mixed

6460: Mixed scrub-shrub wetland



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: 8/4/2023

SJRWMD FLUCCS WETLANDS

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

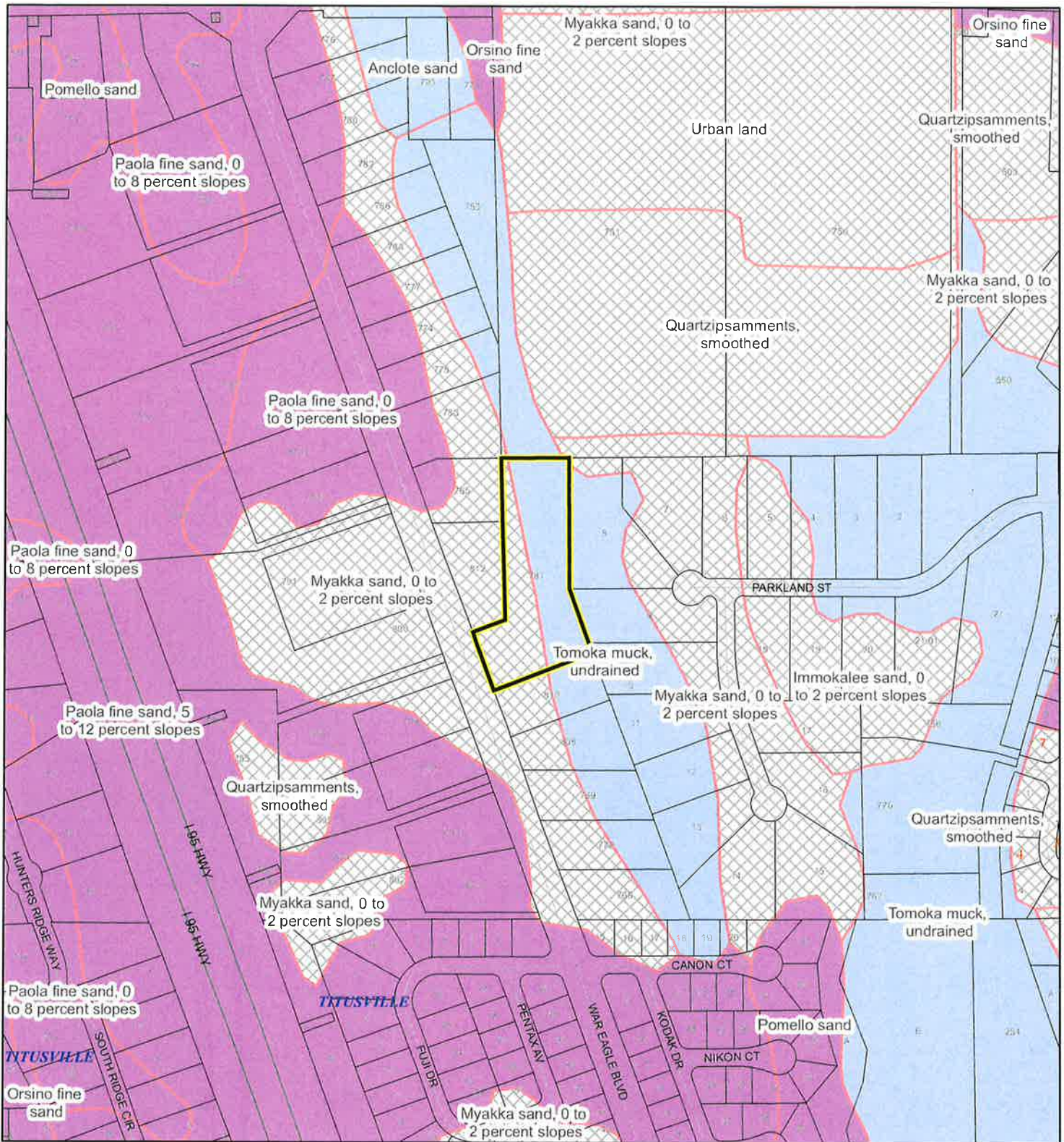
Subject Property

Parcels

USDA SCSSS SOILS MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/4/2023

USDA SCSSS Soils

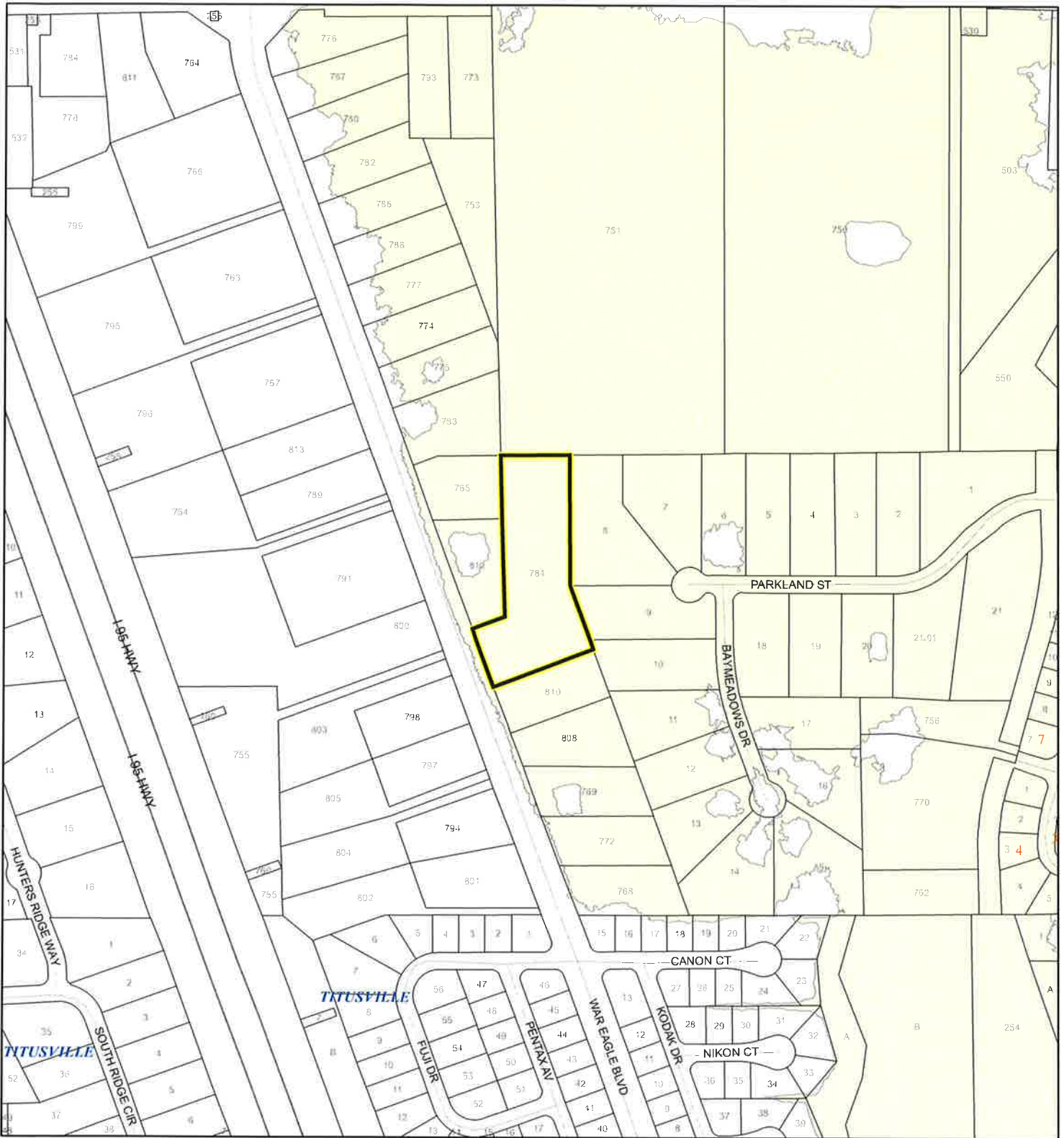
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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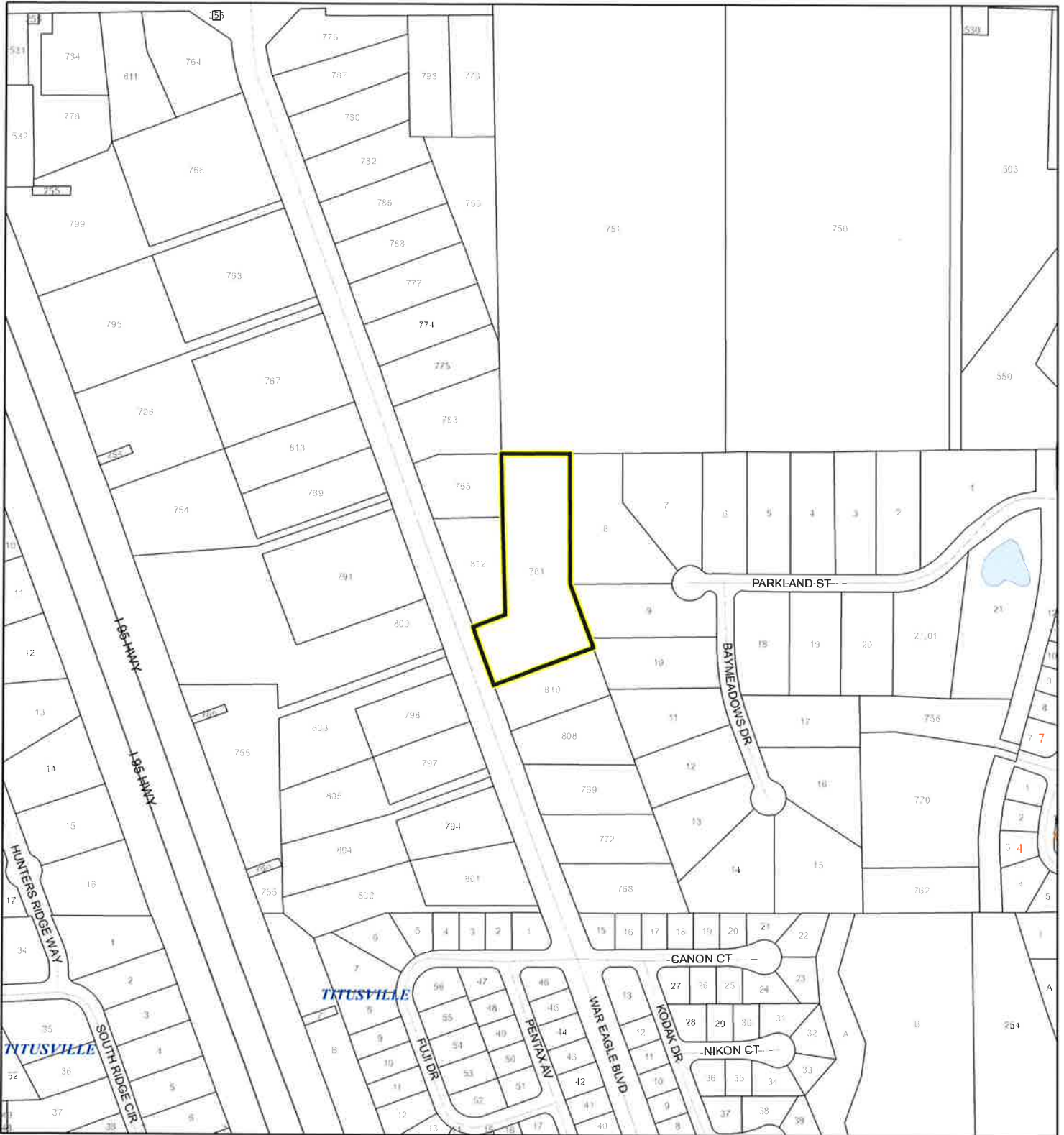
Produced by BoCC - GIS Date: 8/4/2023



COASTAL HIGH HAZARD AREA MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/4/2023

 Subject Property

 Parcels

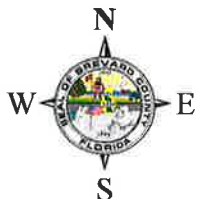
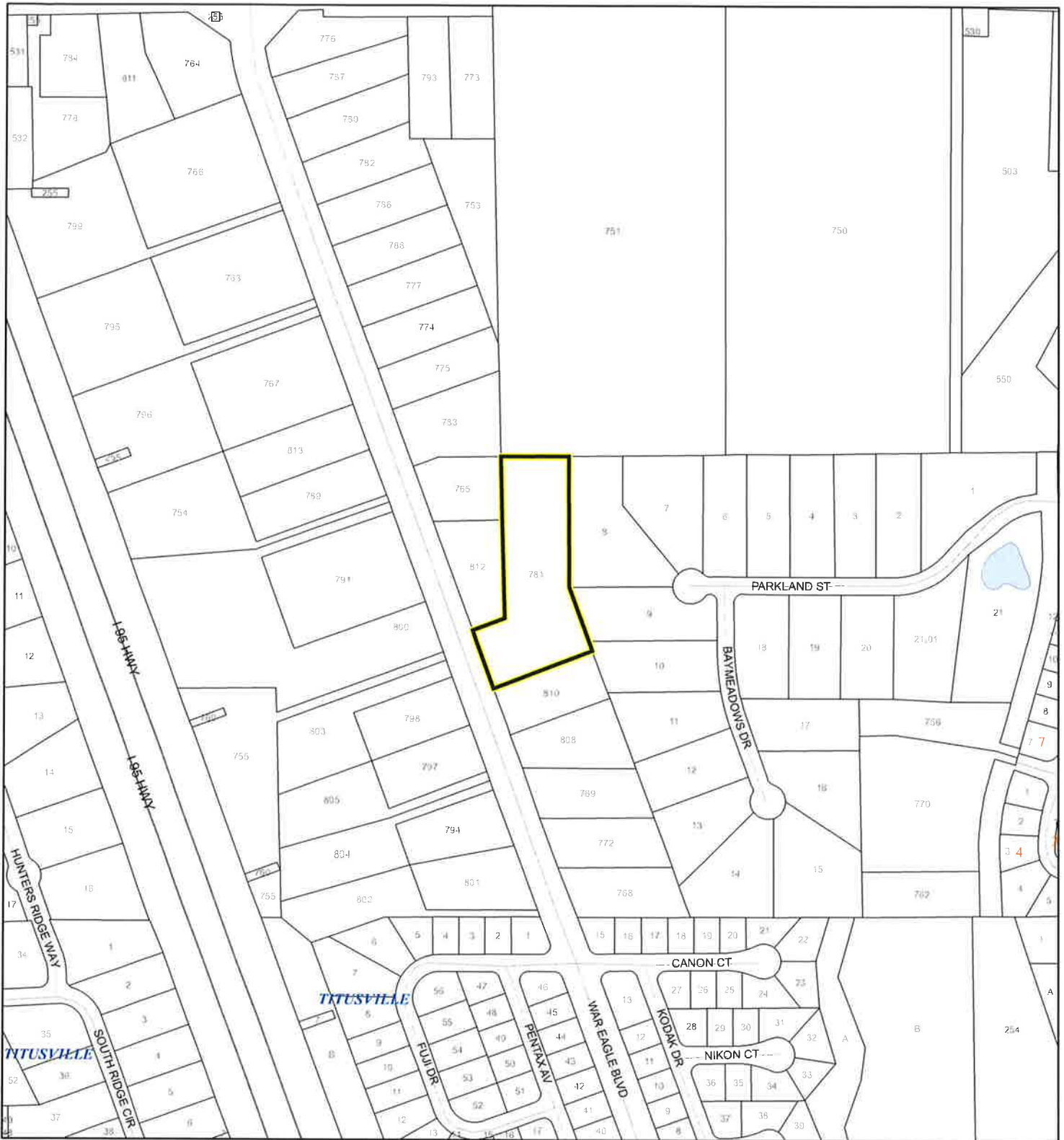
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/4/2023

Subject Property

Parcels

Septic Overlay

40 Meters

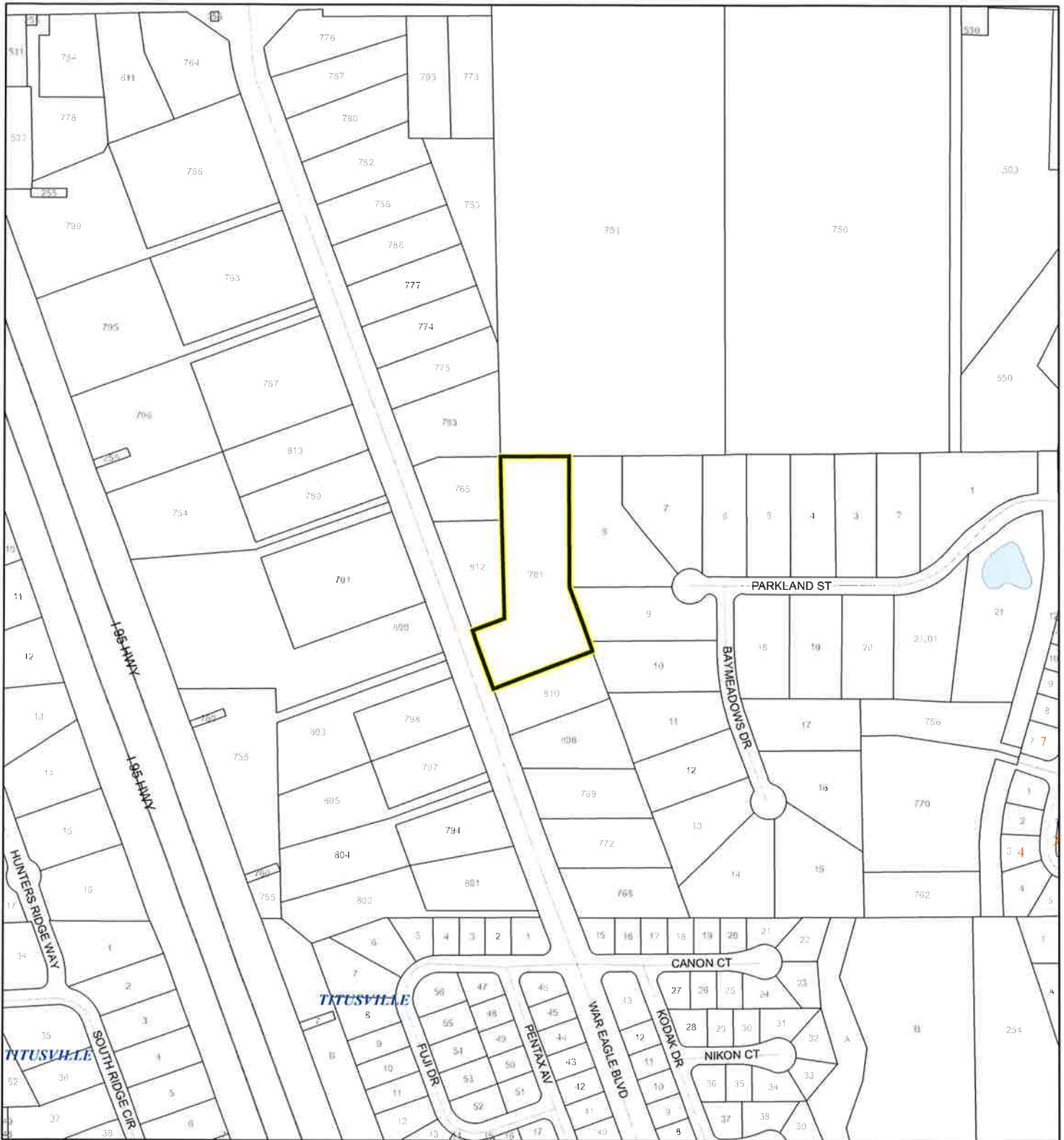
60 Meters

All Distances

EAGLE NESTS MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/4/2023

 Subject Property

 Parcels

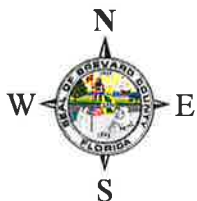
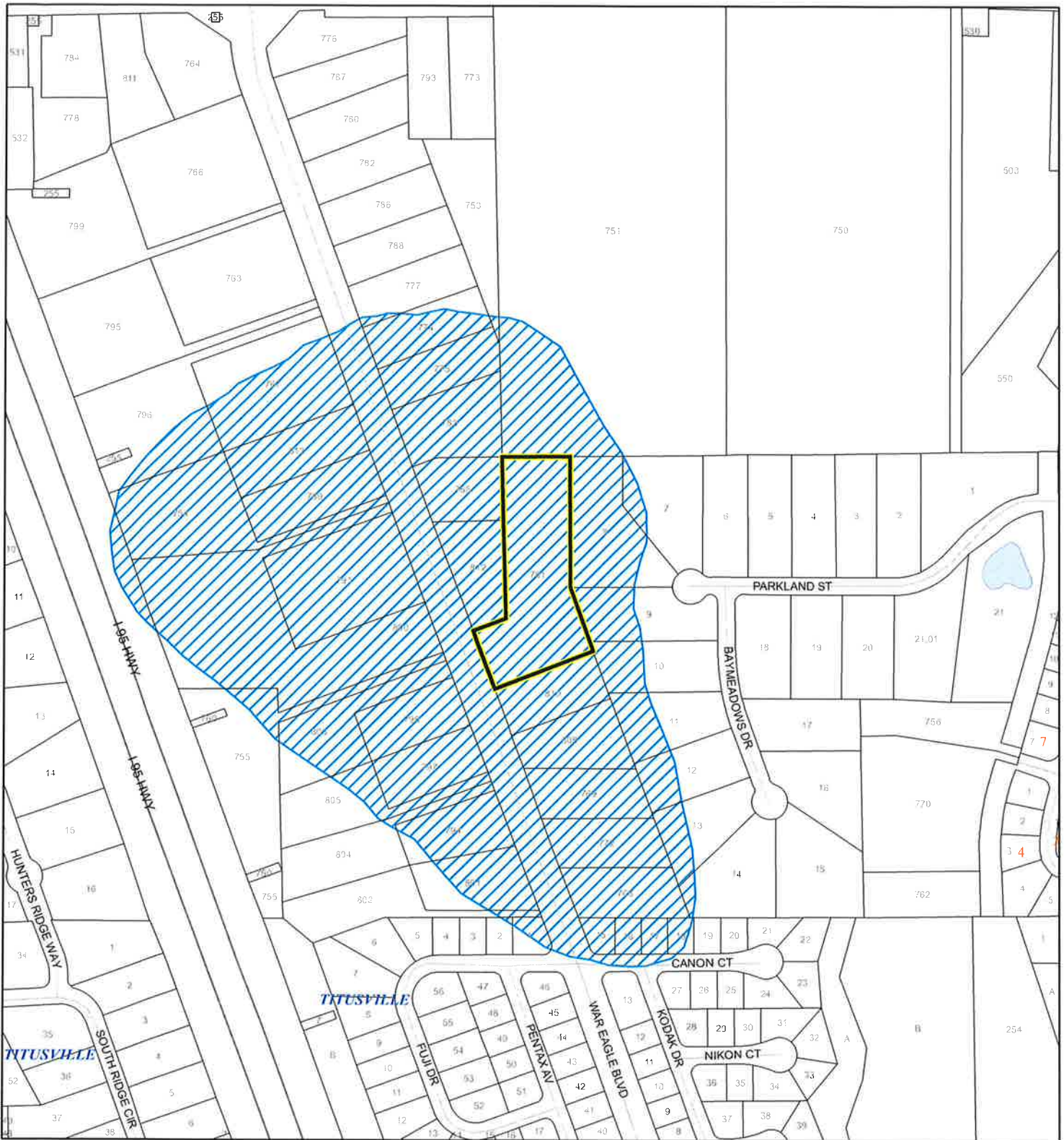


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



1:4,800 or 1 inch = 400 feet

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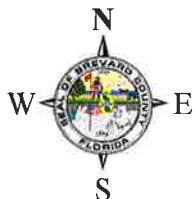
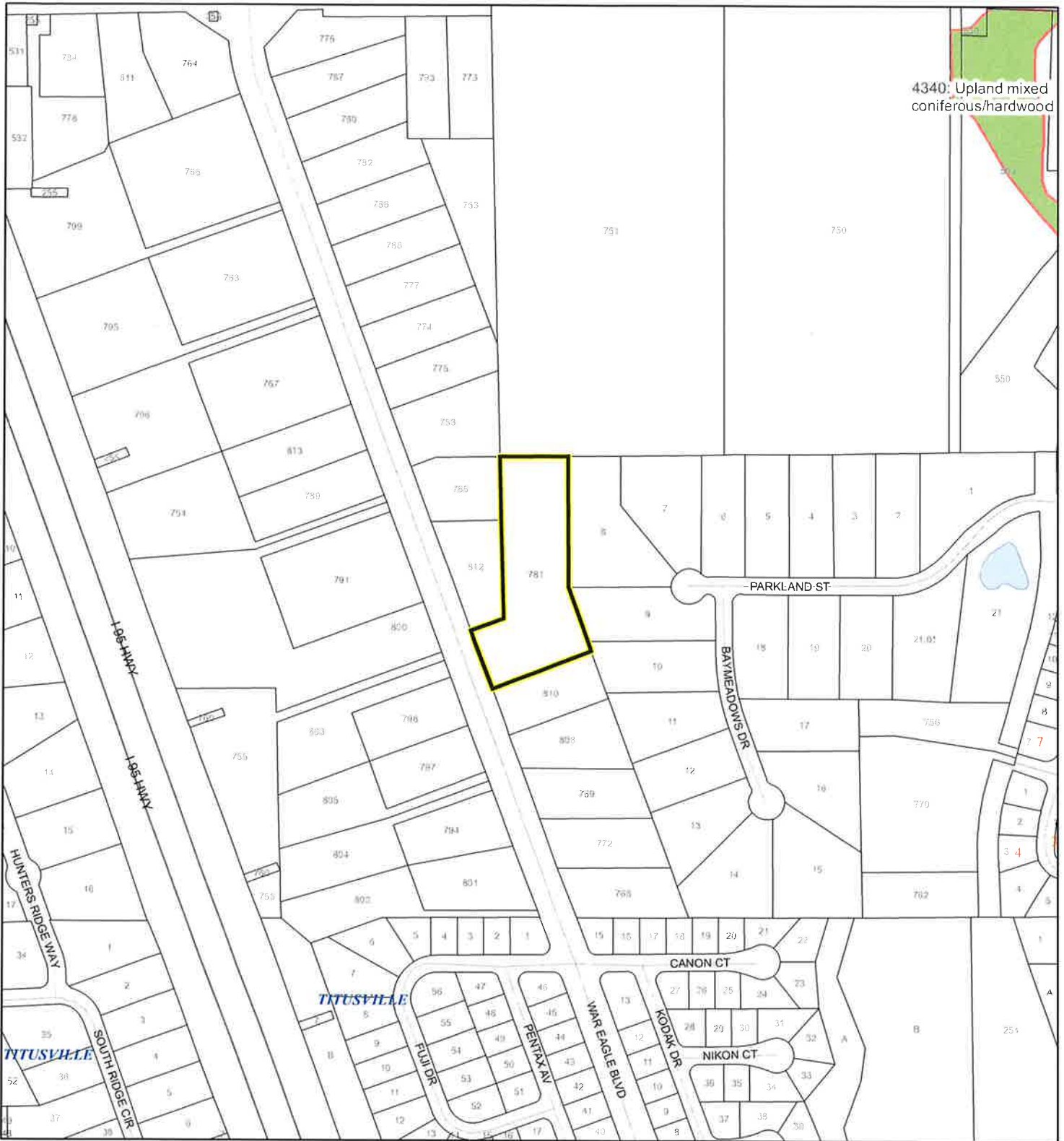
Produced by BoCC - GIS Date: 8/4/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUGGS UPLAND FORESTS - 4000 Series MAP

FL & NC INVESTMENT PROPERTIES, LLC

23Z00066



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: 8/4/2023

SJRWMD FLUGGS 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/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 16, 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: Ron Bartcher (D1); Robert Sullivan (D2); Brian Rodgers (D2); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4 Alt); Bruce Moia; (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Billy Prasad, Strategic Operations Manager; Paul Body, Senior Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

FL and NC Investment Properties, LLC (Don & Janice Opatha)

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 3.12 acres, located on the east side of War Eagle Blvd., approx. 0.36 mile south of Dairy Rd. (1225 War Eagle Blvd., Titusville) (23Z00066) (Tax Account 2106726) (District 1)

Don Opatha, 1225 War Eagle Boulevard, Titusville, stated he would like to rezone from residential to agriculture.

Public comment.

Jamie Lankford, 1315 War Eagle Boulevard, Titusville, stated she bought her property eight months ago knowing the area was zoned RR-1. She said if she had known someone was going to have AU at the back corner of her property she never would have bought it, especially with as many birds as the applicant wants to have, and the cages that are already on the property. She stated she works 10-hour shifts at the hospital and when she comes home she needs to mentally and physically wind down, and a large number of birds will prevent her from being able to do that. She noted she was also was told by her realtor that AU would lower her property value.

Mr. Opatha stated under the Florida Right to Farm Act he can bring animals to the property, and he has had birds and animals on the property for the past two years. He said the reason he is asking to rezone is to get agriculture benefits. He stated zoning does not stop him from having animals on the property because it is under the Farm Act.

Alex Esseeesse stated generally, the Right to Farm Act is outlined under State Statute, and similar to agritourism-related activities, if there is a conflict between his ability to farm and local ordinances, the County is not allowed to apply ordinances to what he is trying to do on the property. He said that determination is through the Property Appraiser's Office, it's not through the County Attorney's Office nor through the Board of County Commissioners, it's a separate entity that makes that determination.

John Hopengarten asked if Mr. Opatha already has birds and cages on the property. Mr. Opatha replied yes, he has birds and there are some cages in the garage and in the house, but there are no cages outside yet. He noted he is building new cages in the backyard, but the animals are not outside yet. He stated he has had a permit from FWC since 2021, and although he bought the property in 2018, he could not get the permit because FWC only issues permits in the month of January.

Mr. Hopengarten asked if there is a barn on the property. Mr. Opatha replied yes, which is where the birds will be located. He added that no one can see the cages without going to his property.

Mr. Hopengarten asked if he is raising the birds to sell. Mr. Opatha replied, yes. Mr. Hopengarten asked how many birds will be on the property. Mr. Opatha replied approximately 25 to 50 pairs of birds.

Ron Bartcher asked the size of the birds. Mr. Opatha replied they are larger parakeet species, but they are under 200 grams.

Ben Glover asked if staff is familiar with the FWC permit. Jeffrey Ball replied he is vaguely familiar with the process. Mr. Glover asked if the FWC permit overrides the use of the property. Mr. Ball replied it is his understanding the property still has to meet the zoning requirements for a specific use, and the RR-1 zoning does not allow for the sale of any kind of bird.

Mr. Glover asked if RR-1 allows horses. Mr. Ball replied yes, accessory to a principal structure and for personal use.

Mr. Bartcher asked how close his property is to school property, and if there is fencing between the two. Mr. Opatha replied the previous owner used hog wire fencing, and the birds will be approximately a half-mile from the school. He stated under the Right to Farm Act he can have the animals and ordinances don't apply, but the reason he's trying to get AU zoning is to get the benefits and be able to insure the birds.

Mr. Glover asked if Mr. Opatha said he was issued a permit by FWC after one year of owning the property. Mr. Opatha replied yes, the permit is how he can prove the animals and business sales have taken place for more than a year.

Bruce Moia stated the applicant has had the birds on the property and selling them since 2018, and there is no code enforcement action against him. He asked staff if he can have the birds but not sell them, and if there is a limit to how many birds he can have on the property under the current zoning. Mr. Ball replied birds are not allowed at all under the current zoning.

Mr. Moia asked if he could have and sell the birds under the AU zoning. Mr. Ball replied yes, but if the board recommends AU(L), he could only raise the birds on the property, not sell them.

Mr. Opatha stated under the Florida Statute he can have the animals and sell them even though it's residential zoning.

Mr. Glover stated if AU is approved it could turn into a much larger operation. Mr. Moia agreed and stated there would be no limit under AU.

Mr. Opatha stated under the Right to Farm Act he doesn't have a limit at this time either. He said the only reason he needs AU zoning is for insurance purposes. If he decides to bring 1,000 animals onto the property tomorrow, he can do it under the Right to Farm Act.

Mark Wadsworth asked how many birds he has currently. Mr. Opatha replied he has approximately 50 pairs, but there could be more during breeding season. He stated he buys and sell birds, as well as small primates, and it is all covered under the FWC permit.

Mr. Hopengarten asked if he sells the birds from the property. Mr. Opatha replied he does not sell retail; he has brokers who sell to pet shops in Miami.

Motion by John Hopengarten to approve the change of zoning classification from RR-1 to AU.

Mr. Ball pointed out that the applicant said he has primates on the property, and primates would not be allowed in AU unless he has a CUP (Conditional Use Permit), which is a separate process from the zoning request.

Mr. Moia stated he would second the motion to approve because Mr. Opatha has been operating for four years and no one has complained.

Robert Sullivan asked if he has met with any of his neighbors, and if he is willing to limit what he can do on his property. He explained that the board can recommend approval with a BDP (Binding Development Plan) which would limit what he could do, such as limiting the number of birds, to satisfy the neighbors. He said it is not necessarily about the bird industry, it's about if he decides to raise pigs or anything else; a BDP would limit it to only the bird business. Mr. Opatha stated his plan is to only have birds and fruit trees.

Mr. Ball stated if the board recommends a BDP, staff can work with the applicant and explain to him the restrictions.

Mr. Sullivan asked if he would agree to a BDP. Mr. Opatha replied he would agree to a BDP if he can get an agricultural exemption.

Mr. Wadsworth asked if Mr. Hopengarten would like to change his motion to include a BDP. Mr. Hopengarten replied no because the board doesn't know what will be in the BDP.

Brian Hodgers stated if he needs a CUP to have the primates, he will have to come back to the board because it is a separate application, and asked if the board could table the request.

Mr. Ball stated if the board recommends a BDP, staff can work with him to make sure he understands what a BDP does, but if the board is not comfortable without seeing the BDP first, it can continue the request to the next meeting.

Mr. Hodgers asked how many primates he has on the property. Mr. Opatha replied he doesn't have any primates right now, they are in North Carolina. Mr. Hodgers asked if he plans to bring the primates to the property in the future. Mr. Opatha replied yes, they are Class III primates. Mr. Hodgers stated he will not be allowed to have primates on the property without a CUP, which means he will have to come back to the board. Mr. Opatha stated under the Right to Farm Act he doesn't need any permits, and he can bring the monkeys to the property tomorrow. He said he is only present today for insurance purposes.

Alex Esseeesse clarified the determination of the Right to Farm Act rests with the Property Appraiser's Office, who will go out and determine what is a bona fide agricultural use, and there are also best management practices that need to be followed. He said zoning is local regulations, and if there is an agritourism-related activity, the State has said it would essentially pre-empt the County's ordinances from being applied, but until that determination is made by the Property Appraiser's Office, the zoning remains in place.

Mr. Hodgers asked if that is just for agritourism. Mr. Esseesse replied yes, in this particular case and for bona fide agricultural uses. He said it is determined under the same Statute, which is 193.461, and the Right to Farm Act and the agritourism statutes both revert back to that one.

Mr. Glover asked staff if he would be able to sell from the property. Mr. Ball replied not under the current zoning of RR-1.

Mr. Hodgers noted he's not technically selling from the property because he's taking them someplace else to be sold. Mr. Ball stated RR-1 does not allow birds of any kind.

Mr. Sullivan stated until the Property Appraiser's Office makes a determination, the zoning can be enforced.

Mr. Esseesse replied, that is correct. He said if there was a code enforcement action, staff would proceed and his defense would be that he has a determination by the Property Appraiser's Office, which means the County's codes do not apply to him.

Mr. Sullivan asked if he has applied through the Property Appraiser's Office. Mr. Opatha replied yes, but they can only issue an agricultural exemption permit once a year.

Mr. Glover asked if a permit has been issued to him by the Property Appraiser's Office. Mr. Opatha replied yes, it is under beekeeping, and that is what the birds are under. He added, the FWC takes over the Property Appraiser as well, and if there are any issues with the Property Appraiser, the FWC will handle with it.

Logan Luse stated he thinks of it the same as ornamental fish, and that's still farming. He said if he has gone through the Property Appraiser's Office and it's all under agricultural use, then he meets the law and now he just wants to insure his business and have rights to his property. He said he would agree with the rezoning without a BDP.

Motion by John Hopengarten, seconded by Logan Luse, to recommend approval of a change of zoning classification from RR-1 to AU. The motion passed 6:3, with Bartcher, Sullivan, and Glover voting nay.

From: [Gordy](#)
To: [Jones, Jennifer](#)
Subject: ID # 23Z00066
Date: Sunday, October 15, 2023 10:20:30 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Concerning the request to rezone 1225 War Eagle Blvd, Titusville. My wife and I are in our 70s and have a residence immediately adjacent to this property. I understand that the re-zoning is requested in order that the owner be allowed to raise exotic birds. My wife and I are not in the best of health and have problems sleeping. A lot of our sleeping occurs during the day. The amount of noise that certain exotic birds make is extreme. I urge disapproval of this request as the extra noise will certainly impact our sleep and as a result negatively impact our overall health. Thank you for your consideration.

With respect,
Gordon and Sandra Perry
3483 Parkland St
Titusville, FL 32796
321-698-3277

From: [Craig McClellan](#)
To: [Jones, Jennifer](#)
Subject: Rezoning
Date: Sunday, October 15, 2023 6:01:09 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Site ID # 23Z00066

Rezone from RR-1 to AU

Dear Commissioner

I am Craig McClellan residing in the Baymeadows Sub Div . My property and two properties to the north are directly behind (East) of the property attempting to rezone for the expressed purpose of breeding , raising and selling exotic birds. This property did this same thing in the past without rezoning . The wind in our are area is primarily from the west and the stench from bird feces and noise affect my hearing aids and allergies. This is totally unexceptionable in this close environment hence the initial zoning of said properties to RR-1 in the first place

If the property is rezoned to AU what is to prevent the property from being sold to a new owner that would convert it to a pig or chicken farm???

We currently get plenty of noise and exhaust smell from interstate 95. If our properties were five or ten acre plots it might make a considerable difference. It seems there is always someone trying to mess things up around here affecting our property values ad we have had problems in the past with goats and pigs...

Please consider strong objection to this zone change and also take into consideration how you would feel if in our position. ...

Sincerely

Craig McClellan

Ps we got a notice in the mail concerning this proposed zone change but there is not the firs sign posted in our Sun Division ...

Sent from my iPhone

From: [Frank Eschweiler](#)
To: [Jones, Jennifer](#)
Subject: ID#23z00066
Date: Monday, October 16, 2023 9:30:19 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I am against the re-zoning of 1225 War Eagle Blvd from RR-1 to AU. There's only 1 house between 1225 War Eagle and my property at 1185 War Eagle Blvd.

Thank you,
Frank Eschweiler

Sent from my iPhone

From: [Heather E.](#)
To: [Jones, Jennifer](#)
Subject: ID #23z00066
Date: Monday, October 16, 2023 10:45:25 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

Hello, I'm writing to oppose the rezoning of 1225 War Eagle Blvd, from RR-1 to AU. There is one house between this property and mine, and this will negatively affect our neighborhood, in my opinion, and I am against this proposal for many reasons. Many of the neighbors need peace and quiet for mental and physical health issues, and this would potentially be a disruption to them, and to us.

Thank you,

Heather Eschweiler
1185 War Eagle Blvd

From: [Gordy](#)
To: [Jones, Jennifer](#)
Subject: RE: ID # 23Z00066
Date: Monday, October 16, 2023 11:21:15 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms Jones, Another issue that I hadn't considered before is that the rezoning to AU would open the door to farm animals in the future, including pigs. The predominantly south west winds would frequently blow into the Baymeadows residential sub-division making for very unpleasant living conditions. The areas surrounding this property is all residential, quiet and peaceful. At least half of the affected residents are retirees. Request that this request for rezoning be denied!

Sincerely,
Gordon and Sandra Perry
3483 Parkland St
Titusville, FL
321-698-3277

From: Gordy [mailto:gordyp5046@gmail.com]
Sent: Sunday, October 15, 2023 10:20 AM
To: 'jennifer.jones@brevardfl.gov'
Subject: ID # 23Z00066

Concerning the request to rezone 1225 War Eagle Blvd, Titusville. My wife and I are in our 70s and have a residence immediately adjacent to this property. I understand that the re-zoning is requested in order that the owner be allowed to raise exotic birds. My wife and I are not in the best of health and have problems sleeping. A lot of our sleeping occurs during the day. The amount of noise that certain exotic birds make is extreme. I urge disapproval of this request as the extra noise will certainly impact our sleep and as a result negatively impact our overall health. Thank you for your consideration.

With respect,
Gordon and Sandra Perry
3483 Parkland St
Titusville, FL 32796
321-698-3277

From: [Craig McClellan](#)
To: [Commissioner, D1](#)
Subject: RE: # DH 23Z00026
Date: Wednesday, October 25, 2023 3:16:57 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner

Our subdivisions , Baymeadows I immediately adjacent to the property attempt to be rezoned by the investment company ownership . Thus 3.2 acre lot it totally surrounded by residential properties and if rezoned would have the potential of becoming a pig or chicken, breeding for slaughter farm. There are posted signs on War Eagle blvd but not the dirt sign in the Baymeadows subdivision. Predominately west winds could have the potential of rendering our living conditions unbearable. I could well share numerous past details concerning this property and the adverse effects it has had on Baymeadows subdivision. Former Commissioner Robin Fisher had to come to our rescue concerning an illegal pond that the county unforced an un surveyed and unregulated filling of the pond resulting in severe drainage issues for our entire subdivision. Please put yourself on our position and consider the consequences of this rezone in a residential neighborhood.

Sincerely

Craig McClellan

1180 Baymeadows Dr Titusville,Florida

Sent from my iPhone

From: [Gordy](#)
To: [Commissioner, D1](#)
Subject: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)
Date: Wednesday, October 25, 2023 10:47:08 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett,

The board of county commissioners is scheduled to meet on November 2nd to consider approving the rezoning of the 1225 War Eagle property. The company that recently bought the property (FL & NC Investment Properties, LLC) is requesting rezoning the property from RR-1 to AU. This rezoning would allow farm animals to be raised in our neighborhood. Our neighborhood has been strictly residential since I moved here in 1985 and it has been quiet, odor free and relatively free from flies, noise and other farm related issues. The neighbors that I have spoken to about this rezoning are strongly against the approval of the rezoning. Our neighborhood stands together in requesting your disapproval of this rezoning as we would like to keep our neighborhood residential and not have a commercial livestock company operating in the middle of it. Unfortunately, I will not be able to personally attend the meeting but I'm hoping for your "no" vote on this issue.

Sincerely,

Gordon and Sandra Perry

3483 Parkland St

Titusville, FL 32796

321-698-3277

From: Gordy
To: Jones, Jennifer
Subject: RE: ID # 23Z00066
Date: Friday, October 27, 2023 3:04:32 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms Jones, additional issues concerning this rezoning request is that the property seeking re-zoning abuts the Oak Park Elementary School property. Farm animals adjacent to an elementary school poses potential and significant health risks. In addition, signs alerting residents to the proposed re-zoning were not posted in the Baymeadows neighborhood. Baymeadows which lies to the east of 1225 War Eagle has three residences that are directly adjacent to this property. Several other residences in the Baymeadows subdivision (that are not directly adjacent to 1225 War Eagle) also stand to be adversely affected, yet no signs were posted alerting them to this re-zoning proposal.

Ms Jones, please include these comments for the County Commissioner's consideration.

Thank you,
Gordon Perry
3483 Parkland St, Titusville

From: Jones, Jennifer [mailto:jennifer.jones@brevardfl.gov]
Sent: Tuesday, October 17, 2023 10:12 AM
To: Gordy
Subject: RE: ID # 23Z00066

Mr. Perry, the Planning & Zoning Board recommended approval.

The Board of County Commissioners will make the final decision on November 2nd.

Jennifer

From: Gordy <gordyp5046@gmail.com>
Sent: Tuesday, October 17, 2023 10:01 AM
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: RE: ID # 23Z00066

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning Ms Jones. Are you able to share any info on how the hearing went on this yesterday?
Thanks.

From: Gordy [mailto:gordyp5046@gmail.com]
Sent: Monday, October 16, 2023 11:21 AM

To: 'jennifer.jones@brevardfl.gov'
Subject: RE: ID # 23Z00066

Ms Jones, Another issue that I hadn't considered before is that the rezoning to AU would open the door to farm animals in the future, including pigs. The predominantly south west winds would frequently blow into the Baymeadows residential sub-division making for very unpleasant living conditions. The areas surrounding this property is all residential, quiet and peaceful. At least half of the affected residents are retirees. Request that this request for rezoning be denied!

Sincerely,
Gordon and Sandra Perry
3483 Parkland St
Titusville, FL
321-698-3277

From: Gordy [<mailto:gordyp5046@gmail.com>]
Sent: Sunday, October 15, 2023 10:20 AM
To: 'jennifer.jones@brevardfl.gov'
Subject: ID # 23Z00066

Concerning the request to rezone 1225 War Eagle Blvd, Titusville. My wife and I are in our 70s and have a residence immediately adjacent to this property. I understand that the re-zoning is requested in order that the owner be allowed to raise exotic birds. My wife and I are not in the best of health and have problems sleeping. A lot of our sleeping occurs during the day. The amount of noise that certain exotic birds make is extreme. I urge disapproval of this request as the extra noise will certainly impact our sleep and as a result negatively impact our overall health. Thank you for your consideration.

With respect,
Gordon and Sandra Perry
3483 Parkland St
Titusville, FL 32796
321-698-3277

From: [Chris](#)
To: [Commissioner, D1](#)
Cc: [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D2](#); [Commissioner, D5](#)
Subject: AU Rezoning Request 23Z00066 - War Eagle Blvd
Date: Saturday, October 28, 2023 9:33:27 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Pritchett:

Re: Rezoning Request 23Z00066

I live on Baymeadows Drive, which parallels War Eagle Drive where this rezoning is being considered. It is the first street to the east of War Eagle. I am across the street and down 100 feet from neighbors whose property abuts the property for which the rezoning is requested. Although no notice of rezoning was posted in our adjacent neighborhood, fortunately they learned of this from neighbors living on War Eagle Blvd. and advised me of the situation.

I was once on the Titusville P & Z Board and my experience there (before I built my current home in the county) and as a citizen causes me concern about what the result of such a rezoning might be. Although the current owner of the property advises the reason for the requested AU zoning is to raise tropical birds, there is nothing which limits them or future owners of the property from doing any of the things allowed under AU zoning. The possible uses of greatest concern to me include:

- Commercially raising and selling tropical birds
- Commercially raising and selling chickens or their eggs
- Raising and grazing of animals
- All agricultural pursuits, including the packing, processing and sales of commodities raised on the premises
- Foster homes

This parcel of land is located in an entirely residential area zoned RR-1, several blocks from the nearest business, with the nearest non-residential uses being Oak Park Elementary School, Madison Middle School and Astronaut High School. Please pull up a map online to verify this point and you will see the property abuts Oak Park Elementary school. This proposed zoning use allows commercialization of a property smack in the middle of the residentially zoned properties around them. When considering zoning requests for the City of Titusville we always looked first to see whether the proposed request would be consistent with existing surrounding properties first. If it would not be consistent, and if the surrounding property owners objected to the proposed use the zoning request was denied.

The current owner of this property could sell it with its current zoning, but while raising tropical birds (which can be pretty loud) may really be the reason for the request, rezoning it would increase the

value of the property substantially. I have nothing against businesses making money, but I am against them making money at the expense of neighboring property owners.

I ask that you vote to deny this rezoning request.

Chris White
1155 Baymeadows Dr.
Titusville, FL 32796

Sent from Mail for Windows

From: [Gordy](#)
To: [Commissioner, D1](#)
Subject: RE: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)
Date: Friday, October 27, 2023 3:15:44 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett, additional issues (in addition to those listed below) concerning this rezoning request is that the property seeking re-zoning abuts the Oak Park Elementary School property. Farm animals adjacent to an elementary school poses potential and significant health risks. In addition, signs alerting residents to the proposed re-zoning were not posted in the Baymeadows neighborhood. Baymeadows which lies to the east of 1225 War Eagle has three residences that are directly adjacent to this property. Several other residences in the Baymeadows subdivision (that are not directly adjacent to 1225 War Eagle) also stand to be adversely affected, yet no signs were posted alerting them to this rezoning proposal. Thank you for supporting the wishes of your impacted constituents!

Sincerely,
Gordon Perry
3483 Parkland St, Titusville

From: Gordy [mailto:gordyp5046@gmail.com]
Sent: Wednesday, October 25, 2023 10:47 AM
To: 'D1.Commissioner@BrevardFL.gov'
Subject: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)

Commissioner Pritchett,

The board of county commissioners is scheduled to meet on November 2nd to consider approving the rezoning of the 1225 War Eagle property. The company that recently bought the property (FL & NC Investment Properties, LLC) is requesting rezoning the property from RR-1 to AU. This rezoning would allow farm animals to be raised in our neighborhood. Our neighborhood has been strictly residential since I moved here in 1985 and it has been quiet, odor free and relatively free from flies, noise and other farm related issues. The neighbors that I have spoken to about this rezoning are strongly against the approval of the rezoning. Our neighborhood stands together in requesting your disapproval of this rezoning as we would like to keep our neighborhood residential and not have a commercial livestock company operating in the middle of it. Unfortunately, I will not be able to personally attend the meeting but I'm hoping for your "no" vote on this issue.

Sincerely,

Gordon and Sandra Perry

3483 Parkland St

Titusville, FL 32796

321-698-3277

Mascellino, Carol

From: Chris <cwhite742@cfl.rr.com>
Sent: Saturday, October 28, 2023 9:33 AM
To: Commissioner, D1
Cc: Commissioner, D3; Commissioner, D4; Commissioner, D2; Commissioner, D5
Subject: AU Rezoning Request 23Z00066 - War Eagle Blvd

Categories: Carol

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Pritchett:

Re: Rezoning Request 23Z00066

I live on Baymeadows Drive, which parallels War Eagle Drive where this rezoning is being considered. It is the first street to the east of War Eagle. I am across the street and down 100 feet from neighbors whose property abuts the property for which the rezoning is requested. Although no notice of rezoning was posted in our adjacent neighborhood, fortunately they learned of this from neighbors living on War Eagle Blvd. and advised me of the situation.

I was once on the Titusville P & Z Board and my experience there (before I built my current home in the county) and as a citizen causes me concern about what the result of such a rezoning might be. Although the current owner of the property advises the reason for the requested AU zoning is to raise tropical birds, there is nothing which limits them or future owners of the property from doing any of the things allowed under AU zoning. The possible uses of greatest concern to me include:

- Commercially raising and selling tropical birds
- Commercially raising and selling chickens or their eggs
- Raising and grazing of animals
- All agricultural pursuits, including the packing, processing and sales of commodities raised on the premises
- Foster homes

This parcel of land is located in an entirely residential area zoned RR-1, several blocks from the nearest business, with the nearest non-residential uses being Oak Park Elementary School, Madison Middle School and Astronaut High School. Please pull up a map online to verify this point and you will see the property abuts Oak Park Elementary school. This proposed zoning use allows commercialization of a property smack in the middle of the residentially zoned properties around them. When considering zoning requests for the City of Titusville we always looked first to see whether the proposed request would be consistent with existing surrounding properties first. If it would not be consistent, and if the surrounding property owners objected to the proposed use the zoning request was denied.

The current owner of this property could sell it with its current zoning, but while raising tropical birds (which can be pretty loud) may really be the reason for the request, rezoning it would increase the value of the property substantially. I have nothing against businesses making money, but I am against them making money at the expense of neighboring property owners.

I ask that you vote to deny this rezoning request.

Chris White
1155 Baymeadows Dr.
Titusville, FL 32796

Sent from Mail for Windows

From: [Chris](#)
To: [Commissioner, D1](#)
Cc: [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D2](#); [Commissioner, D5](#)
Subject: AU Rezoning Request 23Z00066 - War Eagle Blvd
Date: Saturday, October 28, 2023 9:33:28 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Pritchett:

Re: Rezoning Request 23Z00066

I live on Baymeadows Drive, which parallels War Eagle Drive where this rezoning is being considered. It is the first street to the east of War Eagle. I am across the street and down 100 feet from neighbors whose property abuts the property for which the rezoning is requested. Although no notice of rezoning was posted in our adjacent neighborhood, fortunately they learned of this from neighbors living on War Eagle Blvd. and advised me of the situation.

I was once on the Titusville P & Z Board and my experience there (before I built my current home in the county) and as a citizen causes me concern about what the result of such a rezoning might be. Although the current owner of the property advises the reason for the requested AU zoning is to raise tropical birds, there is nothing which limits them or future owners of the property from doing any of the things allowed under AU zoning. The possible uses of greatest concern to me include:

- Commercially raising and selling tropical birds
- Commercially raising and selling chickens or their eggs
- Raising and grazing of animals
- All agricultural pursuits, including the packing, processing and sales of commodities raised on the premises
- Foster homes

This parcel of land is located in an entirely residential area zoned RR-1, several blocks from the nearest business, with the nearest non-residential uses being Oak Park Elementary School, Madison Middle School and Astronaut High School. Please pull up a map online to verify this point and you will see the property abuts Oak Park Elementary school. This proposed zoning use allows commercialization of a property smack in the middle of the residentially zoned properties around them. When considering zoning requests for the City of Titusville we always looked first to see whether the proposed request would be consistent with existing surrounding properties first. If it would not be consistent, and if the surrounding property owners objected to the proposed use the zoning request was denied.

The current owner of this property could sell it with its current zoning, but while raising tropical birds (which can be pretty loud) may really be the reason for the request, rezoning it would increase the

value of the property substantially. I have nothing against businesses making money, but I am against them making money at the expense of neighboring property owners.

I ask that you vote to deny this rezoning request.

Chris White
1155 Baymeadows Dr.
Titusville, FL 32796

Sent from Mail for Windows

From: [Craig McClellan](#)
To: [Commissioner, D1](#)
Cc: [Commissioner, D3](#)
Subject: Rezone attempt cite ID# 23z0006
Date: Wednesday, November 1, 2023 8:26:04 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioners

Baymeadows subdivision is a small County subdivision adjacent and east to the War Eagle property attempting to rezone to AU.

I respectfully remind commissioners that our individual lots are on private water wells for home drinking use . My well is only 75 feet from the property attempting rezone. My neighbors two houses north of me is on a private water well that is only 50 feet from the 23z00066 site . We have grave concerns about biddable contamination of our wells if the property is rezoned to house livestock ...

Please consider denying this rezone attempt as all the properties in the surround are residential or school.

Sincerely

Craig McClellan

Sent from my iPhone

From: [Craig McClellan](#)
To: [Commissioner, D1](#)
Cc: [Commissioner, D3](#)
Subject: Rezone attempt cite ID# 23z0006
Date: Wednesday, November 1, 2023 8:26:05 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioners

Baymeadows subdivision is a small County subdivision adjacent and east to the War Eagle property attempting to rezone to AU.

I respectfully remind commissioners that our individual lots are on private water wells for home drinking use . My well is only 75 feet from the property attempting rezone. My neighbors two houses north of me is on a private water well that is only 50 feet from the 23z00066 site . We have grave concerns about biddable contamination of our wells if the property is rezoned to house livestock ...

Please consider denying this rezone attempt as all the properties in the surround are residential or school.

Sincerely

Craig McClellan

Sent from my iPhone

From: [Lankford, Jamie](#)
To: [Commissioner, D1](#)
Subject: Concerns on Rezoning from RR 1 to AU (23Z00066) 1225 War Eagle Blvd Titusville 32796
Date: Tuesday, October 31, 2023 7:14:22 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett,

Hello, my name is Jamie Lankford and my husband is Steve Lankford, we live at 1315 War Eagle Blvd and our property butts up to the back of the property in question FL & NC Investments LLC on 1225 War Eagle Blvd Titusville Fl. 32796. We purchased the property for the quiet and peacefulness of the street and the joy of listening to the laughter of the children when they are outside playing at the Elementary School and Middle School that we can hear when we sit out back. My serious concern is with a zoning of RR there is a public noise nuisance ordinance for birds. That if they get to loud we could ask them to decrease the amount of birds to lower the noise . I was at the first meeting and the owner of the property (house) that is not being occupied on a daily bases since it was purchased, said that they could have over 100 birds which he said would be Parrots and other types of Parrots in pairs. The noise will be very loud throughout the day. I work at Viera Hospital in the Surgical Dept and when I get home the last thing I need to hear is 100 or more squawking birds and if the Rezoning to AU is approved then we can never ask for a decrease in the amount of birds that they have to lower the noise level. The owner of the property in question said they are requesting this rezoning only to have lower taxes, If they would move into the house on the property then they could file homestead to have lower taxes and not upset all the neighbors that live around the part of the property where they want to house all these birds. And my other concern is then they can change to any type of farm animals whenever they choose and we as a RR 1 on this side of the street have no recourse. Please help us in saying "NO "to the rezoning of this property 1225 War Eagle Blvd in question 23Z00066. We are 100% against this rezoning along with other neighbors.

Thank you,
Jamie Lankford

From: [Frank Eschweiler](#)
To: [Commissioner, D1](#)
Subject: ID #23Z00066
Date: Monday, October 30, 2023 2:15:01 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I am against re-zoning 1225 War Eagle Blvd from RR-1 to AU. This is a predominately residential area and could open a Pandora's box in the future. There would be no recourse of action if their stated intentions were to change. The majority of the neighbors feel the same.

Thank you,
Frank Eschweiler
1185 War Eagle Blvd

Sent from my iPhone

From: [Commissioner, D2](#)
To: [Jones, Jennifer](#)
Cc: [Commissioner, D2](#)
Subject: FW: AU Rezoning Request 23Z00066 - War Eagle Blvd
Date: Wednesday, November 1, 2023 1:05:51 PM
Attachments: [image002.png](#)

Hello Jennifer,

For our zoning meeting disclosure, please see the below email from Chris White opposing item G.2. FL and NC Investment Properties, LLC (Don & Janice Opatha) requests a change of zoning classification from RR-1 to AU. (23Z00066) (Tax Account 2106726) (District 1).

Thank you,



Susan Smith
Legislative Aide
Brevard County Commissioner Tom Goodson District 2
2575 North Courtenay Parkway Suite 200
Merritt Island, FL 32953
Ph: (321) 454-6601
E-mail: Susan.Smith@brevardfl.gov

From: Chris <cwhite742@cfl.rr.com>
Sent: Saturday, October 28, 2023 9:33 AM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Cc: Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: AU Rezoning Request 23Z00066 - War Eagle Blvd

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Pritchett:

Re: Rezoning Request 23Z00066

I live on Baymeadows Drive, which parallels War Eagle Drive where this rezoning is being considered. It is the first street to the east of War Eagle. I am across the street and down 100 feet from neighbors whose property abuts the property for which the rezoning is requested. Although no notice of rezoning was posted in our adjacent neighborhood, fortunately they learned of this from neighbors living on War Eagle Blvd. and advised me of the situation.

I was once on the Titusville P & Z Board and my experience there (before I built my current home in the county) and as a citizen causes me concern about what the result of such a rezoning might be. Although the current owner of the property advises the reason for the requested AU zoning is to raise tropical birds, there is nothing which limits them or future owners of the property from doing any of the things allowed under AU zoning. The possible uses of greatest concern to me include:

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- Commercially raising and selling chickens or their eggs
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The current owner of this property could sell it with its current zoning, but while raising tropical birds (which can be pretty loud) may really be the reason for the request, rezoning it would increase the value of the property substantially. I have nothing against businesses making money, but I am against them making money at the expense of neighboring property owners.

I ask that you vote to deny this rezoning request.

Chris White
1155 Baymeadows Dr.
Titusville, FL 32796

Sent from [Mail](#) for Windows

From: [Swanke, Stephen M](#)
To: [Jones, Jennifer](#)
Subject: FW: 1225 war eagle blvd
Date: Monday, November 27, 2023 11:02:56 AM

Please take whatever actions are necessary.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Stephen M. Swanke

Senior Planner

Brevard County Planning & Development Department

(321) 633-2070 ext 58298

(321) 350-8298 direct line

From: Shirley C <cherf321@gmail.com>
Sent: Monday, November 27, 2023 11:01 AM
To: Swanke, Stephen M <Steve.Swanke@brevardfl.gov>
Subject: 1225 war eagle blvd

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Steve

Thank you so much for all your effort. I'm getting navy information and regards to the opatha rezoning request. In going over the information you sent I have found a ton of inconsistencies in with what he has told you and what reality is.

Enclosed, please find pictures dating back from. March of the cages that are not.

Supposedly on his back property, which is maybe 50 feet from my fence line. Also, there is no feasible way that he has had that business for foreign and half years. Nor they have been no complaints. The opathes hadn't even purchased the home till January of 2020 and considering they are here. Maybe 30 days out of the entire year. I do not. Truly understand how they ever expect to raise birds here unless.

These birds, which if they are on his property. Now no one is residing in that house and therefore neglected. And there have been Complaints made to him about these birds but since they were made them to him I guess those don't exist in his eyes. Because we didn't do the unneighborly thing like he's trying to do and call the authorities.

I don't know what to do with all the truths behind the lies hes told you if you could please advise me. I would greatly appreciate it. I fear his Volcano of lies is going to continue to erupt. And I think what he's done right now is tried to Baffle everyone with his B.S.

I'm hoping that you can't leave see from these pictures that he has led you about the existence of cages and the sell date of his house. None of which.

Can be described as small. Discrepancies. I am home and available if you have any questions

Thank you

Shirley Cherf

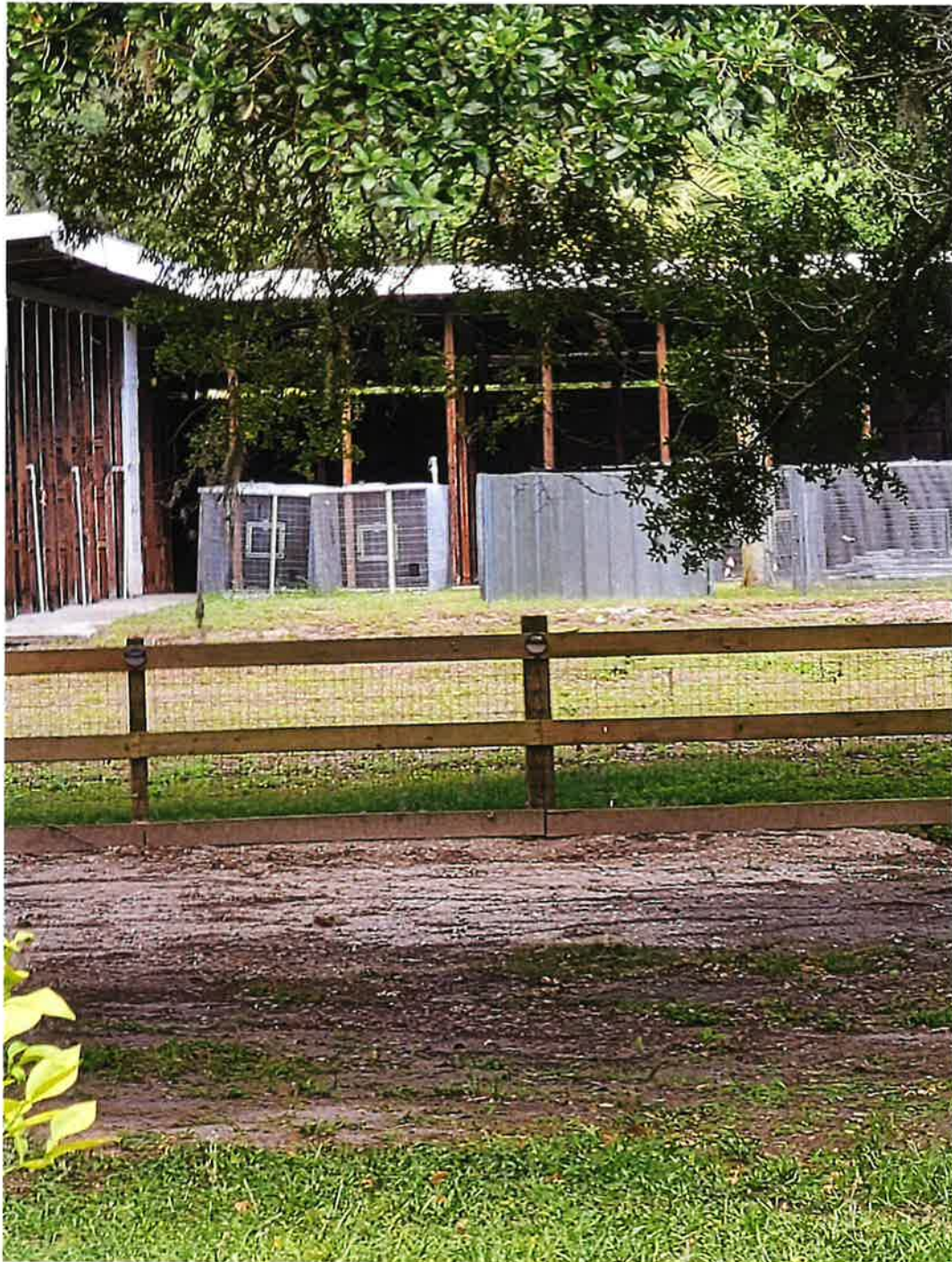
321-514-6533

1255 war eagle blvd



Me

4:01 PM, Apr 20



Save



Share



Me

4:01 PM, Apr 20



Save



Share

From: Gordy
To: Commissioner, D1
Cc: r.mcclellan2@icloud.com; "Marc Fischer"; "Frank Eschweiler"; Chris W
Subject: RE: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)
Date: Wednesday, November 15, 2023 2:07:52 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett, We have viewed the recording of the board meeting addressing this rezoning. The person that is requesting this rezoning misrepresented how long he had lived there exaggerating it by 2 years. I believe that he also stated that he had already been raising exotic birds. None of the neighbors have seen any evidence of raising exotics. These lies should in itself be cause for disapproval.

In the board meeting you seemed as though you were very supportive of his request and indications are that you will likely approve this rezoning request now scheduled for 12/7/2023. Are you not listening to your constituents who will be adversely affected? As a group we are strongly against this and you, as our current commissioner, are expected to be responsive to us. You have so far not responded to any of our calls or emails regarding this matter, plus you are apparently not listening to our issues concerning this rezoning.

Your response to us would be appreciated.

Gordon Perry

Baymeadows

321-698-3277

From: Gordy [mailto:gordyp5046@gmail.com]
Sent: Wednesday, October 25, 2023 10:47 AM
To: 'D1.Commissioner@BrevardFL.gov'
Subject: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)

Commissioner Pritchett,

The board of county commissioners is scheduled to meet on November 2nd to consider approving the rezoning of the 1225 War Eagle property. The company that recently bought the property (FL & NC Investment Properties, LLC) is requesting rezoning the property from RR-1 to AU. This rezoning would allow farm animals to be raised in our neighborhood. Our neighborhood has been strictly residential since I moved here in 1985 and it has been quiet, odor free and relatively free from flies, noise and other farm related issues. The neighbors that I have spoken to about this rezoning are strongly against the approval of the rezoning. Our neighborhood stands together in requesting your disapproval of this rezoning as we would like to keep our neighborhood residential and not have a commercial livestock company operating in the middle of it. Unfortunately, I will not be able to personally attend the meeting but I'm hoping for your "no" vote on this issue.

Sincerely,

Gordon and Sandra Perry

3483 Parkland St

Titusville, FL 32796

321-698-3277

From: Gordy
To: Commissioner, D1
Subject: RE: Concerning the Rezoning of 1225 War Eagle (ID# 23Z00066)
Date: Friday, November 3, 2023 9:53:38 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett, Thank you for your efforts in disapproving this rezoning.

Gordon & Sandra Perry

3483 Parkland St.

Titusville

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Sincerely,

Gordon and Sandra Perry

3483 Parkland St

Titusville, FL 32796

321-698-3277

From: dklankford13@gmail.com
To: [Commissioner, D1](#)
Subject: Rezoning of (23Z00064) 1225 War Eagle Blvd Don Opatha
Date: Wednesday, November 29, 2023 9:29:17 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Pritchett, my name is Jamie Lankford I live at 1315 War Eagle Blvd. I spoke at the first meeting in October regarding the issues of bringing multiple birds and at a time did not realize he also wanted to bring class three primates. Please don't take the peace from the neighbors here away. Mr. Opatha stated he had the birds there for 4 1/2 years and that he had been in the house since 2018 he did not purchase the house until 2020 so that was a lie to the board and that was one of the reasons they passed it 6 to 3. My greatest fear is if you give him the AU there is nothing as Titusville voters that we can do to stop him from bringing in whatever he wants on that land he does not care about his neighbors feelings and I know this firsthand because after the meeting I needed to get to the hospital my brother was put in the ICU and he followed me out and before I could get through the set of double doors he was telling me that he could sue me for \$10,000 for speaking and telling the board that he had cages in the back barn I stated to him that I could see them when I was walking when the sun hit he said no you can't I can sue you for \$10,000 I felt intimidated because he's much taller than me and I'm trying to get out my keys got stuck in the door handle because I was very nervous and then drop them then tried to get to the doors exiting the building and he kept following me stating I'm just telling you \$10,000 is what I could get you for and I said please quit threatening me he goes I'm not threatening you I'm telling you and I said no you're threatening me and he kept repeating it so I went to the gentleman at the desk and asked him to please call security because I was afraid that he would follow me to my car so I waited at the desk for security eventually Mr. Opatha and his wife left in their car I waited another 10 minutes for security but they never came so I told the gentleman I would go ahead and walk to my car but if he seen me coming back in please call security. All this happened in the building. He was angry because he didn't want to explain what he wanted to bring on the property and me bringing it up started more questions that he was not expecting to have to answer to. He even stated to the board that he could bring in what ever he wanted and he's only doing this so he could ensure his birds. But what about the residence here what about our peace of mind and our right to a peaceful and enjoyable life here when we come home from working all day or want to enjoy the weekend with our family and want to be outback or in our yard anywhere. He could easily go to Mims where there are a lot of 5 acre AU properties available. He stated also that he has had the birds in his house and his garage but the zoning person Ron I believe his name was stated as an RR-1 he could not do this. but that is what I don't understand if he is not allowed to raise them for purpose to sell on RR-1 and have the birds there and he's been doing it he states for 4 1/2 years that shows you he will do whatever he wants without any regards to any Florida laws please help us. he does not live in the house full time he comes every couple months for a long weekend or he brings his family for a week and then leaves back to North Carolina where they live. So he has to stick in being a true neighbor to any of us. Again please deny him the AU And I truly do not believe he will follow any guidelines of the BDP for reducing the noise. Also I have great concerns because we are all on well water that are surrounding this property and what in the long run affects us is whatever animals he eventually does bring in primates birds and whatever what about the urine and feces that he's just going to wash off into the land and when it rains and floods it washes off and goes down stream and then sinks into the ground what happens to all of us and any disease that they are carrying I think there's a lot that we need to really consider long term. And the school has put some type of water filtration system or something at the back corner of the school property you might want to check into that because the only thing separating the school property from any of our property is a ditch not a half a mile from school property and the kids come out there and play I do have a video showing that they are running around out there all the way back to the water filtration system playing and laughing which is a joy to hear.

Please Commissioner Pritchett please deny Mr. Opatha rezoning.

Thank you

Jamie Lankford

Sent from my iPhone

From: [Marc Fisher](#)
To: [Commissioner, D1](#)
Cc: [Jones, Jennifer](#); mifinfa@gmail.com; [Chris White Baymeadows](#); [Gordon Perry](#); castnet@bellsouth.net
Subject: Case ID 23Z00066 zoning request - December 7 meeting
Date: Thursday, December 7, 2023 7:14:48 AM
Attachments: [2023 Craig ltr eMail.pdf](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett:

Please review the attached PDF file for my questions, concerns and facts regarding the zoning request for the War Eagle property. I encourage you to vote "No" to this request.

Craig McClellan.

Craig McClellan
1180 Baymeadows Dr
Titusville FL 32796

Case # 23Z00066

Zoning change request at 1225 War Eagle Titusville, FL

Dear Commissioner Pritchett

My intention in this letter is to shed light on the property case requesting zoning change. This particular property has been a black mark on the War Eagle and Baymeadows Subdivision properties as well as county government and tax payers since the late eighties. My initial letter, expanded to five pages, outlined extensive details about the history of the War Eagle property. I am prepared to give details and documentation to any subject raised henceforth.

I thought it prudent now to simply list the serious concerns and questions raised by exhaustive research done by neighbors and myself as well as firsthand knowledge about the property. The following is a list of concerns:

1. Who is Don Opatha listed as owner of the property as FL and NC investment LLC?
- 2, What are the details of the North Carolina extensive criminal record with Don Olatha's name attached?
3. How many of the forty plus properties owned by Mr. Opatha are legally tax exempt?
4. Why is a commercial bird business being considered on a property that is adjacent to and surrounded by residential properties and school property where children play?
5. What license and permits exist for a commercial business on this property?
6. Would a tropical bird business be required to be registered with the county and state?

7. What is the past history where county code enforcement was involved and tax payers money was used to resolve issues presented by this property?
8. Will the tropical birds be documented by the FWC
9. Will the tropical birds be subjected to quarantine and tested for disease?
10. Will the tropical birds be brought into Florida legally?
11. Does Brevard County or the state of Florida intend to give regular and consistent over-site to the animals being raised on the property?
12. Will there be a quarterly tax review on sale of birds in this business?
13. Has a proper site plan been filed with the county or state?
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15. How can this zone change be even considered when the property is located in a state registered endangered species area specifically Scrub Jay habitat?
16. What could be the impact to health in school children and local residence?
17. What could be the impact to local drinking wells and the city well field located on the south west corner of school property? All the properties in Baymeadows Subdivision are on private wells and several on east War Eagle share the same distinction.

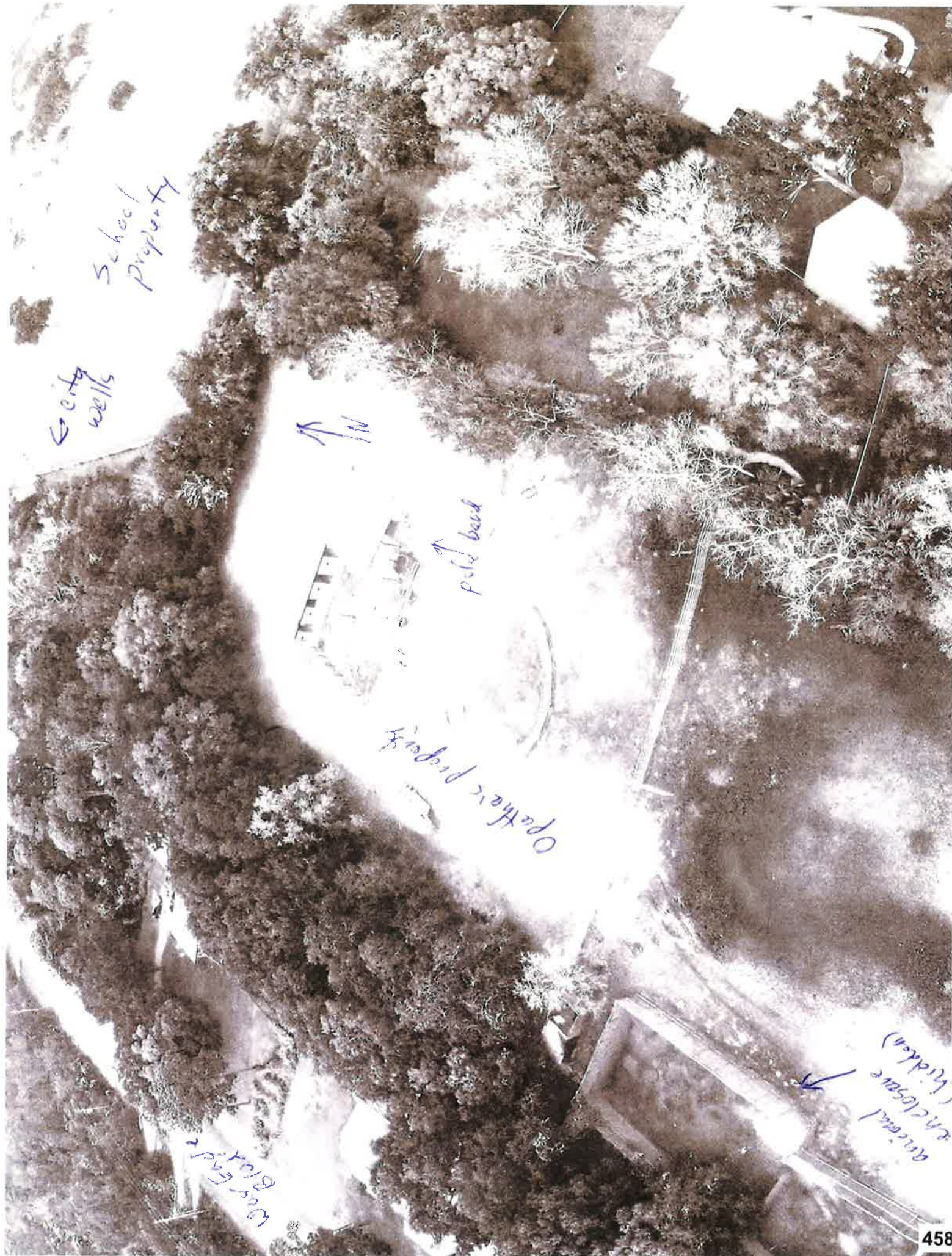
The list could continue, however I would suggest that there is sufficient evidence that should prevent the property in question from ever being rezoned to AU. Brevard county government or the state of Florida has not the time or resources to give proper over-site to this property.

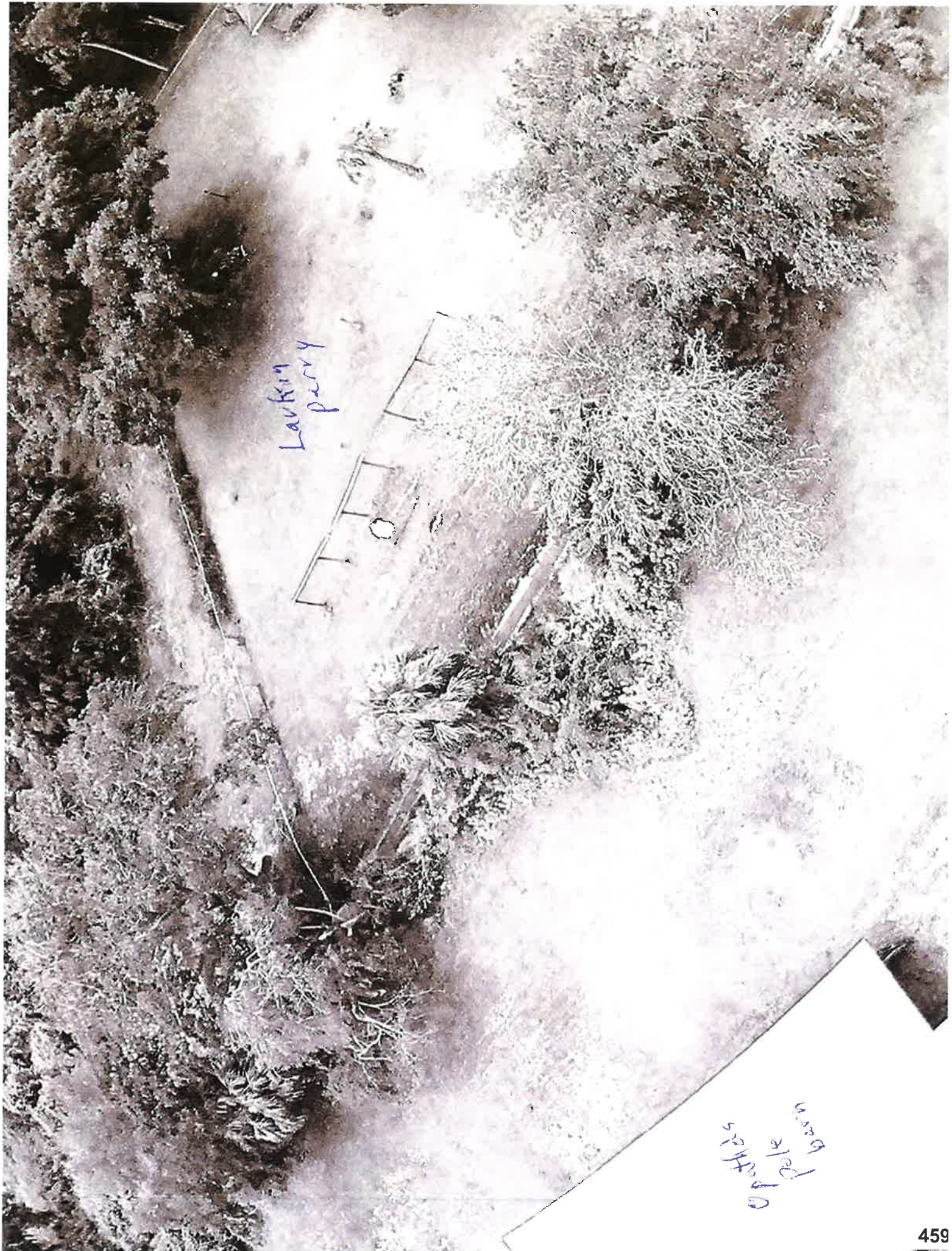
Commissioner, I respectfully ask you to consider what your response would be to an AU zoning in *your* back yard. Please advise the Board of Commissioners to deny the zone change to this property. The local home owners will be vigilant to stand guard over the use or misuse of the property

Respectfully



Craig McClellan







↑ hidden
animal enclosure

From: [Marc Fisher](#)
To: [Commissioner, D1](#)
Cc: [Jones, Jennifer](#)
Subject: Case ID 23Z00066 zoning request - December 7 meeting
Date: Thursday, December 7, 2023 7:27:09 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett:

By now you have received numerous inputs from the neighbors and property owners regarding the above proposed rezoning effort.

I'm not going to restate all the previous arguments but instead simply urge you to deny this request.

The neighbors, property owners, tax payers don't want this. Now please represent our requests and deny this zoning change.

Marc Fisher
1160 Baymeadows Dr

From: [Marc Fisher](#)
To: [Commissioner. D2](#); [Commissioner. D3](#); [Commissioner. D4](#); [Commissioner. D5](#)
Subject: FW: Case ID 23Z00066 zoning request - December 7 meeting
Date: Thursday, December 7, 2023 7:21:52 AM
Attachments: [2023 Craig ltr eMail.pdf](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

From: Marc Fisher [mailto:mjfinfla@bellsouth.net]
Sent: Thursday, December 07, 2023 7:15 AM
To: Commissioner, D1 (D1.Commissioner@brevardfl.gov)
Cc: 'jennifer.jones@brevardfl.gov'; 'mjfinfla@gmail.com'; Chris White Baymeadows; Gordon Perry (gordyp5046@gmail.com); castnet@bellsouth.net
Subject: Case ID 23Z00066 zoning request - December 7 meeting

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Craig McClellan.

From: [Marc Fisher](#)
To: [Commissioner, D1](#)
Cc: [Jones, Jennifer](#)
Subject: Case ID 23Z00066 zoning request - December 7 meeting
Date: Thursday, December 7, 2023 7:27:11 AM

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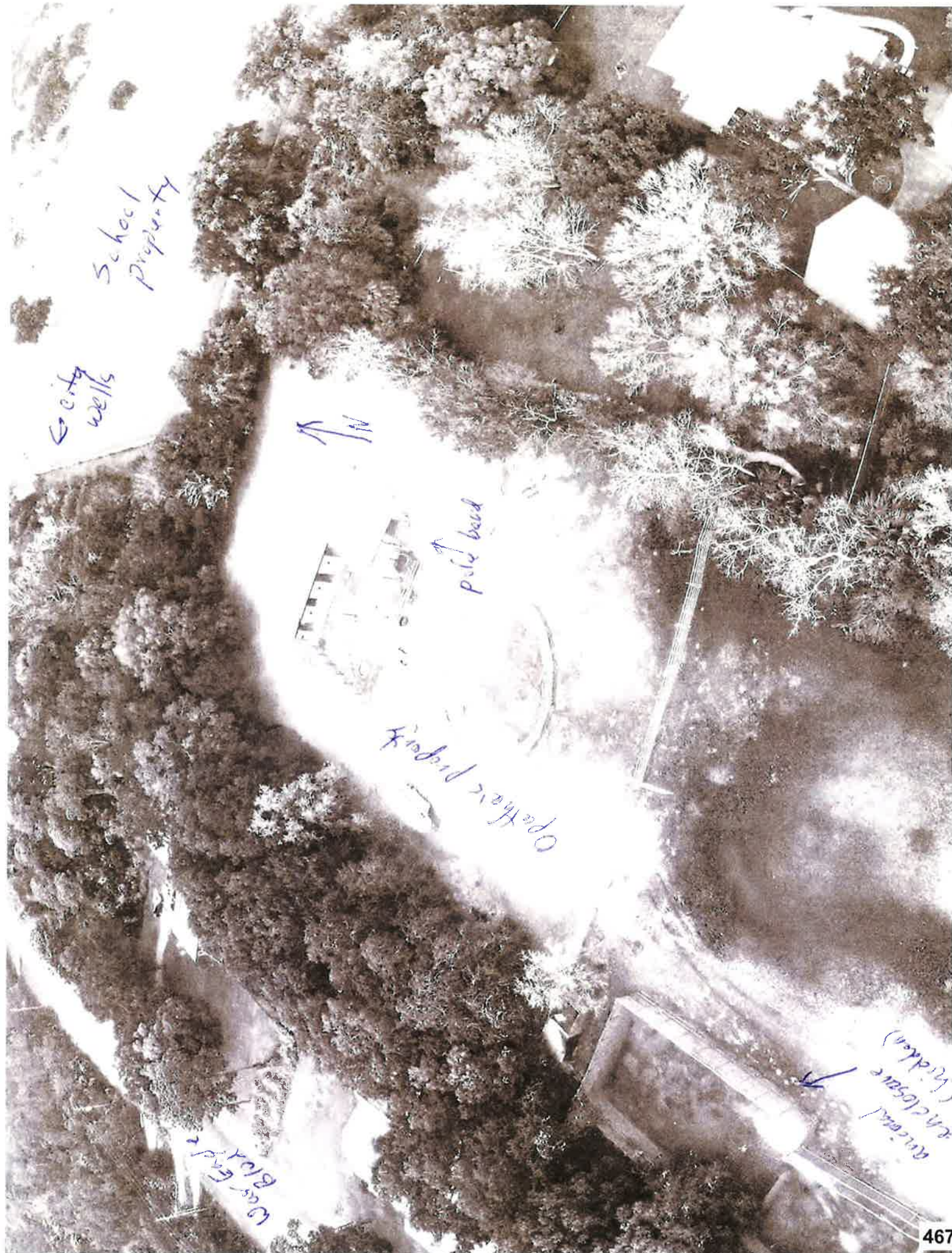
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Craig McClellan



Larkin
parry

6000
Pole
Holes



↑ hidden
animal enclosure

From: [Richardson, Carol](#)
To: [Jones, Jennifer](#)
Subject: FW: Case ID 23Z00066 zoning request - December 7 meeting
Date: Thursday, December 7, 2023 9:23:18 AM
Attachments: [2023 Craig Itr eMail.pdf](#)
[image002.png](#)

Good morning, Jennifer:

Please add the attached email to the D3 disclosures for tonight's Zoning meeting.

Thanks!



Carol Richardson
Administrative Aide
County Commissioner John Tobia, District 3
2539 Palm Bay Road NE, Suite 4
Palm Bay FL 32905
321-633-2075

From: Marc Fisher <mjfinfla@bellsouth.net>
Sent: Thursday, December 7, 2023 7:22 AM
To: Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: FW: Case ID 23Z00066 zoning request - December 7 meeting

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