



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

8/4/2022

Subject:

Island Bluff, LLC (Kim Rezanka) requests a change of zoning classification from BU-1 and IN(L) with an existing BDP, to SR, removing the existing BDP, and adding a new BDP. (22Z00023) (Tax Account 2426893) (District 2)

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 BU-1 (General Retail Commercial) and IN(L) (Institutional Use, Low-Intensity) with an existing BDP (Binding Development Plan), to SR (Suburban Residential), removing the existing BDP, and adding a new BDP.

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from BU-1 and IN(L) with an existing BDP, to SR with the removal and replacement of BDP to allow the development of two single-family residences on 2.12 acres. The proposed SR classification permits single-family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet, and a minimum house size of 1,300 square feet.

The existing BDP is on the BU-1 portion of the property and includes, but is not limited to, the following conditions: Use of the property shall be limited to professional offices and/or medical building, and any laboratory use shall be attendant to medical and dental office use, limited to use only by on-site health care practitioners; developer shall provide a 25-foot vegetative buffer on the entire north boundary of the property.

The applicant is requesting the removal of the current BDP, and proposes a new BDP limiting density of the subject property to 1 unit per acre, for a total of 2 units.

The developed character of the surrounding area is a mix of commercial and multi-family zoning. The subject property is currently vacant. To the north is undeveloped commercial land zoned BU-1 and IN(L), with RU-2-30 (12) further north. To the south are single-family residences zoned RU-2-15 and BU-1. To the east (across N. Tropical Trail) is a multi-tenant office building zoned BU-1, and to the west by the Indian River Lagoon.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area and Objective 7 of the Coastal Management Element of the Comprehensive Plan.

On July 18, 2022, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP limiting density to one unit per acre, for a total of two units.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, 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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Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00023

Island Bluff, LLC

BU-1 (General Retail Commercial) with existing BDP and IN(L) (Institutional Use-Light) to SR (Suburban Residential) with Removal and Replacement of BDP

Tax Account Number: 2426893
Parcel I.D.s: 24-36-35-26-*-10
Location: West side of N. Tropical Trail, approximately 362 feet south of the intersection of W. Merritt Avenue (District 2)
Acreage: 2.12 acres
Planning & Zoning Board: 7/18/2022
Board of County Commissioners: 8/04/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1 with BDP and IN(L)	SR with BDP
Potential*	Up to 16,325 sq. ft. commercial (1.0 FAR) in BU-1 and Low-intensity institutional uses in IN(L)	2 SF units
Can be Considered under the Future Land Use Map	YES CC and NC	YES** CC and NC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** Residential development can be considered consistent with NC and CC Future Land Use designations under Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

Background and Purpose of Request

The applicants are seeking a change of zoning classification from BU-1 (General Retail Commercial) and IN(L) (Institutional Use-Light) with existing BDP to SR (Suburban Residential) with the Removal and Replacement of BDP to allow the development of two single-family residences on 2.12 acres. The property is undeveloped. Access would need to meet provisions in Ch. 62-102 as the property has insufficient road frontage along N. Tropical Trail for the proposed SR zoning classification.

The subject parcel was recorded into the current configuration per Official Records Book 5869, Page 9307 on May 30, 2008. The IN(L) portion of the subject property was administratively rezoned from BU-1-A to IN(L) on March 3, 2005 under **Z-11010(19)**. The BU-1 portion of the property was rezoned from RU-3-12 to BU-1 with a BDP on June 26, 1989 under **Z-8429**. Conditions (1-3) of the existing BDP are as follows:

1. The Developer shall limit the use of the property to the following:
 - a. Professional offices and/or medical building (medical and dental offices or clinics and attendant uses, such as pharmacy or laboratory).
 - b. Any laboratory use shall be attendant to medical and dental office use and shall be limited to use only by on-site health care practitioners.
2. Developer shall provide a 25-foot vegetative buffer along the entire North boundary of the property. Buffer to be interrupted by entrance or exit roads only if same are required by Brevard County Traffic Engineering.
3. Vegetative buffer shall incorporate existing mature specimens in buffer area or mature specimens of equivalent size and type.

The applicant is requesting the removal of the current BDP and replacement with a new BDP limiting density of the subject property to one (1) unit per acre, for a total of two (2) units.

Land Use

The subject property currently retains FLU designations of Community Commercial (CC) and Neighborhood Commercial (NC). The SR request can be considered consistent with the CC and NC FLU designations as residential development may be permissible in commercial land use designations as set forth in Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

Applicable Land Use Policies

FLUE Policy 2.10 – Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map.

Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

- A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
- B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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

Criteria:

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

The applicant proposes the development of a two (2) single-family homes. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

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

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

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

- 1. historical land use patterns;

There are four (4) FLU designation (RES 15, RES 6, CC, and NC) within 500-feet of this site. There have been no FLU amendments.

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

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

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

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

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

No material violation of relevant policies has been identified.

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

The developed character of the surrounding area is a mix of commercial and multi-family zoning. The subject property is currently vacant. To the north is undeveloped commercial land zoned BU-1 and IN(L) with RU-2-30(12) further north. To the south are single-family residences zoned RU-2-15 and BU-1. To the east (across N. Tropical Trail) is a multi-tenant office building zoned BU-1, and to the west is the Indian River Lagoon.

The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet. SR zoning may be considered consistent with NC and CC Future Land Use designations under Policy 2.10 of the Future Land Use element of the Comprehensive Plan.

The introduction of SR zoning into the area could be considered spot zoning.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Undeveloped land	IN(L) and BU-1	NC and CC
South	One SF manufactured home and one office building	RU-2-15 and BU-1	CC
East	One multi-tenant office building	BU-1	NC and CC
West	Indian River	N/A	N/A

IN(L) zoning classification is an Institutional (Light) zoning intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

BU-1 zoning classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between SR 520 to Merritt Avenue, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 52.82% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 52.94% 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 subject parcel is within the City of Cocoa's service area for potable water. The closest Brevard County sewer line to the parcel is approximately 90 feet to the southeast on N. Tropical Trail.

Environmental Constraints

- Coastal High Hazard Area
- Wetlands
- Surface Water Protection
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

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

For Board Consideration

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

The Board may also wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7 of the Coastal Management Element of the Comprehensive Plan.

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

Item #22Z00023

Applicant: Rezanka for May

Zoning Request: BU-1 & IN(L) w/ BDP to SR w/ amended BDP

Note: Applicant wants to develop 2 residences

P&Z Hearing Date: 07/18/22; **BCC Hearing Date:** 08/04/22

Tax ID No: 2426893

- 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:

- Coastal High Hazard Area
- Wetlands
- Surface Water Protection
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

Land Use Comments:

Coastal High Hazard Area

The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as

defined in Chapter 163, Florida Statute. The shoreline of the property is within the Coastal High Hazard Area, which extends beyond the 25-foot Surface Water Protection buffer.

Objective 7 of the Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard area and direct development outside of this area." The zoning request represents an increase in density. The Board may wish to direct site development out of the Coastal High Hazard Area in order to fulfill Objective 7.

Wetlands

The coastal fringe is mapped with NWI wetlands as shown on the NWI Wetlands map; an indicator that wetlands may be present on the property. A wetland report was prepared by Florida Environmental Consulting, Inc on April 28, 2022, and found no jurisdictional wetlands above the shoreline of the Indian River Lagoon. At time of building permit, the wetland report will be verified. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. 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.

A formal review of any proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State, or local agency.

Surface Water Protection

The subject property is located on the Indian River Lagoon system, designated as Class III surface water in this location. A 25-foot surface water protection buffer (Buffer) is required. The removal of native vegetation located within the Buffer shall be avoided. The applicant is encouraged to contact NRM at 321633-2016 prior to any activities, plan, or permit submittal.

Floodplain

The western portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map; and is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

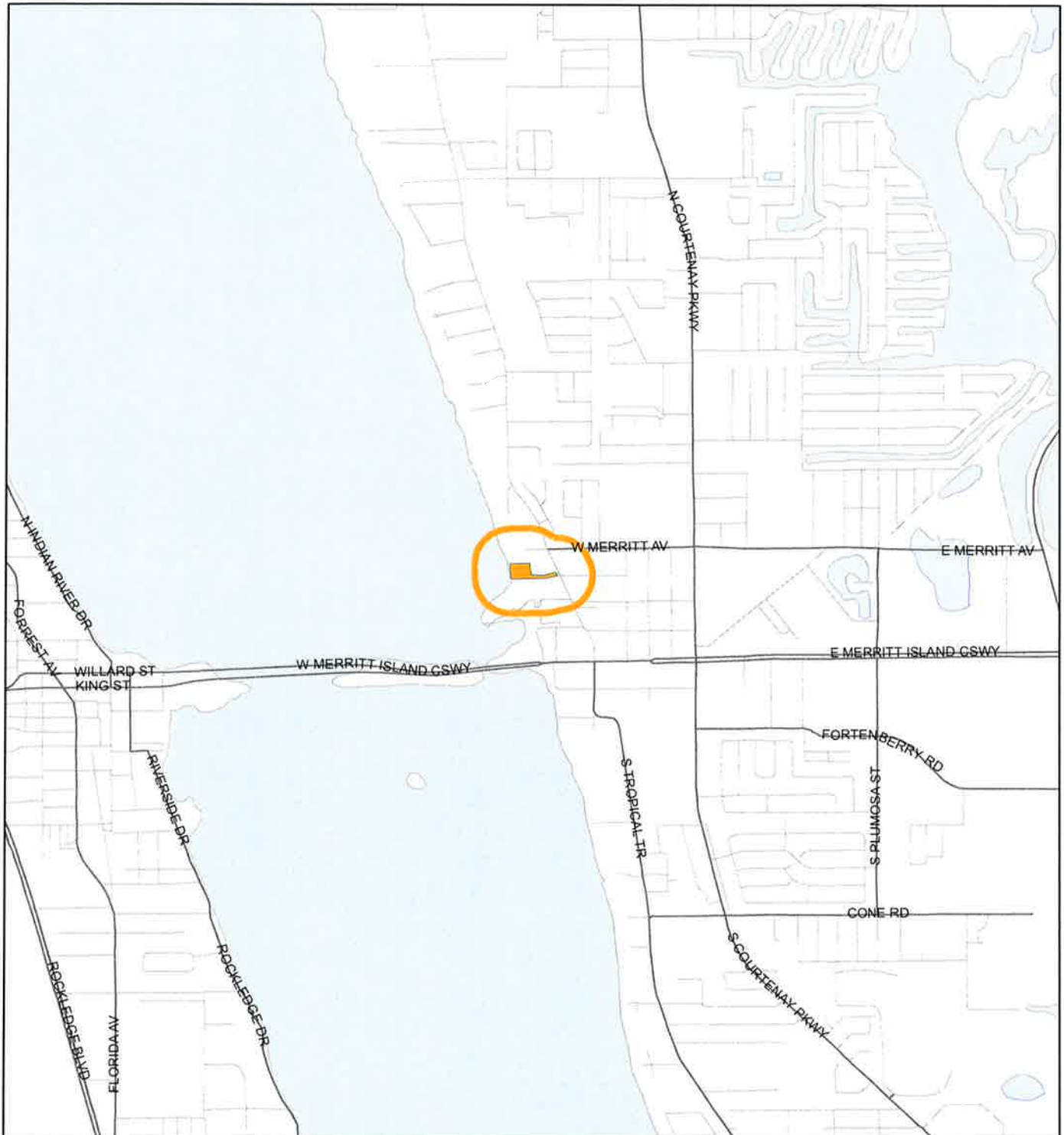
The property is mapped with SJRWMD FLUCCS code 4340 – Upland mixed Coniferous/Hardwood along the flag stem access drive, as confirmed with aerials. A tree survey will be required at the time of any future site plan submittal. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

ISLAND BLUFF, LLC
22Z00023





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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 5/26/2022

 Buffer
 Subject Property

22Z00023



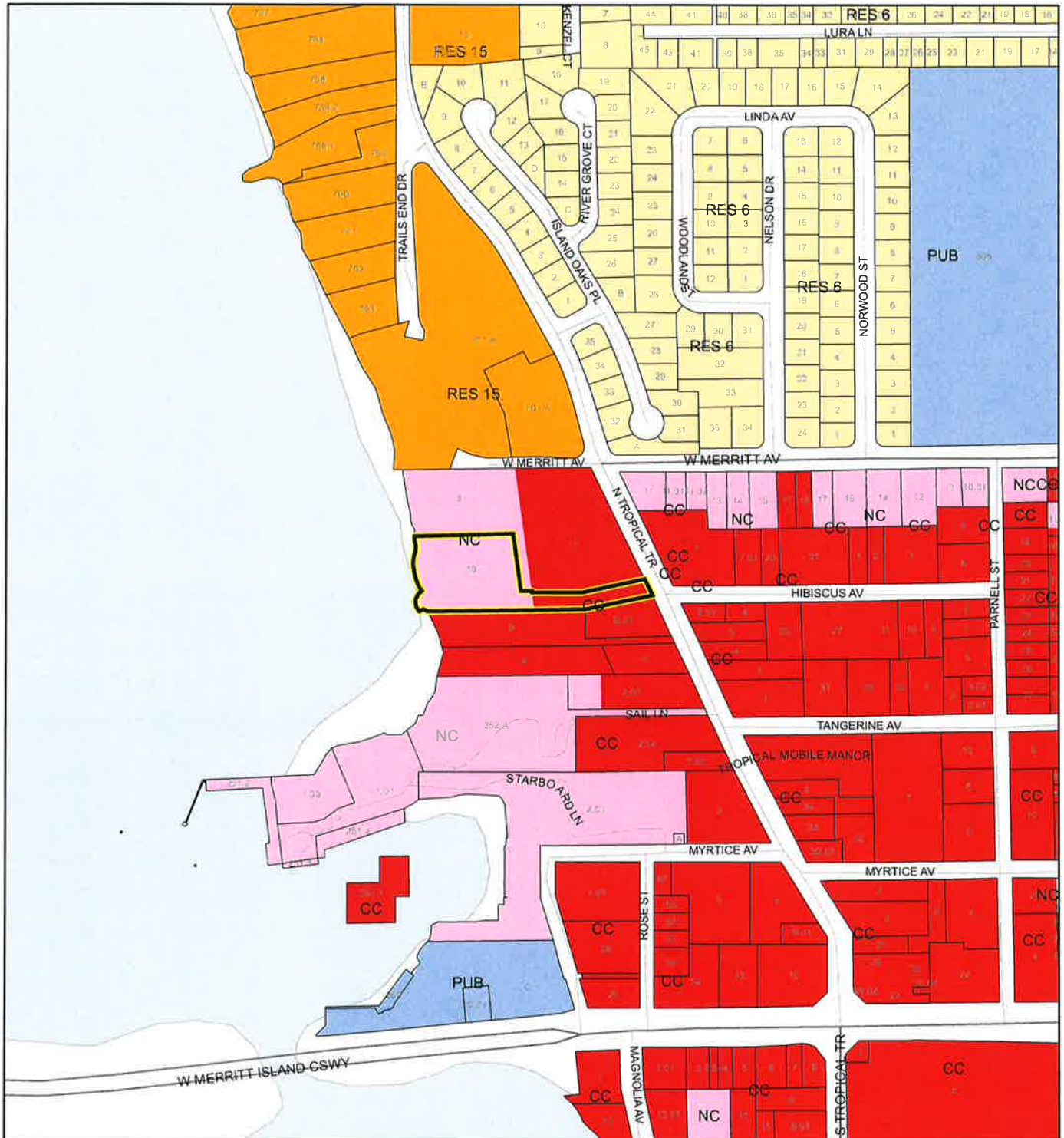
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Zoning

FUTURE LAND USE MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 5/26/2022

AERIAL MAP

ISLAND BLUFF, LLC

22Z00023



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

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.

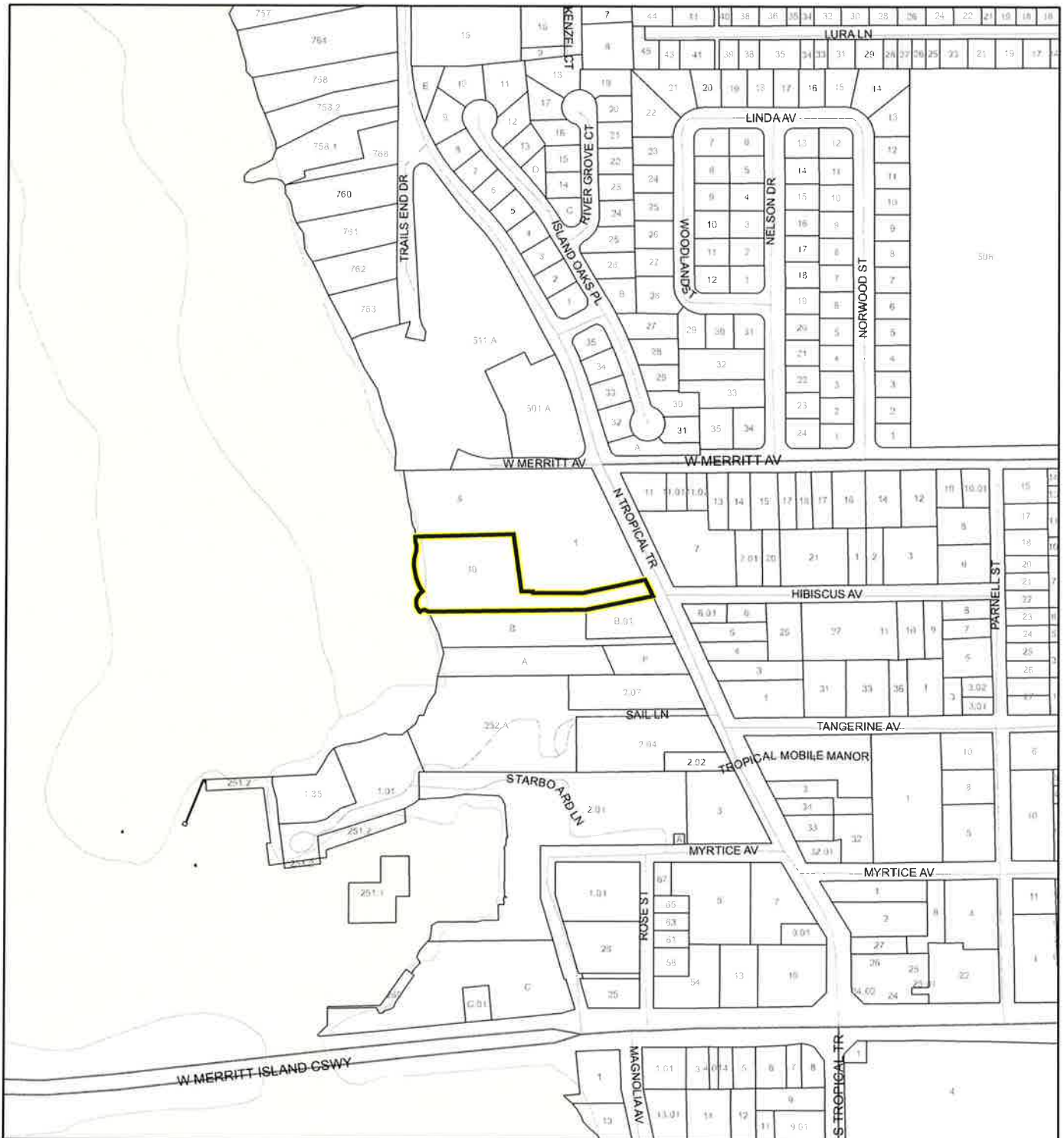
Produced by BoCC - GIS Date: 6/21/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

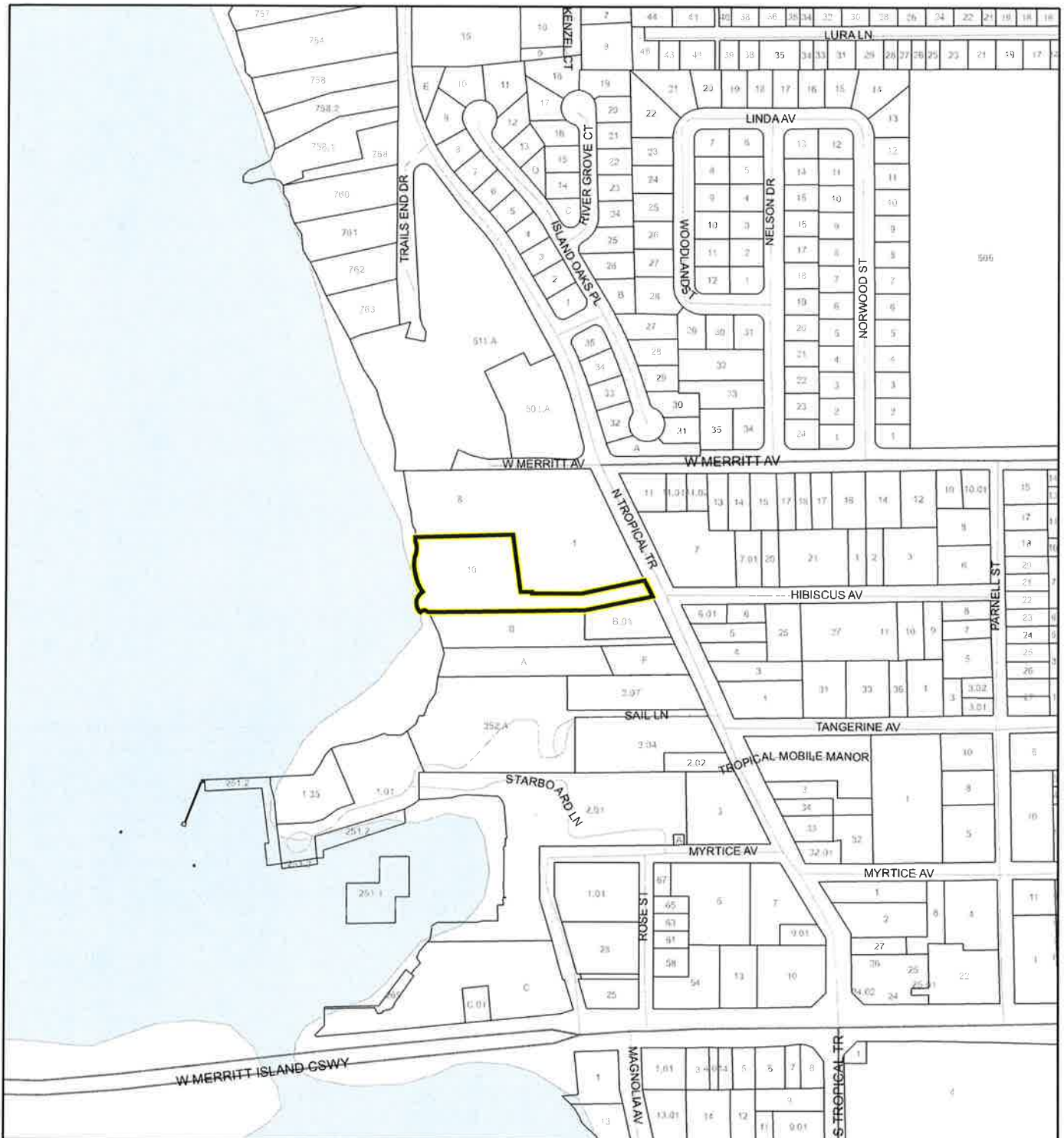
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

SJRWMD FLUCCS WETLANDS

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

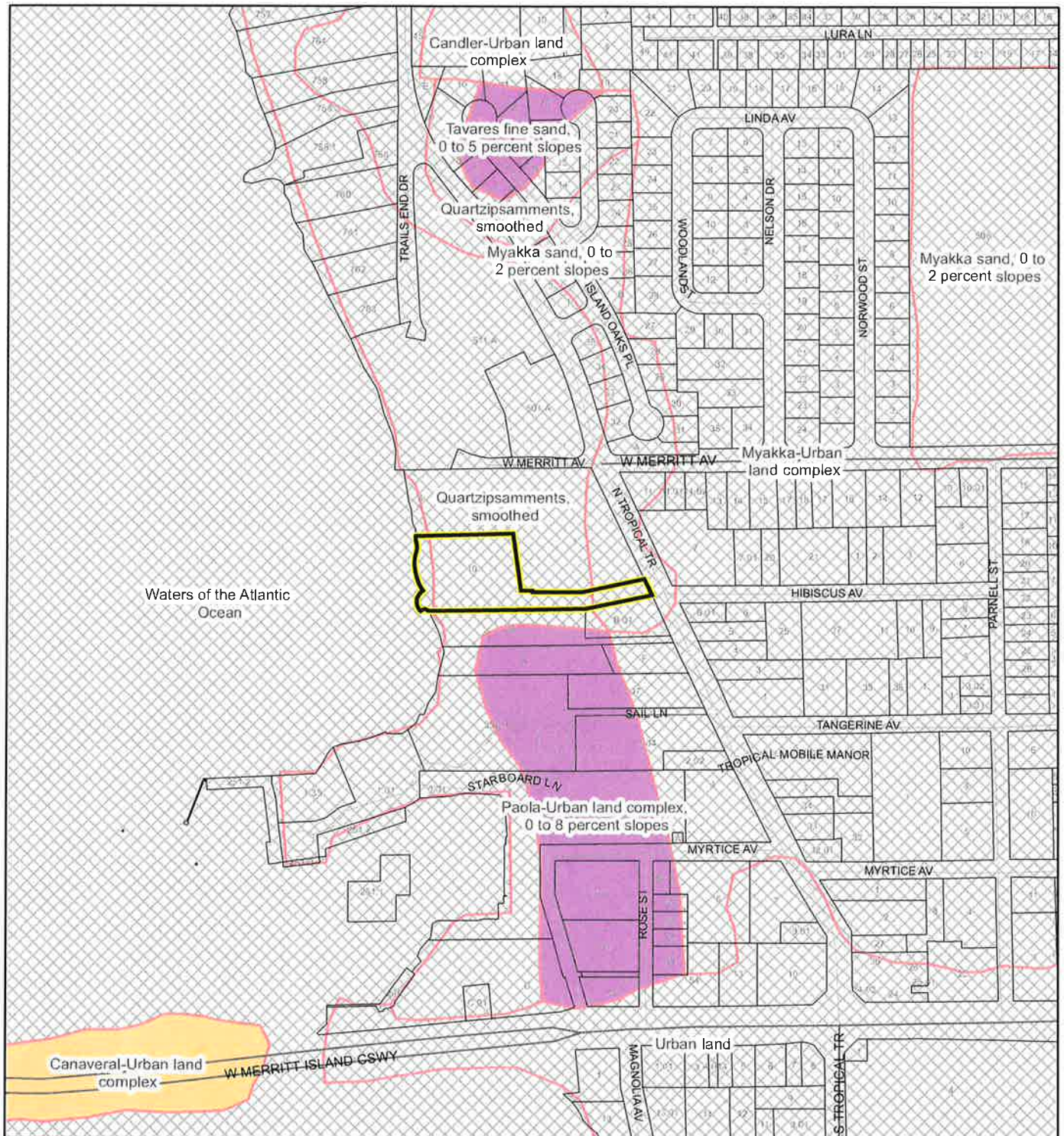
Subject Property

Parcels

USDA SCSSS SOILS MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

Subject Property

Parcels

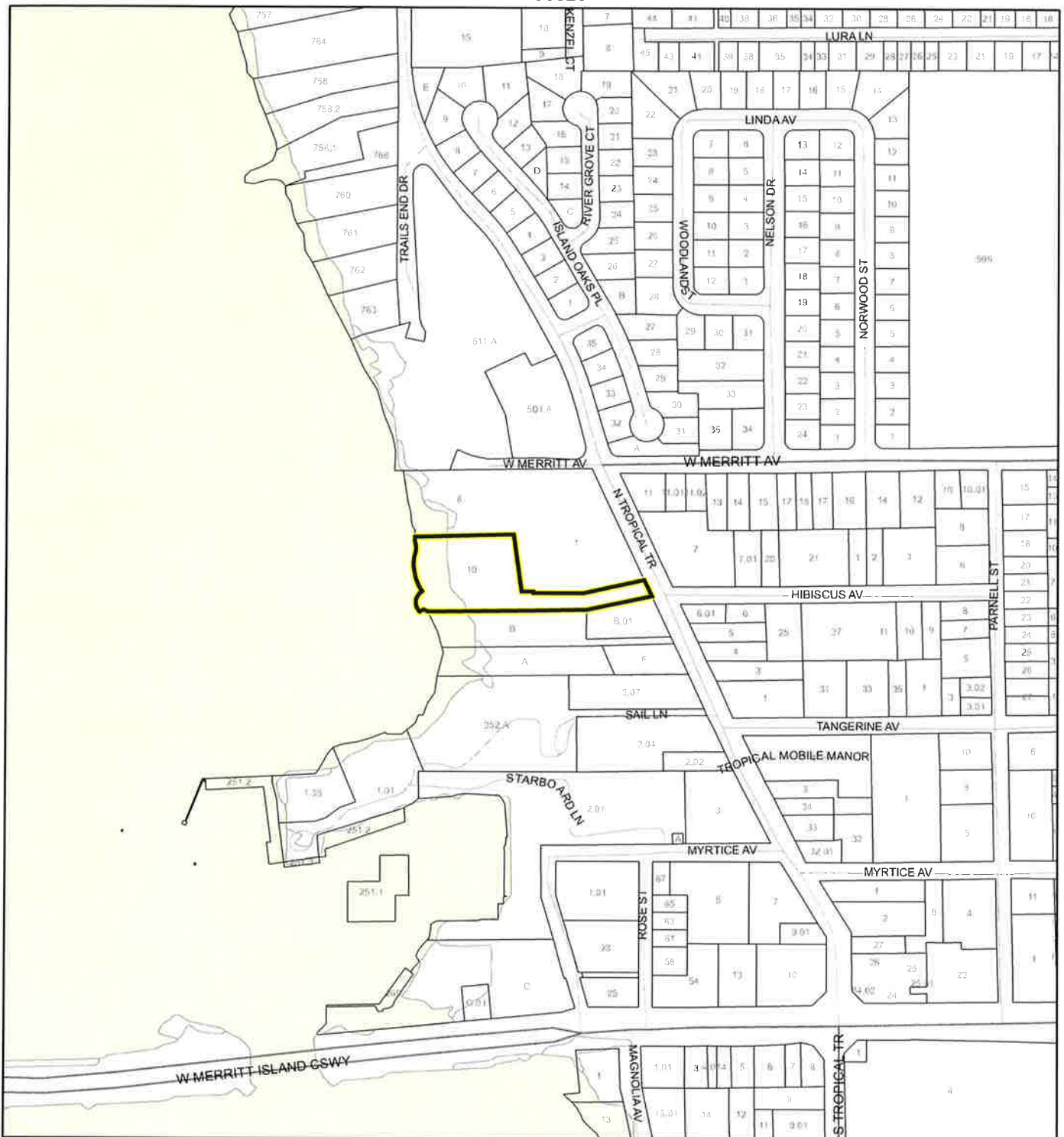
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/26/2022

FEMA FLOOD ZONES MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

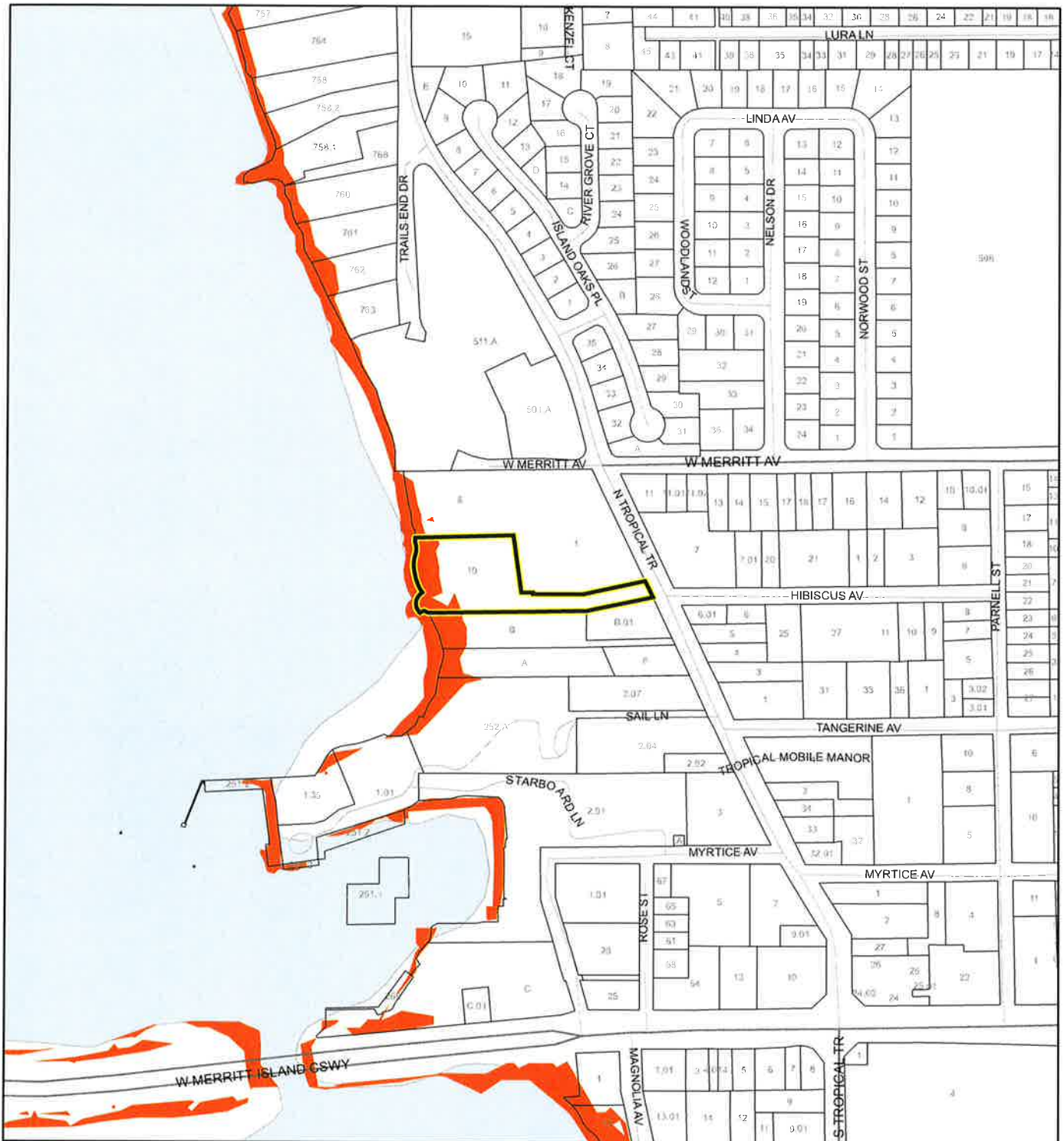
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

— Subject Property

□ Parcels

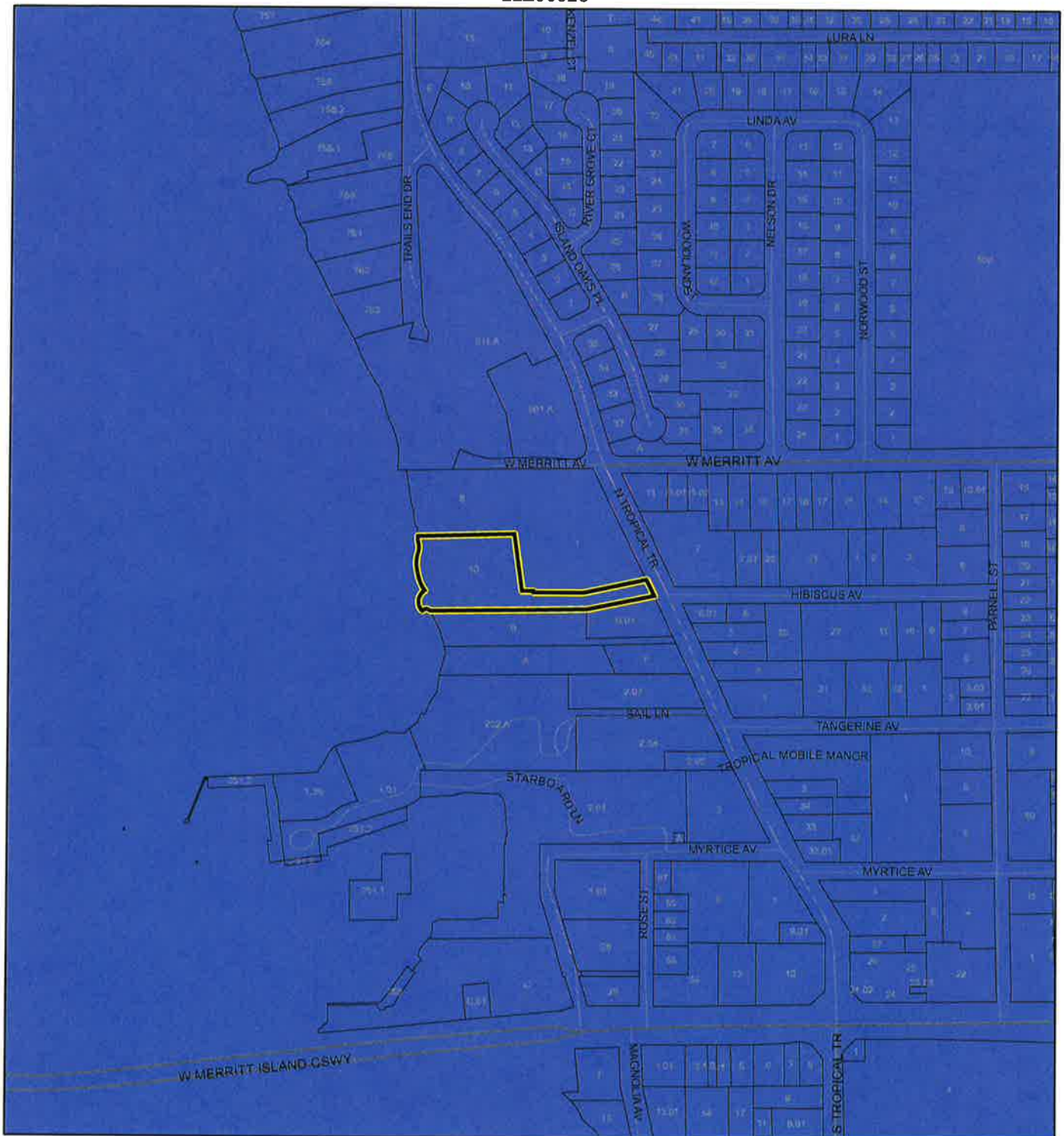
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

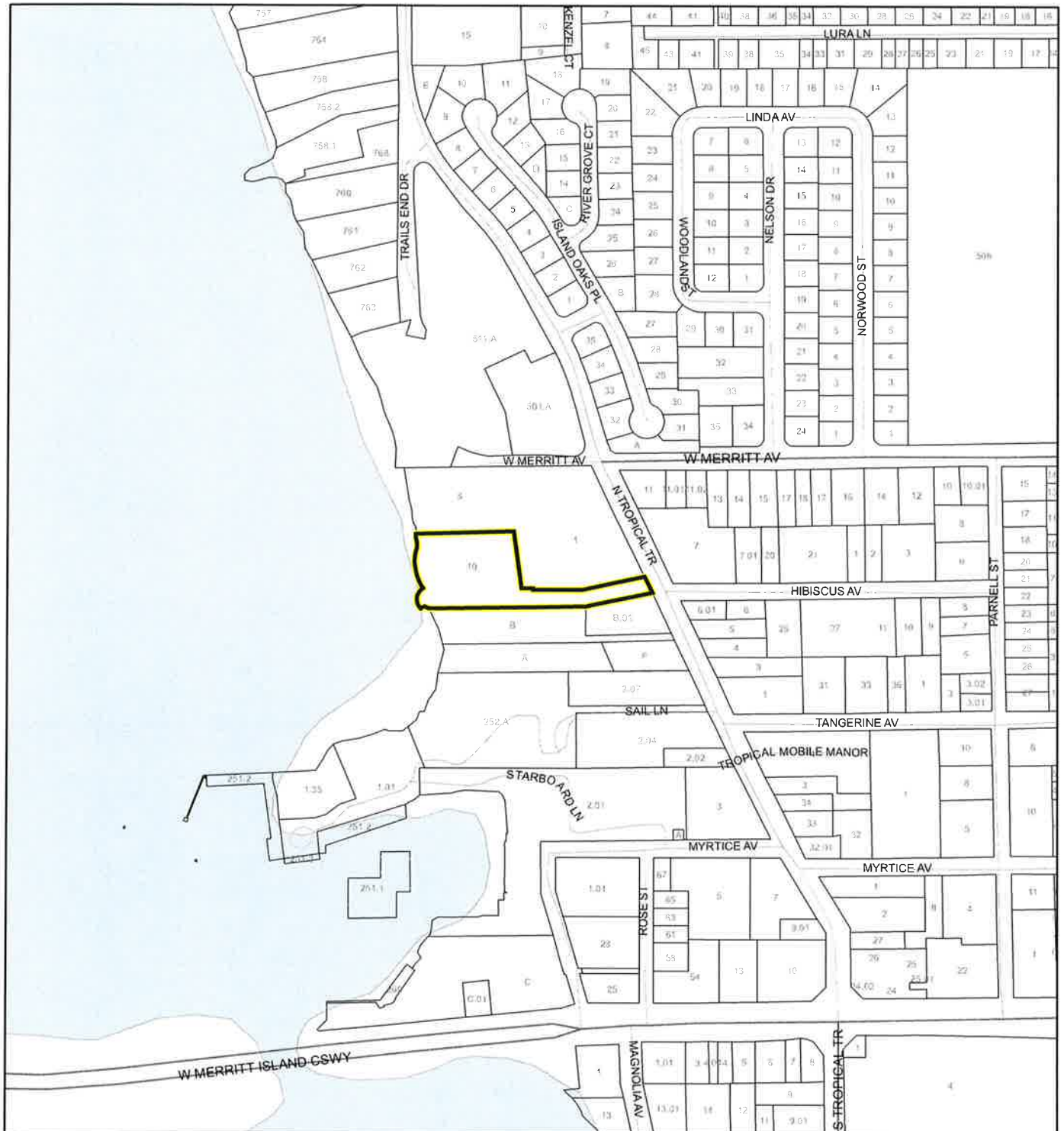
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

 Subject Property

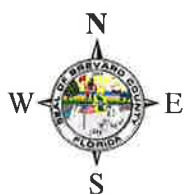
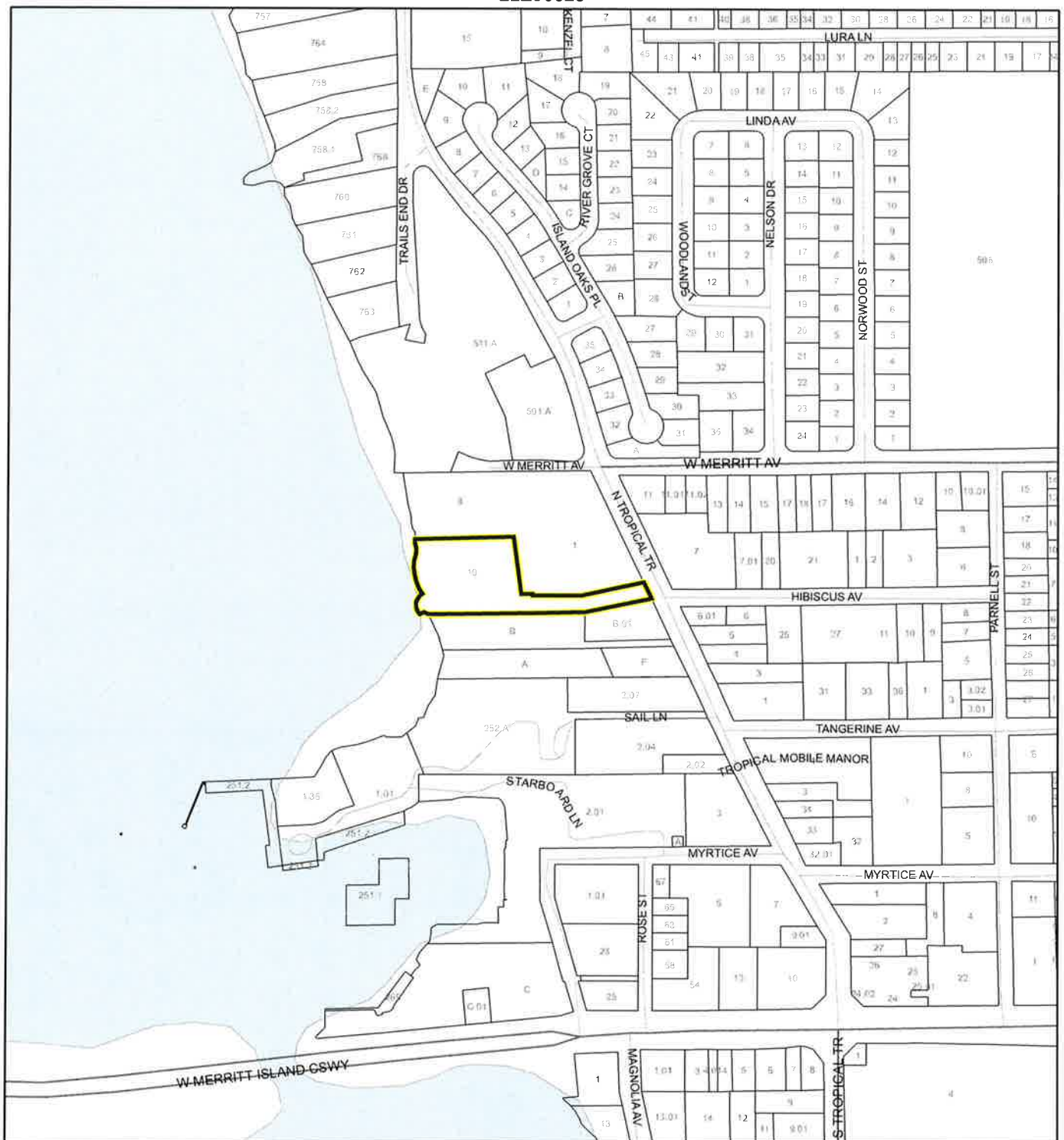
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

ISLAND BLUFF, LLC

22Z00023




1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

 Subject Property

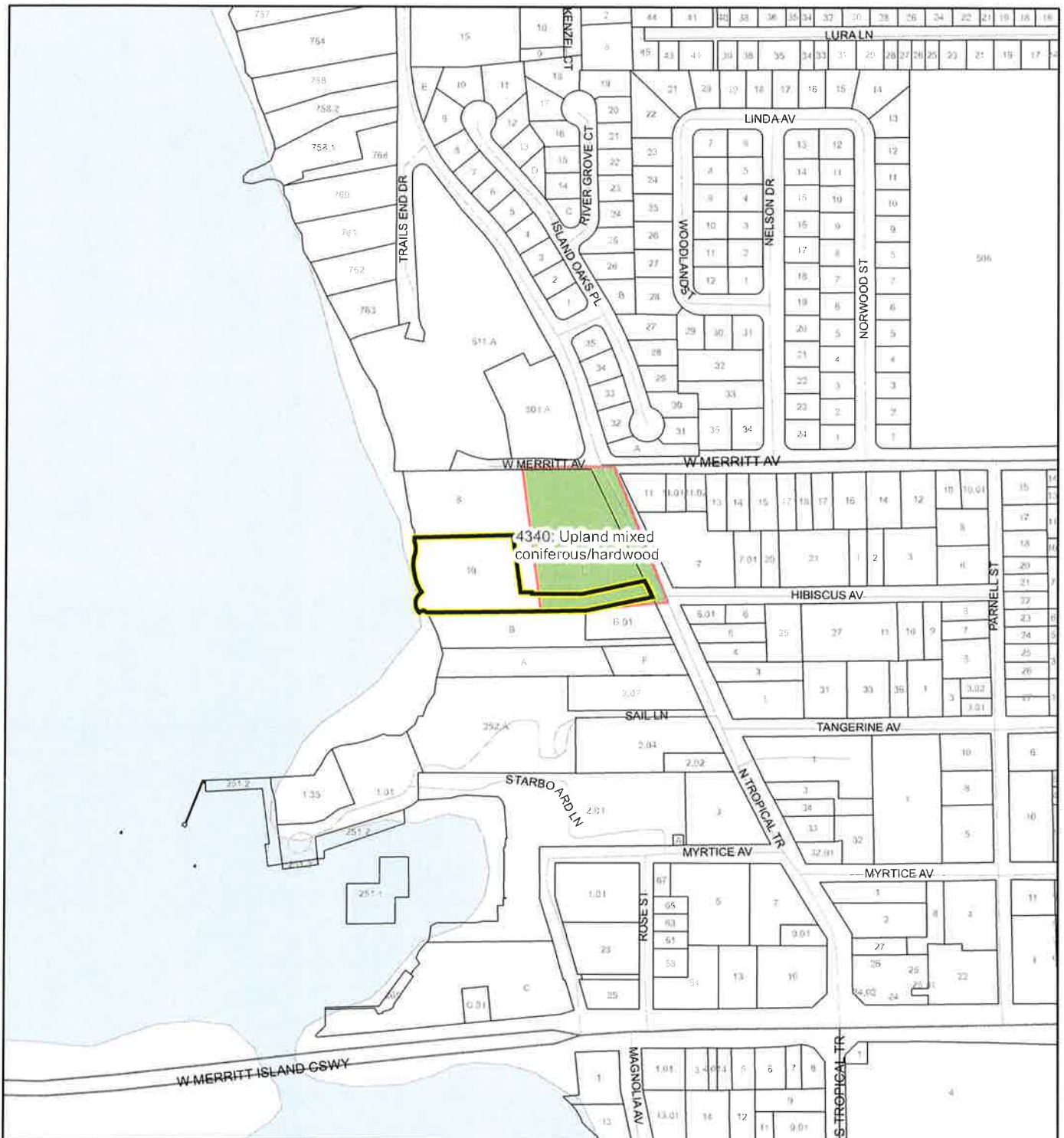
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

ISLAND BLUFF, LLC

22Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/26/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

**Florida
Environmental
Consulting, Inc.**



Environmental Impact Report

For:


495 W Merritt Ave Merritt Island



Prepared for:

Gene Buxcel
Gene.buxcel@gmail.com
406-480-9666




Timothy E. Maslin, C.E.S. / C.E.C.
Certification #77283

4/28/2022

FEC Job #22-164



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- 3.6 National Wetland Inventory Map**
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1.0 Executive Summary

The 495 W Merritt Ave property development:

- is approximately 2.12 acres in Brevard County, Florida.
- is one undeveloped parcels along W Merritt Ave proposed for land development improvements.
- contains mostly moderately well drained sandy soils.
- is at approximately elevation 10.
- is mostly in Flood Zone X and is partially in flood zone AE-5.
- was mostly cleared of vegetation
- contains some pines, palms, and oaks.
- does not support scrub jays.
- does not support the gopher tortoise.
- does not contain jurisdictional wetlands above the shoreline of the Indian River Lagoon.
- may impact native trees.
- may require additional environmental permitting for dock or pier construction.
- if not properly planned and permitted may cause adverse environmental impacts to native trees and submerged resources of the Indian River Lagoon.

2.0 Environmental Impact Report

2.1 Objective

In April of 2022 Environmental Specialists from *Florida Environmental Consulting Inc.* performed an environmental impact study of the 495 W Merritt Ave. property. The objective of this study was to assess and report on the baseline environmental condition of the subject site as well as to discuss how developing this site may impact the environment.

2.2 Introduction

The subject property is parcel ID 24-36-35-26-*-10 and is in section 35 of township 24, range 36 of Brevard County, Florida. More specifically, on the west side of N. Tropical Trail, south of W Merritt Ave. It is comprised of approximately 2.12 acres of undeveloped lands, at 28°21'38.4"N 80°42'28.1"W and is currently proposed for land development. Please see the maps and other reference materials in the appendix of this report.

2.3 Materials and Methods

The site assessment included preliminary research of the site and surrounding area to determine what type of ecological community to expect as well as what types of individual flora and fauna may be found on site. This preliminary research included; Geographic Information Systems (GIS) Mapping, aerial interpretation, Florida Department of Environmental Protection (FDEP) Environmental Resource Analysis, and assessing the potential for species and habitats listed by the City, County, St. Johns River Water Management District (SJRWMD), Florida Natural Areas Inventory (FNAI), Florida Fish and Wildlife Conservation Commission (FWC), and the U.S. Fish and Wildlife Service (FWS).

The site assessment also included traversing and observing communities adjacent to and within the site. During the site assessment community types, vegetation, wildlife, and other pertinent observations were noted.

2.4 Soils

According to the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) the property contains 2 major soil types more specifically described as:

Soil 52, *Quartzipsammments, smoothed*, characterized as moderately well drained sand with a water table typically about 24-60 inches below the surface with no typical frequency of ponding or flooding.

Soil 36, *Myakka sand*, 0 to 2 percent slopes, characterized as poorly drained sand with a water table typically about 6-18 inches below the surface with no typical frequency of ponding or flooding.

2.5 Hydrology

This project is in hydrologic basin 21, the *Northern Indian River Lagoon* basin, and the United States Geological Survey (USGS) Topographic Map in the Appendix shows the area as generally flat with stormwater runoff sheet flowing towards the Indian River. Using the North American Vertical Datum of 1983 (NAD83) the natural ground grade is approximately elevation 10 and according to the Flood Hazard Map in the Appendix, this area is largely not in a flood plain and as such is considered Flood Zone X, however the waterfront portion is partially in flood zone AE-5.

2.6 Flora

As noted in the introduction the property is one parcel totaling approximately 2.12 acres of vacant partially cleared land. The flora of the property has already been impacted by historic clearing, however the site exhibits remnant Hardwood/Conifer mixed habitat characteristics (FLUCCS 4340). Please see the Aerial LULC Map and Site Photos in the Appendix.

The notable flora included a slash pine (*Pinus elliottii*), live oak (*Quercus virginiana*), and cabbage palms (*Sabal palmetto*) with railroad vine (*Ipomoea pes-caprae*), exotic Brazilian Pepper (*Schinus terebinthifolia*), Boston fern (*Nephrolepis exaltata*), sand-spurs (*Cenchrus spinifex*), and muscadine grape (*Vitis rotundifolia*), and miscellaneous grasses and forbes.

No species of flora was observed on site listed by the County, Florida Natural Areas Inventory, Florida Fish and Wildlife Conservation Commission, or U.S. Fish and Wildlife Service, as Endangered, Threatened, or a Species of Special Concern.

2.7 Fauna

Possibly due to the clearing activity and other surrounding development, the fauna was found to be somewhat limited. The species directly observed and evidenced on site were squirrels (*Sciurus carolinensis*), spiders (*Arachnida spp.*), eastern lubber grasshopper (*Romalea microptera*), ants (*Formicidae spp.*), and anoles (*Anolis spp.*). Additionally, ospreys (*Pandion haliaetus*), were seen flying overhead as well as at an offsite nesting site.

Additionally, there were no gopher tortoise (*Gopherus polyphemus*) burrows nor individuals observed, and the site does not contain scrub jay habitat (*Aphelocoma coerulescens*) and was specifically outside the quarter-mile survey threshold from the nearest occupied scrub jay territory or suitable habitat.

2.8 Wetlands

Based on topography and aerial interpolation in conjunction with the soils survey publication and given the proximity to the Indian River, wetlands were not suspected, and this was confirmed in the field. However, the area below the high-water line of the Indian River would be considered protected waters of the State.

Please see the National Wetland Inventory Map in the Appendix of this report.

2.9 Summary and Discussion

In summary, the 495 W Merritt Ave property is approximately 2.12 acres of partially cleared, vacant unimproved land in Brevard County, Florida. The property is in Flood Zone X and partially in flood zone AE-5, contains poorly drained sandy soils at elevation 10, directly adjacent to the Indian River.

Further, as stated above the property does contain some native oaks and palms, and though these trees may be cleared with a permit, it is recommended that micro-site-planning be looked into in an effort to save trees as best practical. Specifically cabbage palms over 10 feet in trunk height, as well as oaks require individual tree protection or possible mitigation if proposed for removal.

Finally, based on the property having frontage on the Indian River Lagoon, if a dock or pier is proposed additional Environmental Resource Permitting including water depths, potential seagrass coverage, and manatee protection may be required.

2.10 Conclusion and Recommendations

In conclusion, without proper planning and permitting, improvements to the 495 W Merritt Ave. property could cause adverse environmental impacts to native trees and submerged resources of the Indian River Lagoon.

It is recommended to preserve or mitigate applicable native palms and oaks as best practical, as well as utilize micro-site planning to avoid and minimize such impacts. Additional environmental planning and permitting is also recommended if a future dock or pier is proposed.

Please contact Florida Environmental Consulting, Inc. with any questions or comments regarding this report or for any additional specific consulting.

2.11 Qualifications of Individual Preparing Report

Florida Environmental Consulting is a Florida registered environmental consulting firm, the person who prepared this report is the president of the company, and his signature and seal on the cover of this document demonstrate that he is in responsible charge of the information provided. He is a Certified Environmental Consultant and Environmental Specialist. Additionally, he has a Bachelor of Science in Environmental Science from the University of

Florida with a minor in Natural Resource Management, along with 22 years of experience. Finally he is a member of the National Association of Environmental Professionals, and the Environmental Assessment Association where a code of ethics and personal commitment to quality work is upheld.

3.0 Appendix

- 3.1 Location Map**
- 3.2 Soils Map**
- 3.3 Topographic Map**
- 3.4 Flood Map**
- 3.5 Land Use Land Cover Map**
- 3.6 National Wetland Inventory Map**
- 3.7 LIDAR Map**
- 3.8 Site Photos**



LOCATION

MERRITT ISLAND EIR

Florida
Environmental
Consulting Inc.

1171 6th Street, Suite 100, Fort Lauderdale, FL 33304
Phone: 754-266-4111 Fax: 754-266-4112 e-mail: fe

JOB NO. FEC-22-164
DESIGNED
DRAWN
CHECKED
DATE
SCALE

Revisions	Date



Legend

Subject Parcel

Florida Soils

Myakka sand

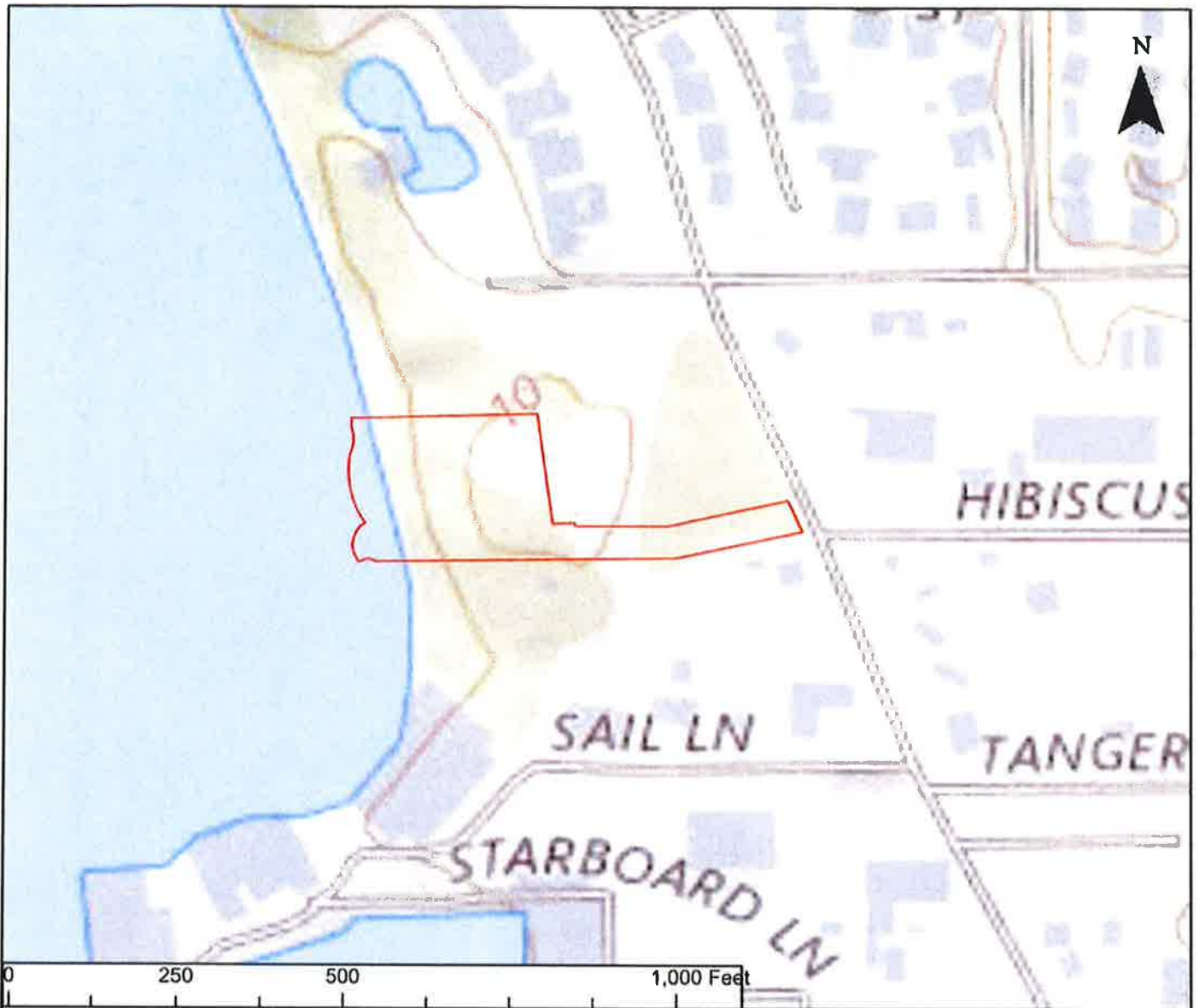
Myakka-Urban land complex

Paola-Urban land complex, 0 to 8 percent slopes

Quartzipsamments, smoothed

Waters of the Atlantic Ocean

SOILS	MERRITT ISLAND EIR	Florida Environmental Consulting Inc. <small>1100 West 17th Street, Suite 200, Ft. Lauderdale, FL 33311-4411 • 954.576.1100</small>	MERRITT ISLAND EIR DESIGNED DRAWN CHECKED DATE SCALE	REVISIONS 	DATE
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Legend

Subject Parcel

TOPO

MERRITT ISLAND EIR

**Florida
Environmental
Consulting Inc.**

14400 10th Street, Fort Lauderdale, Florida 33304
Phone: 772-329-4701 • Fax: 772-378-0617 • Email: fecon@aol.com

JO#NO: FEC-22-164
DESIGNED _____
DRAWN _____
CHECKED _____
DATE _____
SCALE _____

Revisions	Date



Legend



Subject Parcel

USA Flood Hazard



0.2% Annual Chance Flood Hazard



1% Annual Chance Flood Hazard

FLOOD HAZARD

MERRITT ISLAND EIR

**Florida
Environmental
Consulting Inc.**

1400 98th Avenue West, Suite 100, Fort Lauderdale, Florida 33309
Phone: 754-920-4701 • Fax: 754-920-6817 • Email: fei@feiconsulting.com

DRAWING: FEC-22-164
 DESIGNED: _____
 DRAWN: _____
 CHECKED: _____
 DATE: _____
 SCALE: _____

Revisions	Date



Legend

Subject Parcel

LANDUSE

1200: Medium Density, 2>5 dwelling units/acre, 1200: Medium Density, 2>5 dwelling units/acre

1300: High Density, 6 or more dwelling units/acre, 1300: High Density, 6 or more dwelling units/acre

1400: Commercial and Services, 1400: Commercial and Services

4340: Upland Mixed - Coniferous / Hardwood, 4340: Upland Mixed - Coniferous / Hardwood

5400: Bays and Estuaries

LULC

MERRITT ISLAND EIR

**Florida
Environmental
Consulting Inc.**

1800 15th Street West, Suite 400, Fort Lauderdale, Florida 33304
Phone: 770-366-4741 • Fax: 770-375-8517 • Email: fe

KLING STUBBINS
DESIGNED
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CHECKED
GAIL
SCALE

Revisions	Date



Legend

Subject Parcel

FL Wetlands

Estuarine and Marine Deepwater

NWI

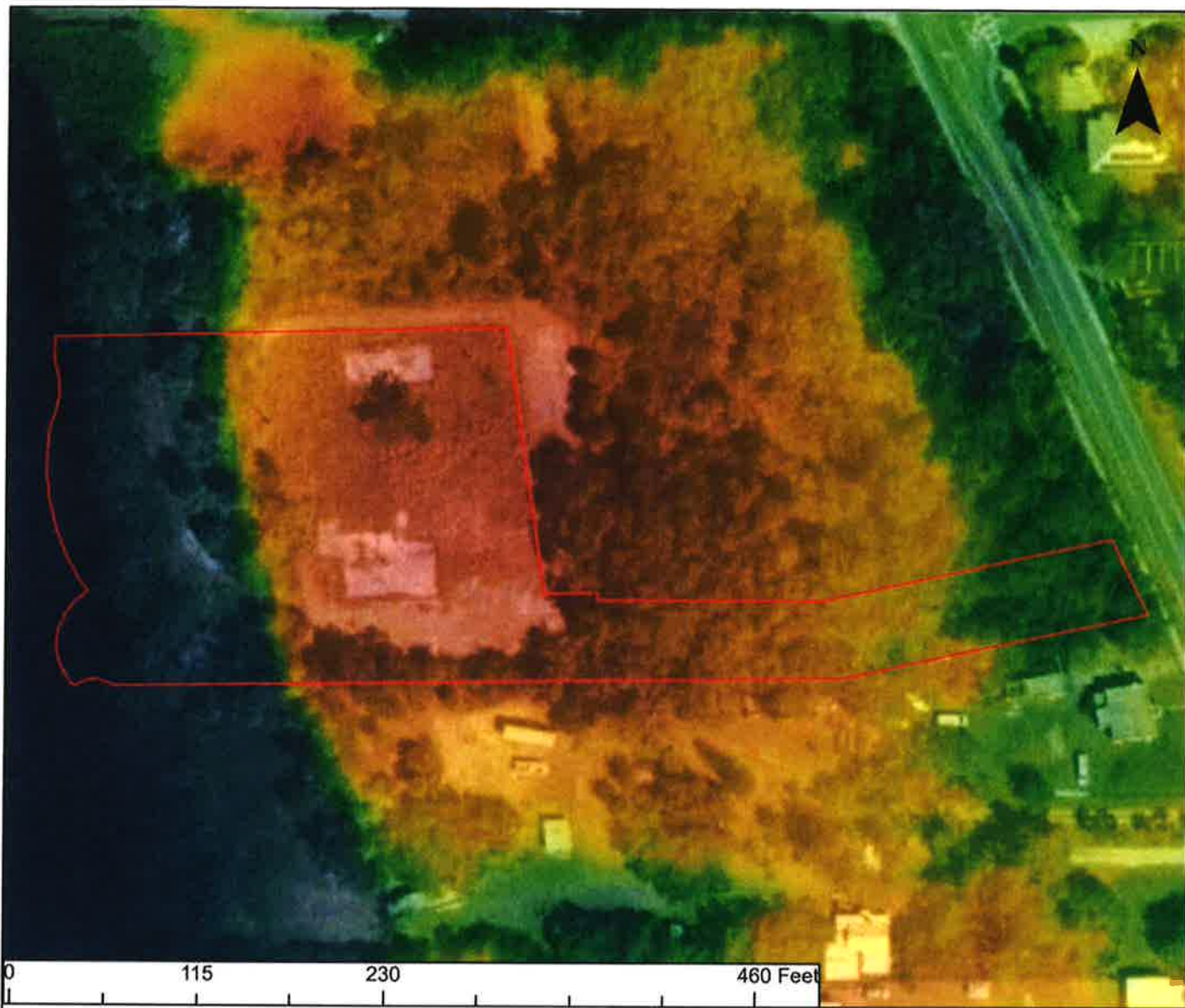
MERRITT ISLAND EIR

**Florida
Environmental
Consulting Inc.**

1400 90th Street West, Suite 200, Florida 33412
Phone: 772-394-0000 • Fax: 772-394-0011 • Email: info@fec.com

JOHN FEC-22-164
DESIGNED _____
DRAWN _____
CHECKED _____
DATE _____
SCALE _____

Revisions	Date

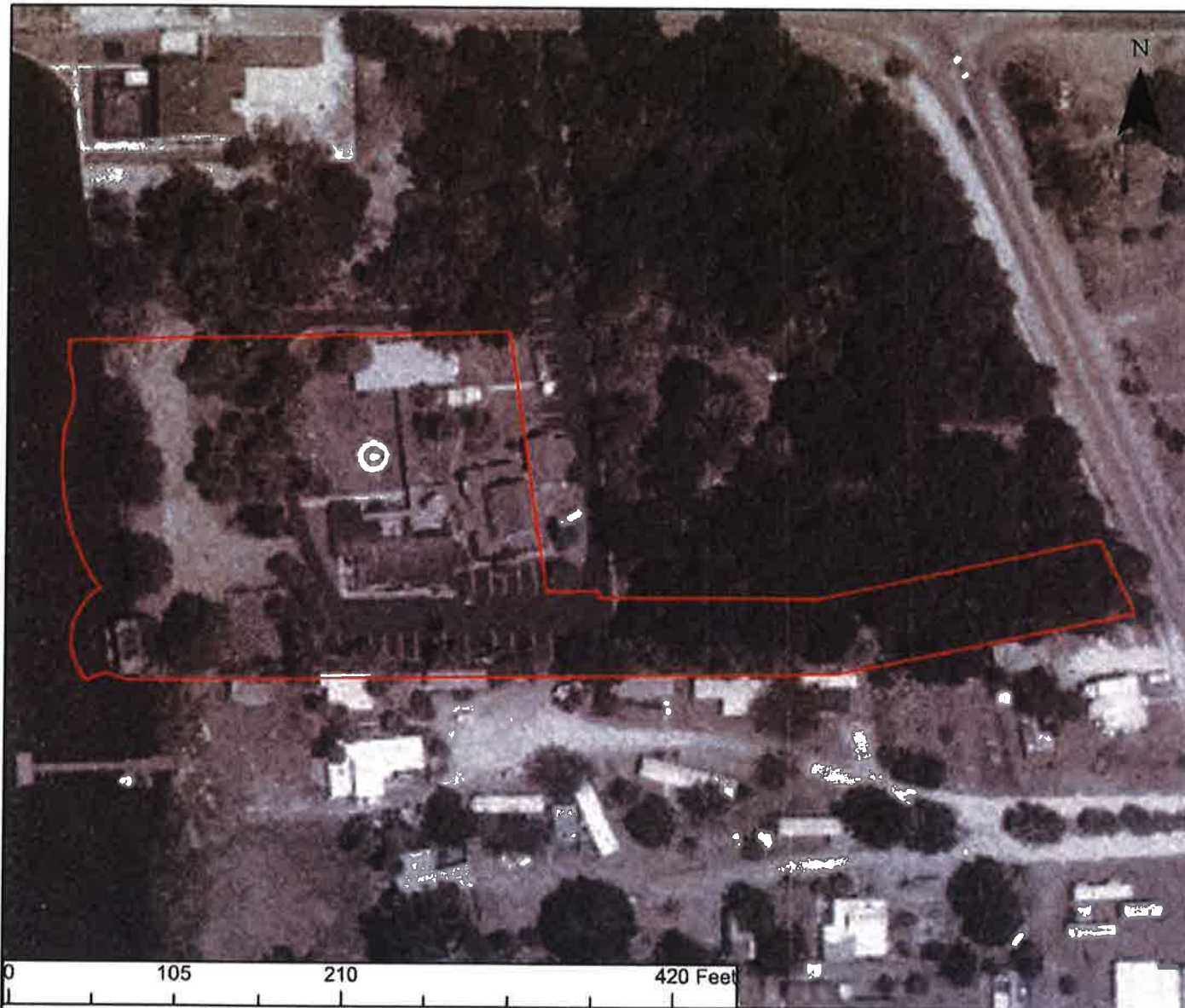


Legend

Subject Parcel

LIDAR	MERRITT ISLAND EIR	Florida Environmental Consulting Inc. <small>1538 39th Street, Vero Beach, Florida 32909 Phone: 772-899-4781 • Fax: 772-775-8017 • E-mail: fei@feiconsulting.com</small>	JOB NO. FEC-22-164 DESIGNED _____ DRAWN _____ CHECKED _____ DATE _____ SCALE _____	Revisions _____ _____ _____ _____	Date _____ _____ _____ _____
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Legend

Subject Parcel

1986 AERIAL

MERRITT ISLAND EIR

Florida
Environmental
Consulting Inc.

1820 SW 8th Street, Suite 200, Ft. Lauderdale, FL 33304
 Phone: 754-366-8791 • Fax: 754-770-3611 • Email: fect@flect.com

KIRHO: FEC-22-164
 DESIGNED
 DRAWN
 CHECKED
 DATE
 SCALE

Revisions	Date







BINDING DEVELOPMENT PLAN

THIS AGREEMENT, is entered into this 26th day of June, 1989, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and SUMANT J. PANDYA and SNEHLATA S. PANDYA (hereinafter referred to as "Developer")

RECITALS

WHEREAS, Developer owns property (hereinafter referred to as the "Property") in Brevard County, Florida as more particularly described in Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, Developer desires to develop the property as a professional office, or medical building pursuant to the Brevard County Code, Appendix C-Zoning; and

WHEREAS, as part of its plan for development of the property, Developer wished to mitigate negative impact on abutting land owners and affected facilitates or services; and

WHEREAS, the County is authorized to regulate development of the property;

NOW, THEREFORE, the parties agree as follows:

1. The Developer shall limit the use of the property to the following:

A. Professional offices and/or medical building (medical and dental offices or clinics and attendant uses, such as pharmacy or laboratory).

B. Any laboratory use shall be attendant to medical and dental office use and shall be limited to use only by on-site health care practitioners.

2. Developer shall provide a 25-foot vegetative buffer along the entire North boundary of the property. Buffer to be interrupted by entrance or exit roads only if same are required by Brevard County Traffic Engineering.

3. Vegetative buffer shall incorporate existing mature specimens in buffer area or mature specimens of equivalent size and type.

4. NAME: Developer, upon execution of this Agreement, shall pay
REC'D PAYMENT AS
INDICATED FOR CLASS
"C" INTANGIBLE & UOC
STAMP TAX'S INCLUDING
PENALTY & INTEREST
100.00
Clerk Circuit Court
Brevard Co., Florida

OFF. REC.
3006

2019
Z-8429
PAGE
3048

to the County the cost of recording this Agreement in Brevard County, Florida.

5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property.

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

ATTEST:

R. C. Winstead, Jr.
R. C. Winstead, Jr. Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: Roger W. Dobson
Roger W. Dobson, Chairman
(County*)

STATE OF FLORIDA
COUNTY OF BREVARD

This is to certify that the foregoing is a
true and correct copy of the original as
presented to me.

July 12, 1989
E. C. WINSTEAD, JR.
Clerk, County Court
BY E. C. Winstead, Jr. D.C.

Sumant J. Pandya
SUMANT J. PANDYA

Snehlata S. Pandya
SNEHLATA S. PANDYA
("Developer")

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROGER W. DOBSON to me well known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid, this 26th day of June 1989.

Lucan R. Lyle
Notary Public
Florida at Large

My Commission Expires:

Notary Public, State of Florida
My Commission Expires Nov. 6, 1992

(Seal)
CLERK

OFF. REC.
3006

I-10
Z-8429
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STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared SUMANT J. PANDYA and SNEHLATA S. PANDYA to me well known to be the person(s) described in and who executed the foregoing instrument and they acknowledge before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid, this 26th day of June, 1989.



Notary Public
Florida at Large

My Commission Expires Oct 29, 1991

(Seal)



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Lots 1 through 7, together with Lots 11 through 14, together with a portion of vacated Merritt Circle, all as shown on the "Plat of SUNNYSIDE TERRACE", according to the Plat thereof recorded in Plat Book 11 at page 41 of the public records of Brevard County, Florida, the same being more particularly described as follows:

Begin at the Southeast corner of said Lot 11; thence run S 80-29-26 W, along the South line of Lots 11, 12 and 13; for 188.66 feet; thence continue along the South line of LOT 13 and 14 bearing N 89-59-27 W, for 145.31 feet to the Southwest corner of said Lot 14; thence run N 06-50-08 W, along the west line of Lot 14 for 100.00 feet to the Northwest corner of said Lot 14; thence run N 41-36-43 E, for 26.71 feet to a point on the center line of said Merritt Circle; thence run N 06-50-08 W along said centerline for 287.16 feet to a point on the south right of way line of Merritt Avenue; thence run S 89-58-49 E, along said South right of way line for 178.88 feet to the point of curvature of a circular curve to the right; thence run Southeasterly along the arc of said curve having a radius of 25.00 feet through a central angle of 66-04-53 for an arc distance of 28.83 feet to a point of tangency on the Westerly right of way line of North Tropical Trail thence run S 23-48-55 E, along said Westerly right of way line for 391.33 feet to the point of beginning, said parcel contains 2.391 acres more or less.

EXHIBIT "A"

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Z-8429

Prepared by: Kimberly B. Rezanka, Esq.
Address: Lacey Lyons Rezanka
1290 Rockledge Blvd. Ste 201
Rockledge, FL 32955

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2022 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Island Bluff LLC, a Florida Limited Liability Company, (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A", legal description to be attached, attached hereto and incorporated herein by this reference; and

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

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

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

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 5/6/2022

3. The Developer/Owner shall limit density to one (1) unit per acre, for a total of two (2) units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

ATTEST:

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

Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

Island Bluff, LLC

WITNESSES:

(Witness Name typed or printed)

Randall L. May, Manager
1700 Sandpiper, Merritt Island, FL 32952

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 2022, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 18, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Planner III; Alex Esseeesse, Assistant County Attorney; and Tonya Parker, Administrative Secretary.

Excerpt of Complete Agenda

Island Bluff, LLC (Kim Rezanka)

A change of zoning classification from BU-1 (General Retail Commercial) and IN(L) (Institutional Use, Low-Intensity), with an existing BDP (Binding Development Plan), to SR (Suburban Residential), removing the existing BDP, and adding a new BDP. The property is 2.12 acres, located on the west side of N. Tropical Trail, approx. 362 ft. south of Merritt Ave. (495 W. Merritt Ave., Merritt Island) (22Z00023) (Tax Account 2426893) (District 2)

Kim Rezanka, Law Firm of Lacy Lyons Rezanka, stated she represents the contract purchaser, Gene Bucksell, who has purchased the property so that he and his daughter can build two homes. The request is for the SR zoning classification, which is one lot per half-acre, but a BDP is proposed to limit development to two homes. There is residential to the north and south; and although there is a lot of commercial zoning in the area, there are a lot of small houses that people live in and some have been converted to mixed uses. She noted the old BDP had some vegetative buffering, but she believes that was because there was residential to the north, but this request will be residential next to residential, and the old BDP permitted a professional and laboratory use, so that will be eliminated.

Public Comment:

Sue Cody, 3345 Canaveral Groves Boulevard, Cocoa, stated she owns the property to the south of the subject property. She said she has concerns as to how the approval of single-family homes will adversely affect her property now and in the future for development. She said it does not seem to be the highest and best use of property in the area due to the current zonings already in place, and it concerns her that single-family homes will be in the middle. She said it also does not seem to be compatible with any comprehensive land use in the area. The properties to the north of the subject property are zoned similarly to her property. She stated she strongly objects to single-family homes in the area because she does not feel it is the best use for Merritt Island in that area, as it is in the middle of multi-family and commercial properties.

Ms. Rezanka stated the subject property is currently under a professional and laboratory use, which doesn't belong in the area. She noted that part of the property is in a flood zone and part of it is in the coastal high hazard area, so bringing in development of two single-family homes makes more sense for the health of the Indian River Lagoon and for the flood zone and high hazard areas, but it is residential next to residential, so it is compatible and is currently an under-utilized parcel that provides a variety of housing opportunities.

John Hopengarten stated the aerial map shows a foundation on the property. Ms. Rezanka replied there used to be a church on the property.

Peter Filiberto asked if the property will connect to sewer. Ms. Rezanka replied yes.

Mr. Filiberto stated he did not see any concerns on the school capacity, and the public safety aspect looks good as well, along with utilities. He asked if the mangroves along the river be affected. Ms. Rezanka replied she doesn't know, they are still working on their site plans, but they are allowed to impact them to some degree if they want a dock, but they will have to meet regulations at the time.

Motion by Liz Alward, seconded by Bruce Moia, to approve the requested change of zoning classification from BU-1 and IN(L), with an existing BDP, to SR, removing the existing BDP, and adding a new BDP, limiting density to one unit per acre, for a total of two units. The motion passed unanimously.

From: [Hart, Jane](#)
To: [Jones, Jennifer](#)
Cc: [Ball, Jeffrey](#)
Subject: FW: PZ ID# 22Z00023
Date: Wednesday, July 27, 2022 11:19:23 AM

Jennifer,

Please include the following email from Ms. Sue Cody to the public comments record for 22Z00023 (Island Bluff).

Thank you,

Jane Hart, M.S., Planner
Brevard County Planning & Development
Phone: 321-633-2070 ext. 58270
Direct line: 321-350-8270

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.

Brevard County is currently in the process of implementing changes to increase the accessibility of information and documents on its website. If you require assistance to better access this document or information contained therein, please contact Brevard County's A.D.A Coordinator by phone at 321-637-5347, or by email at ADACompliance@brevardfl.gov

From: thecedars717@cfl.rr.com <thecedars717@cfl.rr.com>
Sent: Wednesday, July 27, 2022 11:06 AM
To: Hart, Jane <Jane.Hart@brevardfl.gov>
Subject: PZ ID# 22Z00023

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

Ms. Hart,

I object to the subject property rezoning. I am the owner of the abutting property on the south side of subject parcel.

The proposed rezoning use is not compatible with abutting properties on the north and the south sides of subject parcel.

Proposed use is not in compliance with comprehensive plan policies. Parcels abutting on the north and south sides of subject property are zoned multi- family and commercial.

The placing of two houses on subject property are likely to substantially impact my properties and materially affect the value.

Zoning request is not the highest and best use of subject parcel especially considering the zoning of abutting parcels on the north and south sides.

It would seem subject property and the abutting properties to the north and south would be ideal properties for a development within the Merritt Island Redevelopment Area (MIRA),

I strongly object to the requested zoning change,

Respectfully submitted,

M. Sue Cody

From: [Griffin, Lorena](#)
To: [Iliff, Bethany](#)
Subject: FW: Conference call with Commissioner John Tobia to review Service Center presentation
Date: Wednesday, August 3, 2022 4:25:26 PM
Attachments: [image004.png](#)

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Commissioner, D3 <>
Sent: Monday, August 1, 2022 10:39 AM
To: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Cc: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

Good Morning,

The Commissioner has prior commitments this week but I will revert back with possible dates at a later time.

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Rosenthal, Jon <Jon.Rosenthal@fpl.com>
Sent: Friday, July 29, 2022 2:53 PM
To: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Cc: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

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

Good Afternoon Commissioner Tobia and Ms. Griffin:

Our deepest apologies on missing the meeting earlier this week. It would be wonderful if we could squeeze in a brief call sometime next week.

The attached document contains an overview of the proposed service center at the northwest corner of Port Saint John Parkway and Grissom Parkway we are pursuing, and the activities anticipated to be brought before the County Commission for approval in the months ahead. This is the material we will be reviewing if we are able to get another call scheduled. On July 18, the P&Z Commission did vote unanimously to recommend to the County Commission to approve the rezoning, comp plan amendment and removal of the two Binding Development Plans (BDP).

Thank you and if you have any questions, please feel free to contact Bart or myself.

Jon

Jon Rosenthal | Project Director, Construction & Project Management
Florida Power & Light Company
Telephone: 561-694-4274 | Cellular: 561-310-1165
Email: Jon.Rosenthal@FPL.com

From: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>

Sent: Friday, July 15, 2022 3:19 PM

To: Gaetjens, Bart <Bart.Gaetjens@fpl.com>

Cc: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Griffin, Lorena <Lorena.Griffin@brevardfl.gov>

Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

Bart,

I have scheduled your call with Commissioner Tobia for 10am on Monday July 25th. Please call our office at 321-633-2075. Feel free to send any attachments to my email or the d3.commissioner@brevardfl.gov.

Let me know if you have any questions.

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3

PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Sent: Friday, July 15, 2022 2:57 PM
To: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Cc: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Subject: FW: Conference call with Commissioner John Tobia to review Service Center presentation

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

Hi Lorena- let's schedule for July 25th please.

We are both available all day with an exception from 1 to 1:30 so please schedule at your convenience.

Please advise if there is a specific number we should call. Also in advance of the meeting, Jon Rosenthal, our project manager (copied) will be sending Commissioner Tobia a copy of the presentation. Should we send it to the D3 email address?

Thank you for all of your assistance!

Bart Gaetjens | External Affairs Manager
Florida Power & Light Company | 9001 Ellis Road | West Melbourne, FL | 32904
Office: 321-383-7269 | **E-mail:** bart.gaetjens@fpl.com | **Website:** <http://www.fpl.com>

Connect with Us: [Facebook](#) | [Twitter](#) | [YouTube](#)



From: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Sent: Wednesday, July 13, 2022 4:40 PM
To: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: Conference call with Commissioner John Tobia to review Service Center presentation

Hi Bart,

As discussed, we can set up a conference call with Commissioner Tobia to discuss the proposed service center prior to the 8/4 meeting. His availability is as follows:

Monday July 18th – open

Wed July 20th – 9-10am

Thurs July 21th 9-12pm

Monday July 25th & 26th – open

Let me know if any of the above dates work for you. Please email us any documents for his review and let me know who will be attendance.

Please call me with any questions.

Thank you,

Lorena Griffin

Director of Community Affairs

County Commissioner John Tobia, District 3

PH: (321) 633-2075 * Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."



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

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

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

August 3, 2022

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

Ms. Jones,

In regard to the upcoming agenda items H.4, H.5, H.7, H.8, H.12 and H.13, for the Brevard County Zoning meeting on August 4, 2022, please be advised in advance that I spoke twice with the following party via telephone on August 3, 2022.

Kim Rezanka, Esq.

The phone calls lasted approximately ten minutes and five minutes, during which the above individual provided information regarding the aforementioned items.

Sincerely,

John Tobia
County Commissioner, District 3

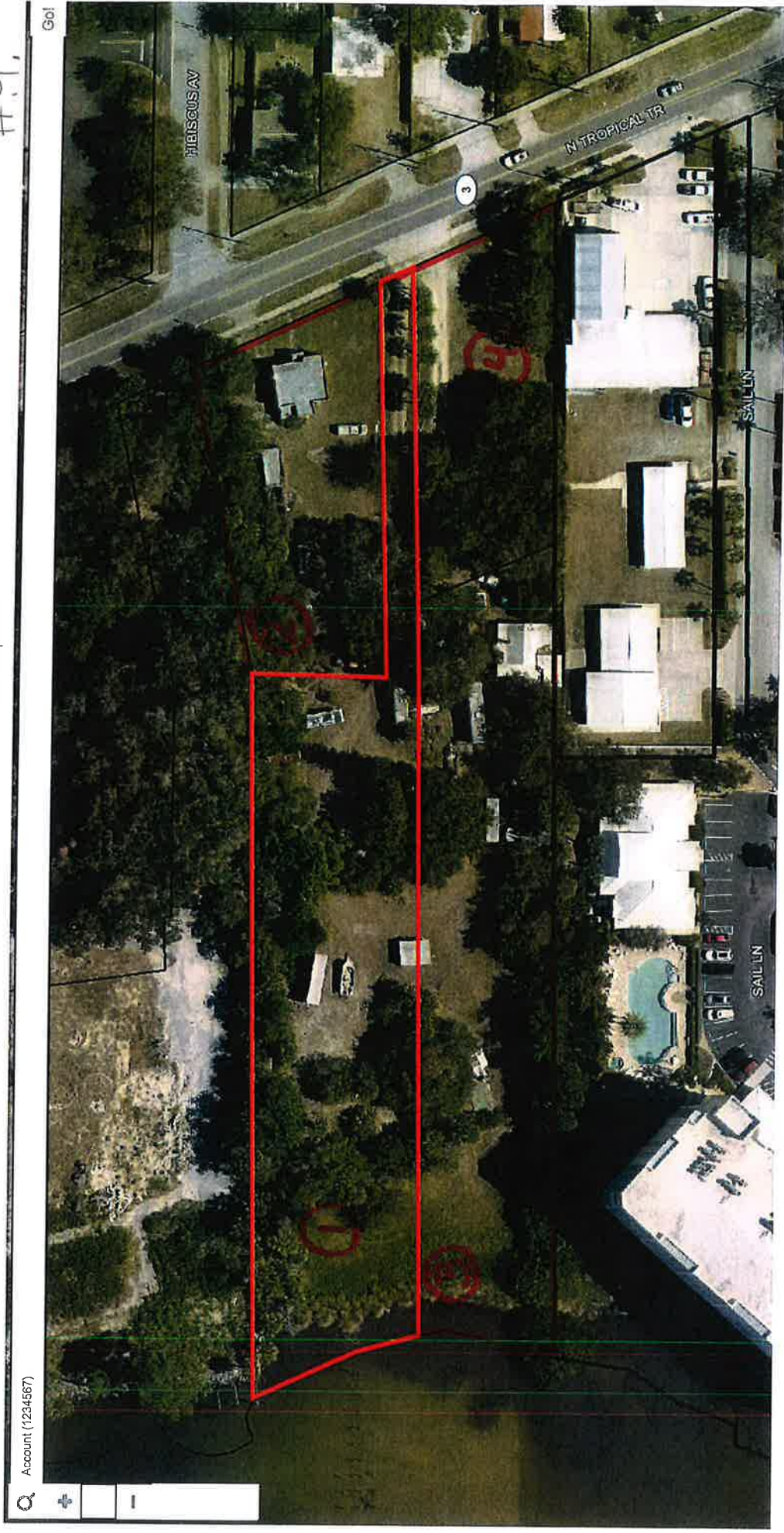


BOARD OF COUNTY COMMISSIONERS

District 3 Includes:

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

49.



Cody, Sue
Trustee

Account: 2426864 Parcel ID: 24-36-35-25-*B
Sale: 6/5/1964 \$50,000
BCPAO Market Value: \$483,590
Owners: CODY, M SUE TRUSTEE
Address: 235 N TROPICAL TR, MERRITT ISLAND FL 32953

