



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.14.

2/6/2020

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### **Subject:**

Bonnie E. Douglas, Trustee, requests a change of zoning classification from RU-1-9 and BU-1 to TR-3, with a BDP limited to 173 mobile home sites. (19PZ00108) (Tax Accounts 3010260 and 3006458) (District 3).

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) and BU-1 (General Retail Commercial), to TR-3 (Mobile Home Park), with a BDP (Binding Development Plan) limited to 173 mobile home sites.

### **Summary Explanation and Background:**

The applicant is seeking a change of zoning classification on 1.46 acres fronting Highway A1A from RU-1-9 and BU-1 to TR-3 for the purpose of incorporating the parcel into the existing River Grove Mobile Home Park, located at 8440 U.S. Highway 1, Micco. This will legitimize the 0.52-acre recreational amenity with a pool for the residents and allow for consistency and continuity with the park's use of approximately 0.94-acre in the southeast corner of the site. This will be combined with the existing 31.36 acres to meet the 10-acre minimum requirement for TR-3 zoning. In order to incorporate the 1.46 acres into the River Grove Mobile Home Park, which is a Pre-existing Use, the applicant has agreed to BDP that limits the development potential to the existing 173 units.

The .52-acre parcel was purchased by the applicant in 1981 and has been used as an office, managers residence, and recreational facility for the mobile home park. A variance was granted by the Board of Adjustment on December 18, 2019, to allow a reduced setback from the existing structure to the north property line which is required for the TR-3 zoning classification.

On December 26, 2019, the applicant submitted a Quit-Claim Deed combining both properties.

The Board may wish to consider whether the requested TR-3 zoning is consistent and compatible with the surrounding RU-2-10, BU-1, RU-1-7, GU, and RRMH-1 zoning classifications. In addition, the Board may wish to consider the mitigating provisions of the BDP to allow the existing mobile home park to accommodate the existing infrastructure of the mobile home park.

On November 4, 2019, the Planning and Zoning Board heard the request and unanimously recommended

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approval.

**Clerk to the Board Instructions:**

Once resolution is received, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.



- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**19PZ00108**

**Bonnie E. Douglas, Trustee**

**RU-1-9 (Single-Family Residential), BU-1 (General Retail Commercial), and TR-3 (Mobile Home Park) to all TR-3 with Binding Development Plan Limiting the Number of Mobile Home Sites to the Current Number of 173**

Tax Account Number: 3010260 and 3006458  
Parcel I.D.: 30-38-14-00-283 and 30-38-14-00-261  
Location: West side of U.S. Highway 1, approximately 250 feet south of Garretts Road (8440 U.S. Highway 1, Micco) (District 3)  
Acreage: 31.36 acres

Planning and Zoning Board: 11/04/19

Board of County Commissioners: 12/05/19

**Consistency with Land Use Regulations**

- Current zoning could not be considered under the Future Land Use Designation, Section 62-1255.
- The proposal could be considered under the Future Land Use Designation, Section 62-1255 with a Binding Development Plan (BDP) limiting mobile home sites to 173 sites. \*\*
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-9; BU-1; TR-3	TR-3
<b>Potential*</b>	173	173
<b>Can be Considered under the Future Land Use Map **</b>	NO RES 1, NC, CC and RES 2	YES** RES 1, NC, CC and RES 2

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* A BDP limiting the request to existing sites is required for this action to establish the nonconforming status to the Future Land Use Map. The mobile home park was developed with 173 units upon 31.36 acres and has a density of 5.51 units/acre. This request does not allow any new mobile home sites.

**Background and Purpose of Request**

The applicant is seeking a change of zoning classification on 0.52 acres (NE corner of site) from RU-1-9 to TR-3 zoning in order to use existing structures to compliment the mobile home park. This location was initially developed with a single-family home and pool and has been utilized as the mobile home park's leasing office and recreational amenity for over 30 years.

The applicant is also seeking a change of zoning from BU-1 to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

The portion of this property lying east of the FEC right-of-way was originally zoned under **Z-2509** on October 2, 1969. The western portion of the park was added later under **Z-5808** adopted on October 8, 1981. Both of these zoning actions predate the Brevard County Comprehensive Plan adoption on September 8, 1988. Zoning Resolution **Z-10756(48)** removed Conditional Use Permit **Z-6101** for a water and sewer treatment plant on December 5, 2002. A variance, **V-841**, applies only to lots 10 and 11 and grants lot 10, a 1-foot variance and lot 11, a 4.45-foot variance to the front setback.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites as depicted on the attached survey in the file.

The applicant has concurrently applied for a variance (**19PZ00122**) to the TR-3 setback from the northern property line for Parcel #283 only (perimeter setback). The variance application is scheduled to be heard by the Board of Adjustment on November 20, 2019 which is prior to Board consideration on December 5, 2019.

### **Land Use Compatibility**

This site retains the Residential 2 (RES 2), Neighborhood Commercial (NC) and Community Commercial (CC) FLU (Future Land Use) designations. The portion of the site that retains RES 2 FLUM currently supports TR-3 zoning as non-conforming to the Comprehensive Plan. See FLU Policy 15.4 for Non-conforming uses with the Comprehensive Plan.

The portion of the site that is changing from RU-1-9 to TR-3 retains the NC FLU. The portion of the site changing from BU-1 to TR-3 retains CC FLU. At this location, both the NC and CC FLU's have a maximum density of 4 units per acre per Future Land Use Element Policy 2.13 of the Comprehensive Plan. A Binding Development Plan submittal is required to limit the development potential of this site and to allow the continuation of the nonconforming pre-existing development.

### **Provisions for Non-conforming Uses Policy 15.4**

Brevard County shall maintain procedures that address existing land uses which are non-conforming with this Comprehensive Plan. At a minimum, the following criteria shall apply:

#### **Criteria:**

- A. Non-conforming land uses are those existing development activities which were conforming to the zoning and Comprehensive Plan regulations of Brevard County at the time of record but which are inconsistent with this Comprehensive Plan.

- B. Existing non-conforming land uses, damaged beyond 50 percent of their assessed value by natural or man-made causes, shall not be allowed to be reconstructed to a use which is non-conforming to this Comprehensive Plan, except as provided for in the Zoning Code.
- C. The addition, expansion or re-establishment of exiting non-conforming land uses shall be governed by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations.

### **Environmental Constraints**

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

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is U.S. 1, between Indian River County Line and Micco Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 53.90% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation because no new density or intensity is added. The corridor is anticipated to continue to operate at (53.90)% of capacity daily (LOS C). 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 property is served by county potable water. The provider is Brevard County Utilities in the Barefoot Bay development. The subject property is not served by county or municipal sewer, but has an active package treatment plant permitted with the Department of Environmental Protection.

### **Applicable Land Use Policies**

The applicant is seeking a change of zoning classification on 0.52 acres (NE corner of site) from Single-Family Residential (RU-1-9) to Mobile Home Park (TR-3) zoning in order to use existing structures to compliment the mobile home park. This location was initially developed with a single-family home and pool and has been utilized as the mobile home park's leasing office and recreational amenity for over 30 years.

The applicant is also seeking a change of zoning from General Retail Commercial (BU-1) to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites as depicted on the attached survey in file.

The applicant has concurrently applied for a variance (**19PZ00122**) to the TR-3 setback from the northern property line for Parcel #283 only (perimeter setback). The variance application is scheduled to be heard by the Board of Adjustment on November 20, 2019 which is prior to Board consideration on December 5, 2019.

In the last three years, there have been no zoning actions within ½ mile of the subject property.

#### **For Board Consideration**

The applicant is seeking a change of zoning classification on 0.52 acres (NE corner of site) from Single-Family Residential (RU-1-9) to Mobile Home Park (TR-3) zoning in order to use existing structures to compliment the mobile home park. This location was initially developed with a single-family home and pool and has been utilized as the mobile home park's leasing office and recreational amenity for over 30 years.

The applicant is also seeking a change of zoning from General Retail Commercial (BU-1) to TR-3 (SE corner of site) on approximately 0.94 acres in order to eliminate the side yard setback encroachments of the existing mobile home development.

As the zoning is nonconforming to the Future Land Use Map, a Binding Development Plan (BDP) is required to retain the TR-3 zoning. The minimum lot size allowed for this zoning classification, pursuant to Section 62-1404 (4) of Brevard County Code of Ordinances, is 10.0 acres. By submittal of this request to re-identify the limits of the mobile home park, the applicant wishes to retain this zoning as a viable zoning classification. There is no increase in mobile home sites as part of this application. The BDP limits the number of mobile homes sites to the 173 sites depicted on the attached survey in file.

The applicant has concurrently applied for a variance (**19PZ00122**) to the TR-3 setback from the northern property line for Parcel #283 only (perimeter setback). The variance application is scheduled to be heard by the Board of Adjustment on November 20, 2019 which is prior to Board consideration on December 5, 2019.

Although nonconforming to the Comprehensive Plan, the Board may wish to allow this existing mobile home park to accommodate the existing infrastructure of the park. The proposed BDP limits the park development to the existing 173 mobile home sites.

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

**Item # 19PZ00108**

**Applicant:** Connie Douglas – River Grove Mobile Home Village

**Future Land Use Request:** TR-3, BU-1 & RU-1-9 to all TR-3

**Note:** Applicant desires to use home as a rental office for mobile home village

**P&Z Hearing Date:** 11/04/19; **BCC Hearing date:** 12/05/19

**Tax ID Nos:** 3010260 & 3006458

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**
- If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Indian River Lagoon Septic Overlay
- Heritage Specimen Trees
- Protected Species

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

## **Land Use Comments:**

### **Hydric Soils**

The subject parcel contains a small area of mapped hydric soils (Myakka sand-depressional) on the northwestern most portion of the western parcel (Tax ID No. 3006458), as shown on the USDA SCSSs soils map; an indicator that hydric soils and wetlands may be present on the property. Per Section 62-3694(c)(1), 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 renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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 Section 62-3696.

### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello sand and St. Lucie fine sand) as shown on the USDA SCSSs soils map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance

### **Floodplain**

The subject parcel contains an area of mapped floodplain (potentially isolated) on the northern portion of the western parcel as identified by FEMA, and as shown on the FEMA Flood Map. The floodplain area is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(1), development within isolated floodplain areas shall not increase the rate and volume of floodwater discharged from the predevelopment 100-year, 25-year, 10-year or annual mean riverine floodplain. Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. 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 Septic Overlay**

Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, portions of the site are mapped within the septic overlay as shown on the Indian River Lagoon Septic Overlay map. If sewer is not available, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

### **Heritage Specimen Trees**

Aerials indicate the subject property may contain Heritage Specimen trees (greater than or equal to 24 inches in diameter), or Protected trees (greater than or equal to 10 inches in diameter). Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen and Protected trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas.

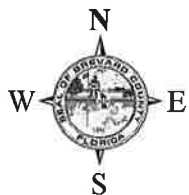
### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a large Florida Scrub Jay polygon is mapped over most of the parcels as shown on the Scrub Jay Occupancy Map. 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

DOUGLAS, BONNIE E., TRUSTEE  
19PZ00108



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

Buffer Distance: 500 feet

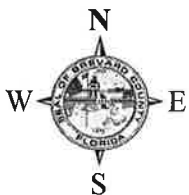
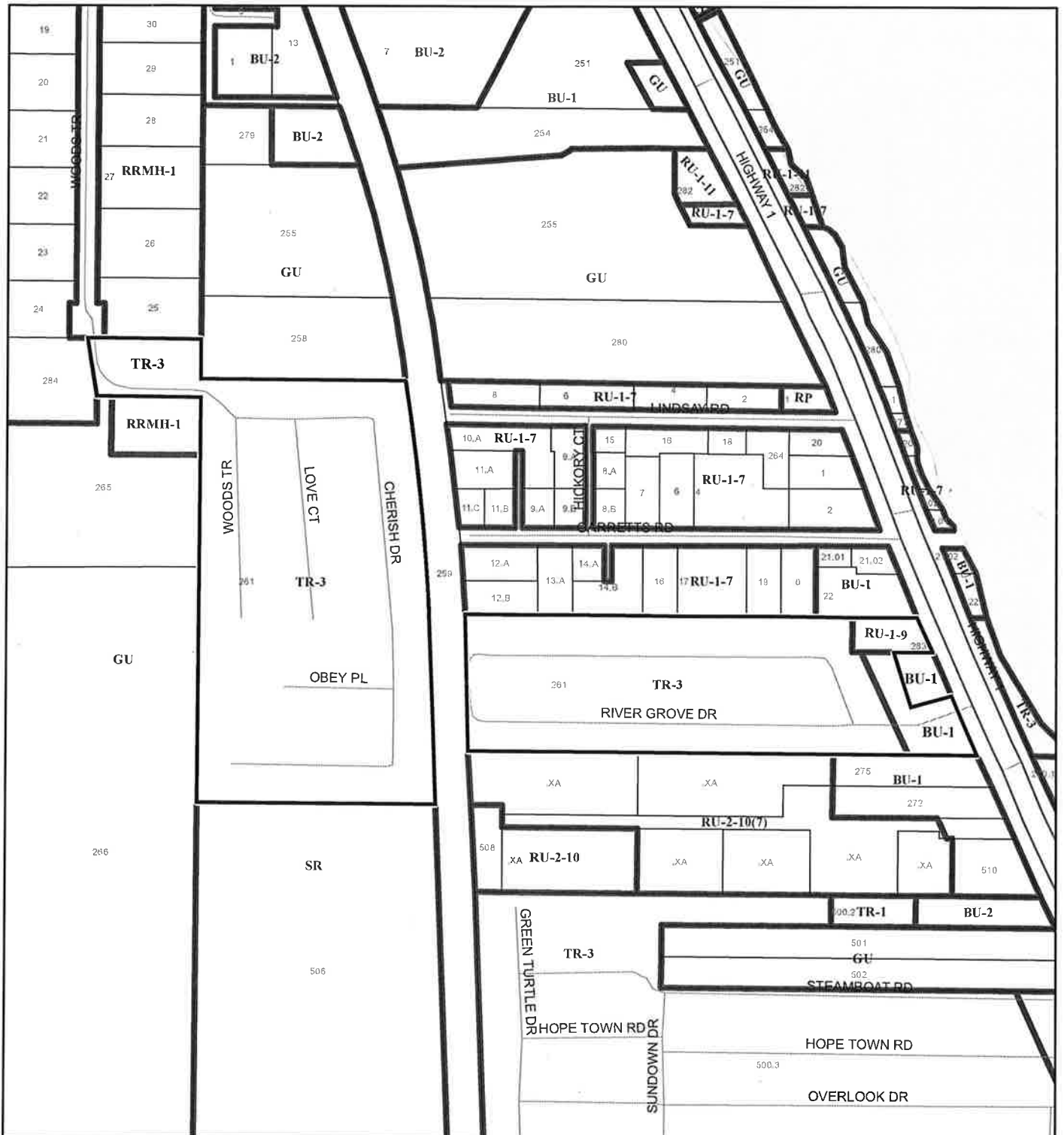
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/30/2019

— Buffer  
■ Subject Property

# ZONING MAP

DOUGLAS, BONNIE E., TRUSTEE  
19PZ00108



1:4,800 or 1 inch = 400 feet

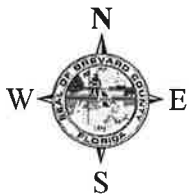
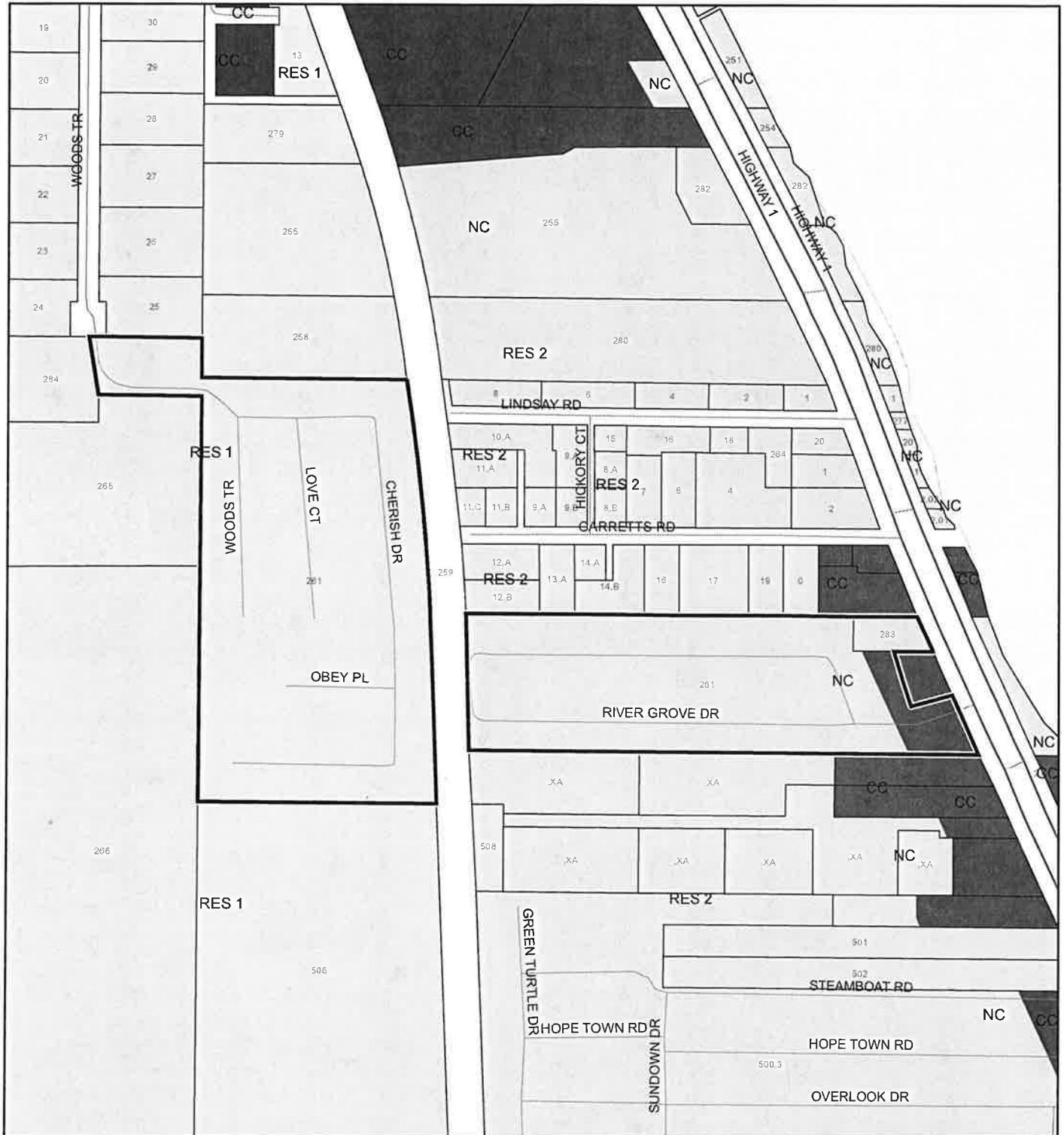
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Produced by BoCC - GIS Date: 9/30/2019

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

DOUGLAS, BONNIE E., TRUSTEE  
19PZ00108



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

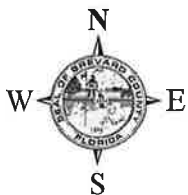
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Produced by BoCC - GIS Date: 9/30/2019

# AERIAL MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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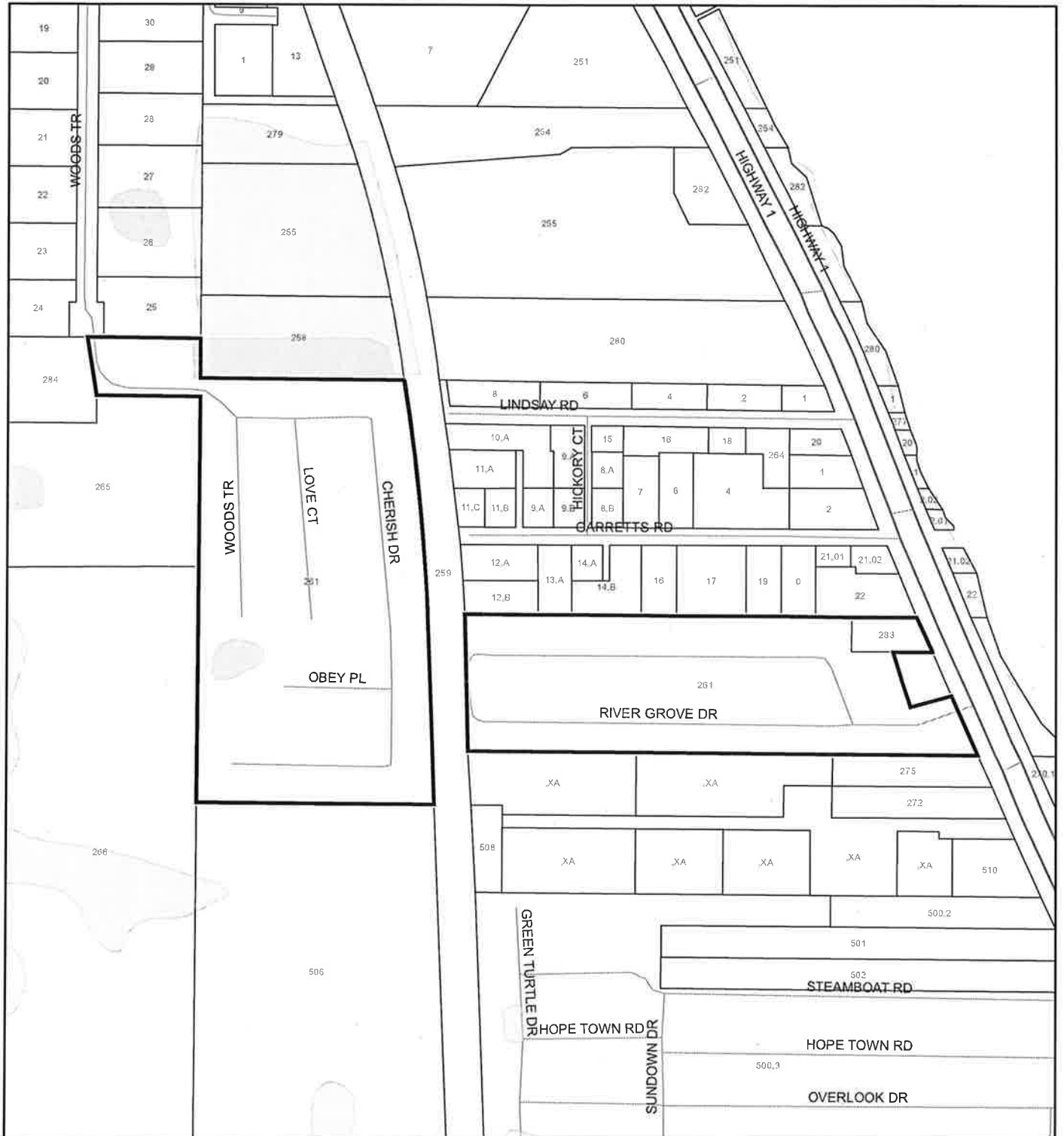
Produced by BoCC - GIS Date: 9/30/2019

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

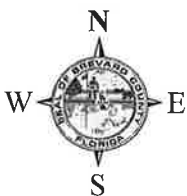
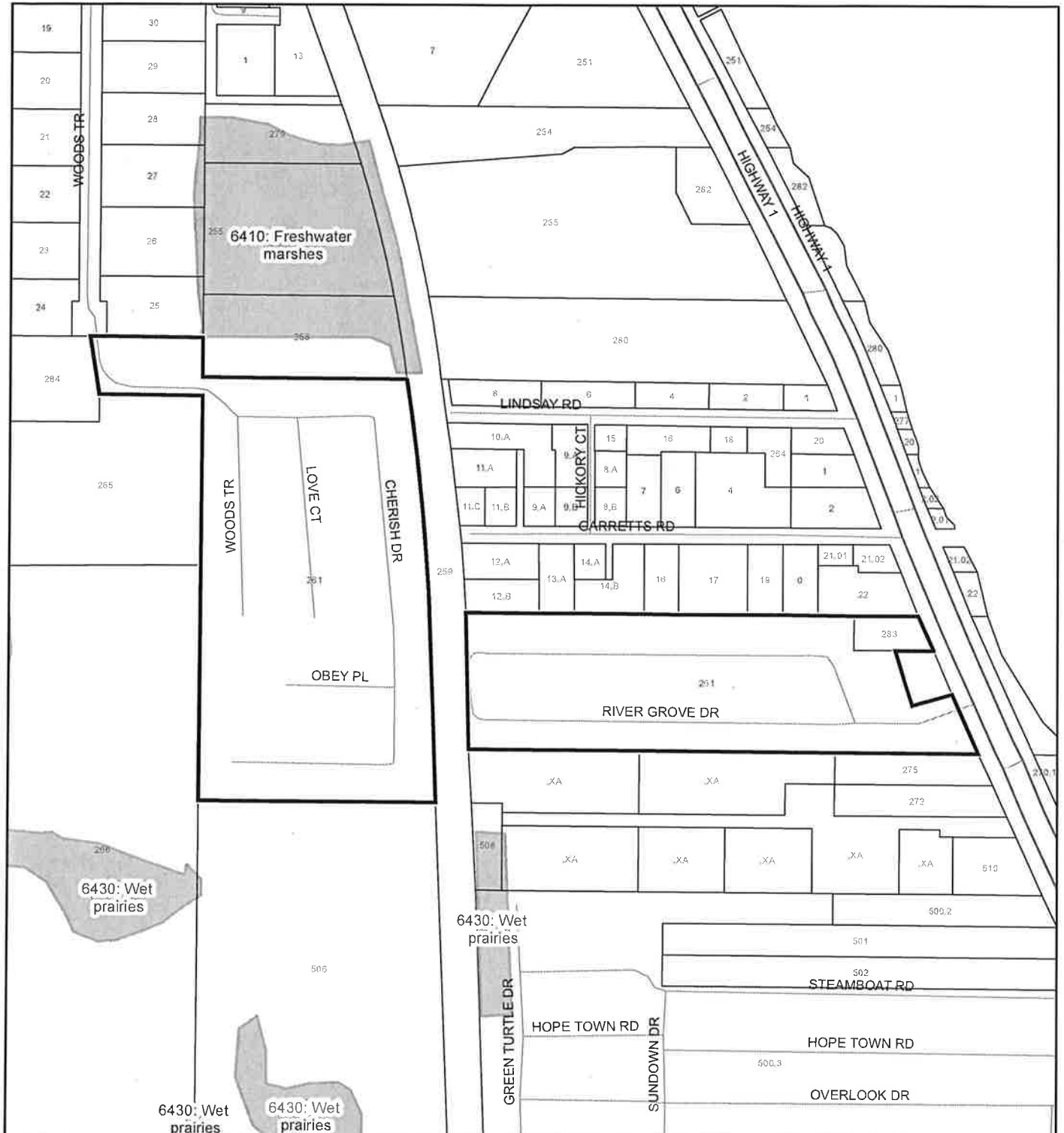
## National Wetlands Inventory (NWI)

	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

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

## 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

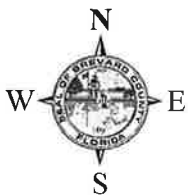
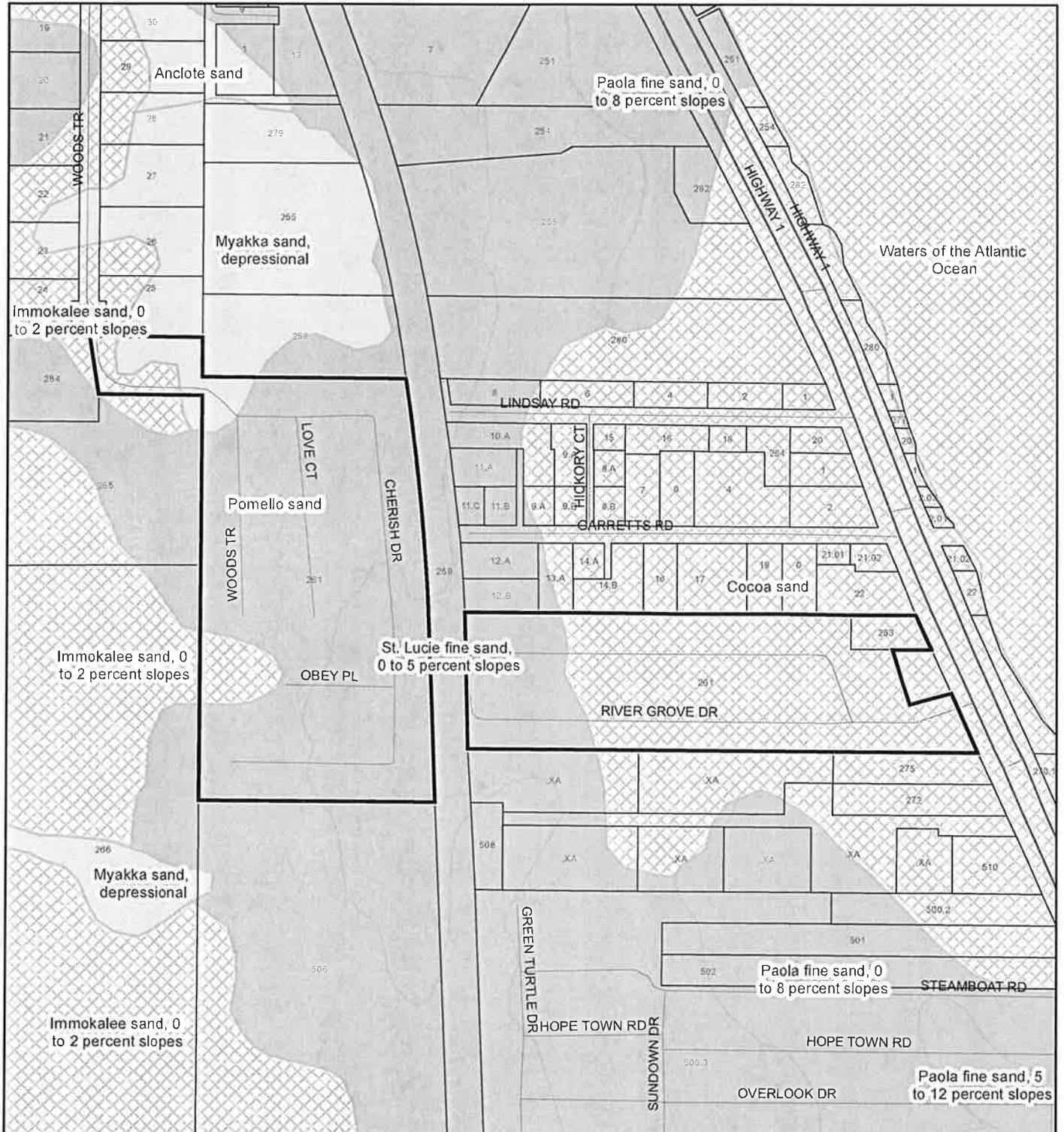
 Parcels



# USDA SCSSS SOILS MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

## USDA SCSSS Soils



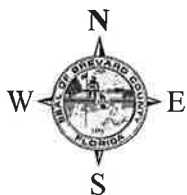
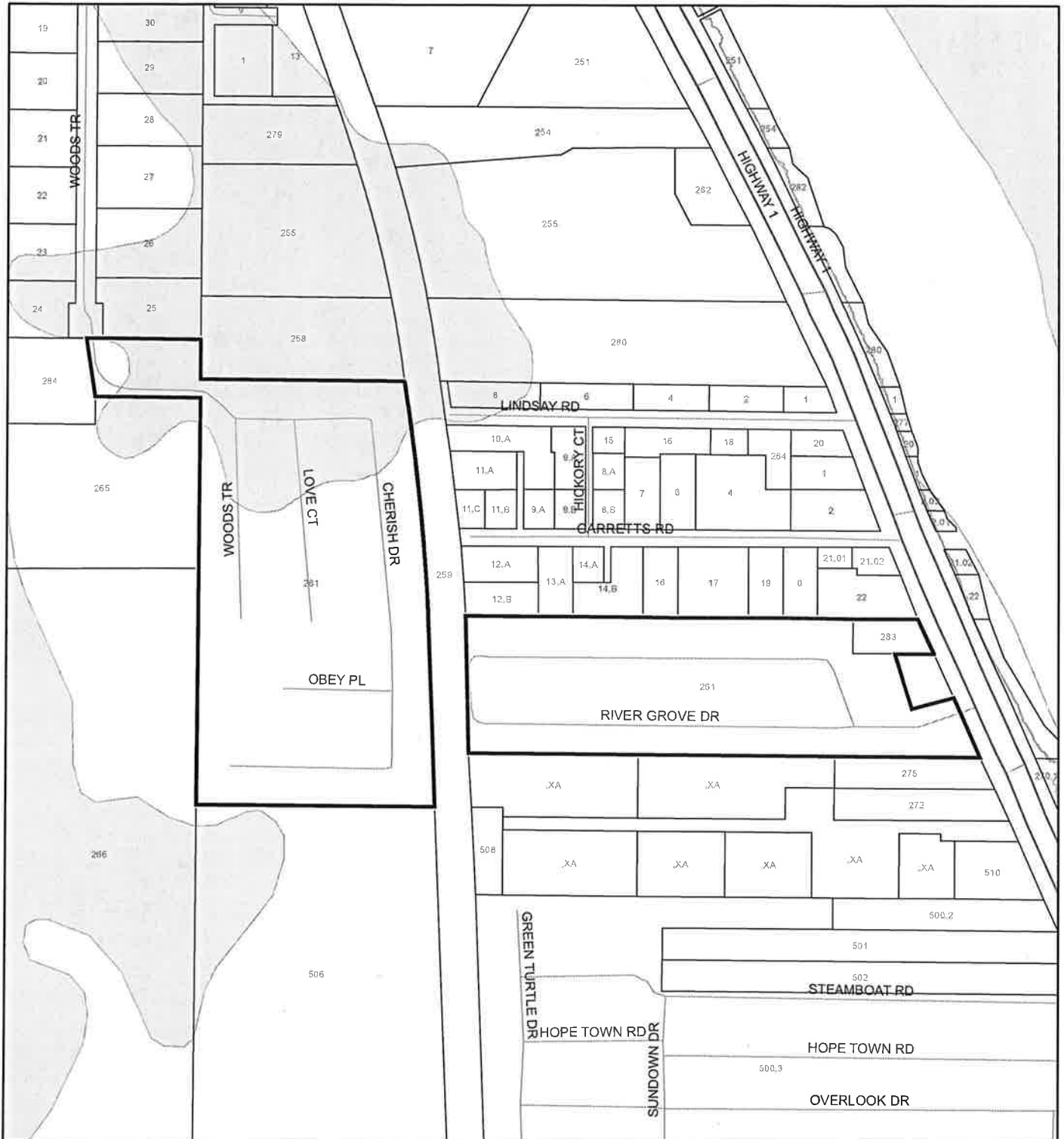
— Subject Property 446

□ Parcels

# FEMA FLOOD ZONES MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

## FEMA Flood Zones

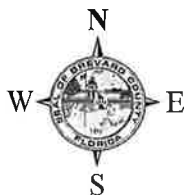
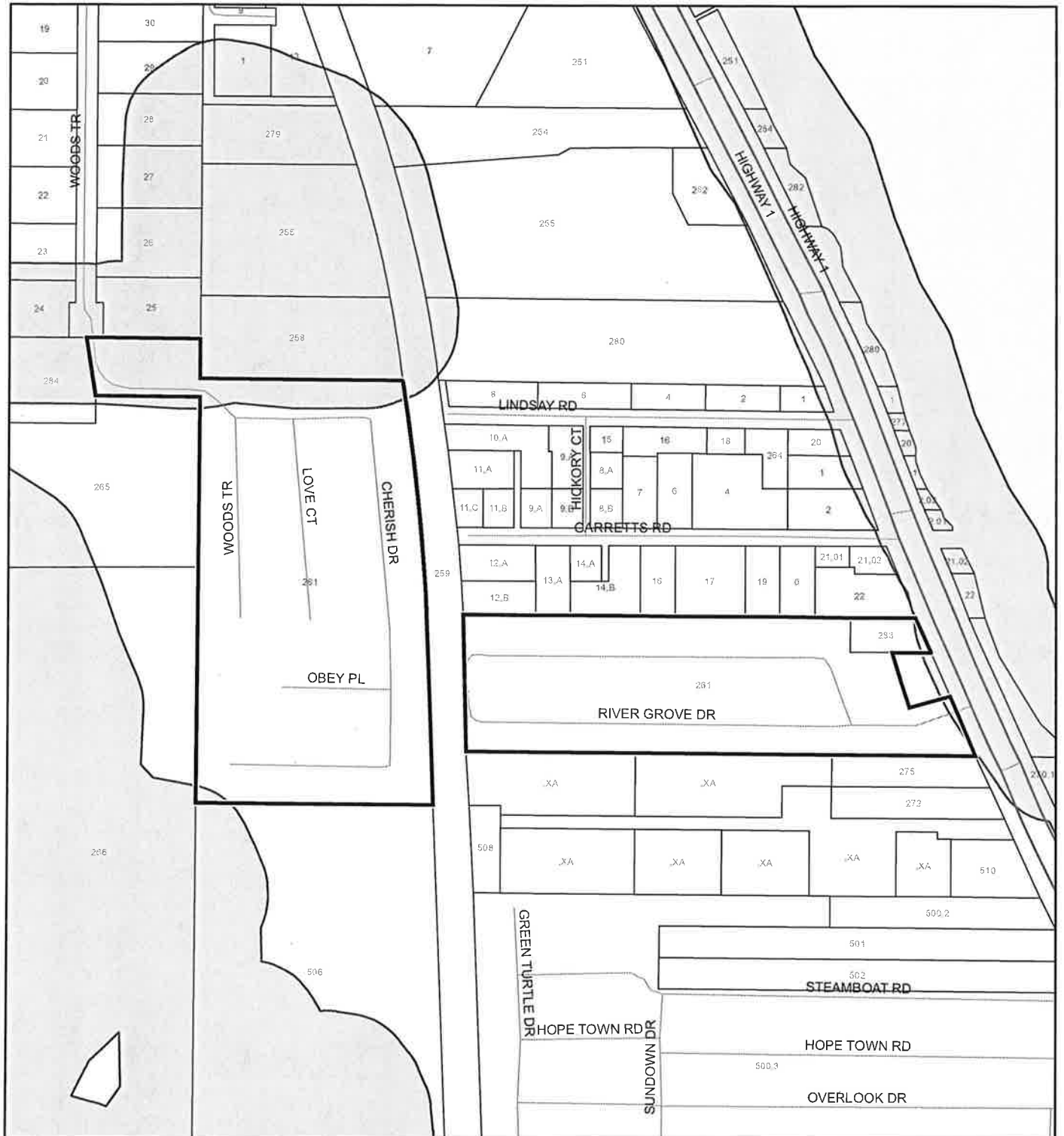
- |  |   |                      |
|--|---|----------------------|
| A                                      | AO  | X                    |
| AE                                     | Open Water  | X Protected By Levee |
| AH                                     | VE  |                      |
| 0.2 Percent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



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

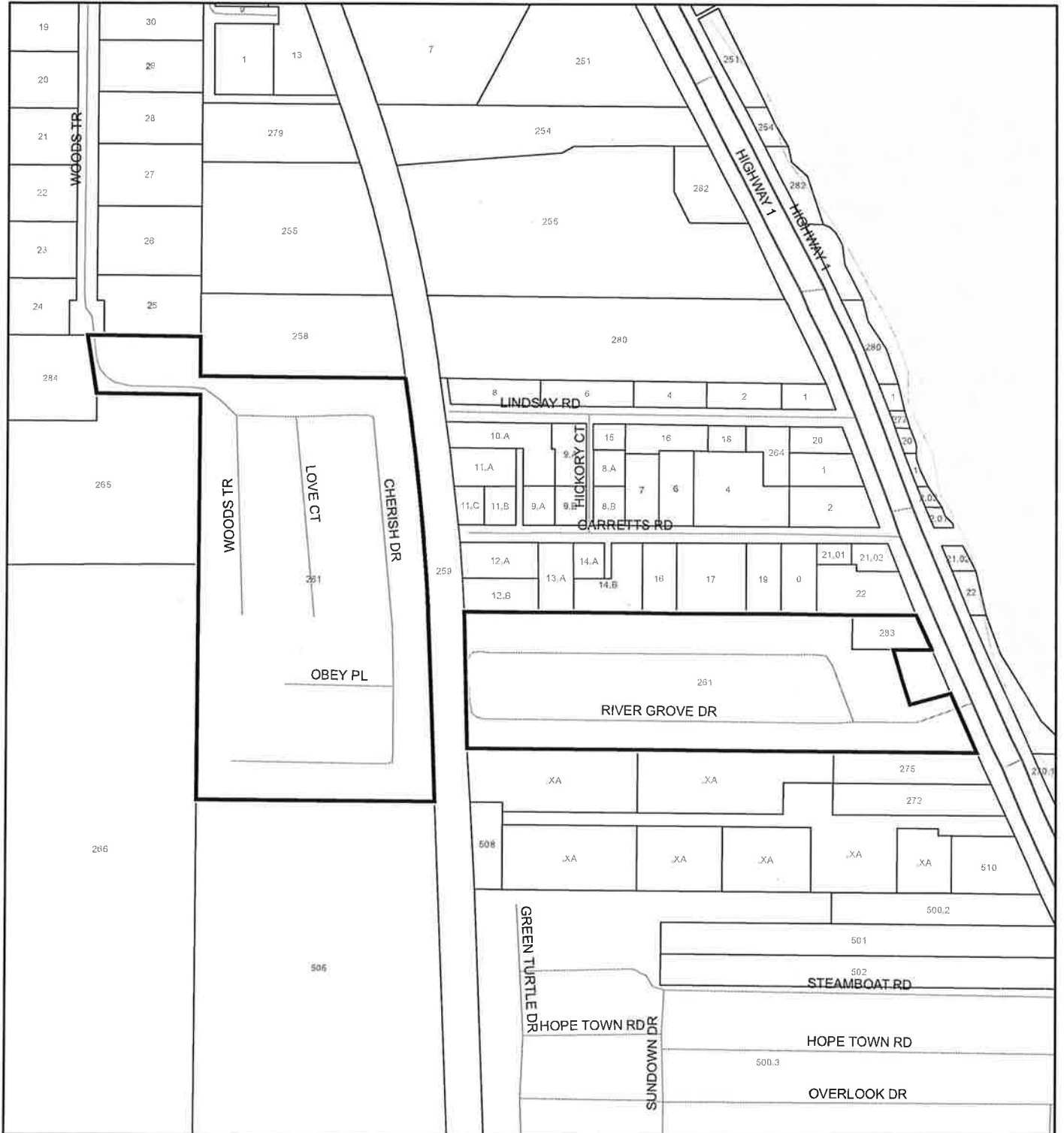
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

 Subject Property

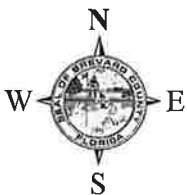
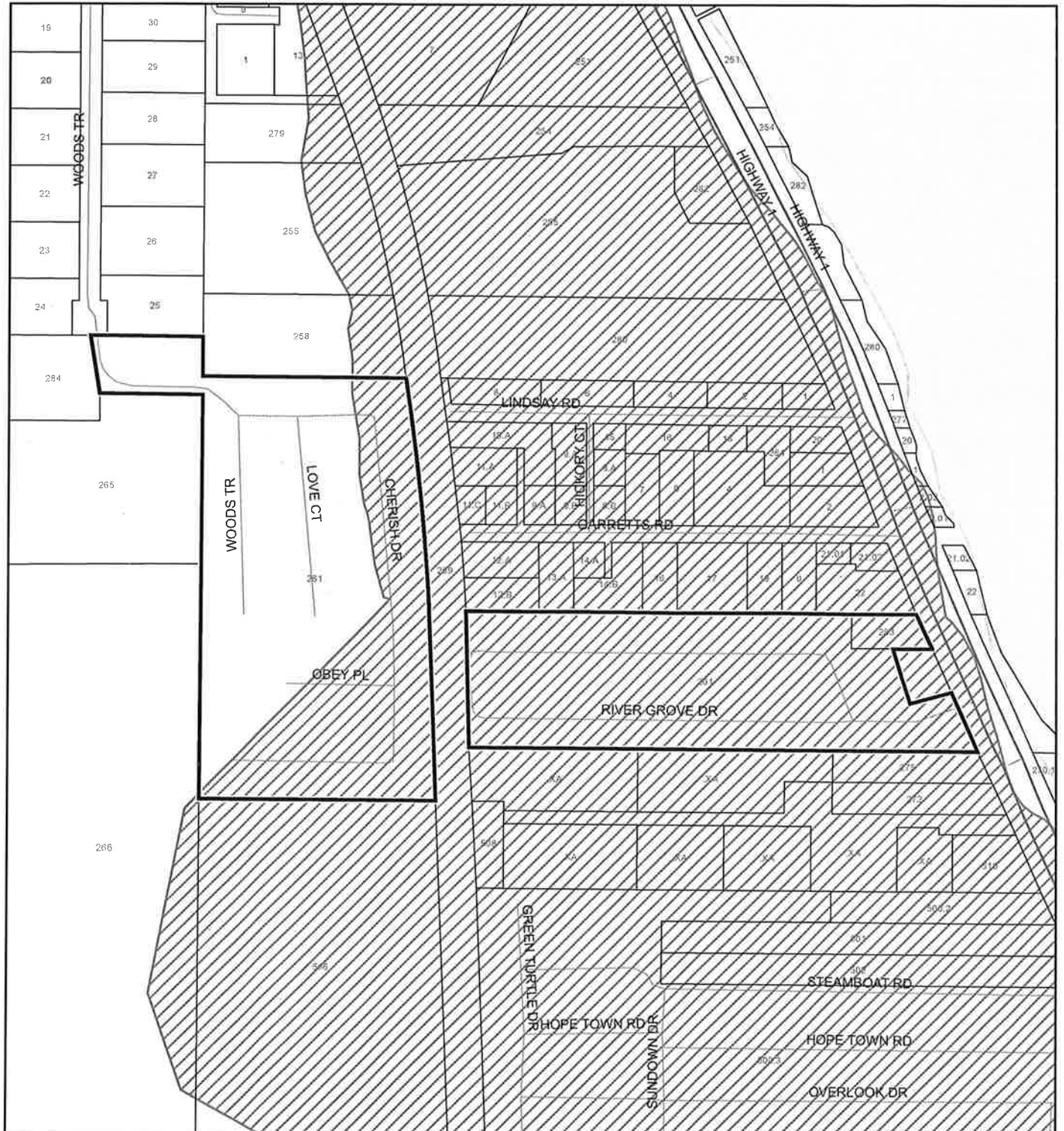
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

DOUGLAS, BONNIE E., TRUSTEE




19PZ00108



1:4,800 or 1 inch = 400 feet

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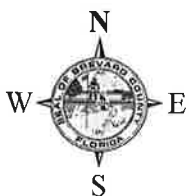
Produced by BoCC - GIS Date: 9/30/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DOUGLAS, BONNIE E., TRUSTEE

19PZ00108



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2019

## 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

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of January, 2020, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and RIVER GROVE MOBILE HOME VILLAGE I & II, LTD, a Florida limited partnership (hereinafter referred to as "Owner").

### **RECITALS**

WHEREAS, Owner 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, Owner has requested the TR-3 zoning classification(s) and desires to continue using the Property as a mobile home park, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Owner wishes to mitigate negative impact 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. 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 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.
2. The Owner shall limit density to the 173 mobile home sites that are already existing on the Property and will not add any additional units.
3. Owner shall comply with all regulations and ordinances of Brevard County, Florida. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.
4. Owner, upon execution of this Agreement, shall pay to the County the cost of

recording this Agreement in the Public Records of 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 unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and 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.

6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

IN WITNESS WHEREOF, 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

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_  
Rita Pritchett, Chair  
As approved by the Board on \_\_\_\_\_



(Corporate Seal)

Connie S. Douglas  
Connie S. Douglas, Secretary

OWNER

RIVER GROVE MOBILE HOME VILLAGE  
INC., as General Partner of RIVER GROVE  
MOBILE HOME VILLAGE I & II, LTD.  
Address: 9440 Highway US 1  
Sebastian, Florida 32976

BY: Bonnie Douglas  
Bonnie Douglas, President of River Grove  
Mobile Home Village, Inc.

Signed, sealed and delivered in the  
presence of:

Edmond L. Eley  
Witness  
EDMOND L. ELEY  
Printed Name

Judith A. Hard  
Witness  
JUDITH A. HARD  
Printed Name

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 27 day of January, 2020, by BONNIE DOUGLAS, President of River Grove Mobile Home Village, Inc., General Partner of River Grove Mobile Home Village I & II, LTD, on behalf of the Corporation, who is personally known to me, and who acknowledged that she executed this Binding Development Plan freely and voluntarily for the purposes therein expressed.

Judith A. Hard  
Notary Public – State of Florida  
Printed Name:  
My Commission Expires



**EXHIBIT A**  
**Page One**

From the intersection of the South line of the North 786.51 feet of Government Lots 2 and 5, in Section 14, Township 30 South, Range 38 East, Brevard County, Florida, and the Westerly right of way line of US Highway No. 1, run North 89°29'18" West a distance of 187.00 feet to the Point of Beginning of the herein described parcel; thence run South 00°26'36" West a distance of 100.00 feet; thence run South 89°29'18" East a distance of 231.24 feet to the said Westerly right of way line of US Highway No. 1 and a point on a curve to the Southeast, said curve having for its elements a radius of 8672.41 feet, a central angle of 0°53'17"; thence along said curve an arc distance of 134.42 feet to the point of tangency; thence run South 24°39'48" East along said Westerly right of way line a distance of 186.37 feet to the South line of the North 293.76 feet of the South 448.49 feet of Government Lots 2 and 5, Section 14, Township 30 South, Range 38 East, Brevard County, Florida; thence run North 89°33'24" West along said South line a distance of 1462.19 feet to the Easterly right of way of Florida East Coast Railway; thence run North 2°14'02" West along said East right of way a distance of 357.15 feet to the point of curvature of a curve concave to the West; thence along said curve having a radius of 5779.65 feet and a central angle of 0°21'18", an arc distance of 35.81 feet to the South line of the North 786.51 feet of the said Government Lots 2 and 5; thence run South 89°29'18" East along the said North line a distance of 1114.25 feet to the point of beginning. Together with the South 100.0 feet of the North 886.51 feet, lying East of US Highway No. 1, of Government Lots 2 and 5, in Section 14, Township 30 South, Range 38 East, Brevard County, Florida; and

From the Northeast corner of the North 1/2 of the Southwest 1/4 of the Northwest 1/4 of Section 14, Township 30 South, Range 38 East, Brevard County, Florida, said point also being the point of beginning run South 0°15'21" West a distance of 115.00 feet; thence run South 89°32'49" East a distance of 586.68 feet to the West right of way of the Florida East Coast Railroad, said point also being on a curve concave to the Southwest; thence Southeasterly along said curve having a radius of 5679.65 feet, a central angle of 7°14'20", an arc distance of 717.57 feet to a point of tangency; thence run South 2°13'14" East a distance of 507.52 feet; thence run North 89°32'04" West a distance of 684.76 feet; thence run North 00°15'21" East a distance of 1167.02 feet; thence run North 89°32'41" West a distance of 301.95 feet; thence run North 9°14'29" West a distance of 170.00 feet; thence run South 89°32'41" East a distance of 330.00 feet to the point of beginning; and

Beginning at the intersection of the Westerly right of way of U.S. Highway No. 1 and the North line of South 100.00 feet of the North 886.51 feet of Government Lots 2 and 5, Section 14, Township 30 South, Range 38 East, Brevard County, Florida, said point being the point of beginning of the following described property: Run North 89°25'18" West a distance of 187.00 feet; thence run South 00°34'42" West a distance of 100.00 feet; thence run South 89°25'18" East a distance of 231.12 feet to the Westerly right of way of said U.S. Highway No. 1; thence run Northwesterly and along a curve, having a radius of 8672.41 feet and a central angle of 00°43'20", an arc distance of 109.32 feet to the point of beginning.

**LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:**

A parcel of land lying in Section 14, Township 30 South, Range 38 East, Brevard County, Florida being a portion of those lands described in Official Records Book 3614, Page 3232, of the Public Records of Brevard County, Florida and being more particularly described as follows:



**EXHIBIT A**  
**Page Two**

Commence at the Southwest corner of lands described in Official Records Book 5033, Page 1534 of said Public Records and run South  $89^{\circ}25'18''$  East along the South line of said lands and along the North line of said lands described in Official Records Book 3614, Page 3232, a distance of 118.20 feet to the Point of Beginning of the herein described parcel: Thence continue South  $89^{\circ}25'18''$  East along the South line of said lands described in Official Records Book 5033, Page 1534 and the North line of said lands described in Official Records Book 3614, Page 3232, a distance of 112.78 feet to the intersection with the Westerly Right-of-Way line of U.S. Highway No. 1, a 143 foot wide public Right-of-Way as presently occupied, said Westerly Right-of-Way line being a circular curve concave to the Northeast and having for its elements a radius of 8672.41 feet, a chord of 134.62 feet and a chord direction of South  $24^{\circ}16'53''$  East; thence run Southeasterly along the said Westerly Right-of-Way line and along arc of said curve through a central angle of  $00^{\circ}53'22''$  an arc distance of 134.62 feet to a point of tangency; thence departing said Westerly Right-of-Way line run South  $74^{\circ}08'16''$  West a distance of 126.43 feet; thence North  $16^{\circ}25'04''$  West a distance of 165.00 feet to the Point of Beginning.