



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

8/5/2021

Subject:

Gary E. and Joanna L. Mills request a change of zoning classification from AU to RR-1. (21Z00013) (Tax Account 2001899) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential).

Summary Explanation and Background:

The applicant is seeking to change the zoning classification on a 1.26-acre portion of Tax Account #2001899 from AU to RR-1. The applicant also owns the abutting property to the east (Tax Account #2005397) which is substandard to the 2.5 acres minimum lot size required for AU. The applicant has recorded two warranty deeds creating a 1.26-acre parcel and combined the remaining 1.58 acres with adjacent lot to the east which brings the lot into compliance with the AU zoning standards.

The subject property retains the RES 1 (Residential 1) Future Land Use designation. The proposed zoning classification of RR-1 is consistent with the current RES 1 Future Land Use designation.

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

The developed character of the surrounding area can be defined as single-family homes, some with accessory agricultural uses, on lots ranging from one acre to 2.5 acres. The adjacent parcels to the east and south and the parcels across the rights-of-way to the north and west are zoned AU. Many of the AU lots are one acre nonconforming lots of record due to being platted prior to March 1975, when AU required a minimum lot size of one acre. If this request is granted, it would be an introduction of a new zoning classification on Arlington Avenue.

The Board may wish to consider whether the introduction of RR-1 is consistent and compatible with the

surrounding area.

On July 12, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 21Z00013

On motion by Commissioner Lober, seconded by Commissioner Smith, the following resolution was adopted by a unanimous vote. (Commissioner Tobia absent):

WHEREAS, Gary E. and Joanna L. Mills have requested a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as follows: (SEE ATTACHED LEGAL DESCRIPTION); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RR-1 be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 5, 2021.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on August 5, 2021.



ATTEST:



RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 12, 2021

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

(c) General Standards of Review.

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

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



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

21Z00013

Gary E. and Joanna L. Mills

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

Tax Account Number: 2001899
 Parcel I.D.: 20G-34-21-AI-7-2.01
 Location: South side of Arlington Avenue, approximately 1,313 feet west of Cushman Drive (District 1)
 Acreage: 1.26 acres

Planning and Zoning Board: 07/12/2021
 Board of County Commissioners: 08/05/2021

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	AU	RR-1
Potential*	1 single-family home	1 single-family home
Can be Considered under the Future Land Use Map	YES, RES 1	YES, RES 1

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

Background and Purpose of Request

The applicant is seeking to change the zoning classification on a 1.26 acre portion of Tax Account #2001899 from AU to RR-1. The applicant also owns the abutting property to the east (Tax Account #2005397) which is substandard to the 2.5 acres minimum lot area required for AU. The applicant has recorded two warranty deeds, creating a 1.26 acre parcel and combined the remaining 1.58 acres with adjacent lot to the east which brings the lot into compliance with the zoning standards.

The original zoning of the property was AU and RR-1. The property was rezoned to all AU on October 2, 2003 as part of zoning action **Z-10844**. This zoning action was done under previous owners who were not aware of the substandard lot size on the adjacent parcel.

Land Use

The subject property retains the RES 1 (Residential 1) Future Land Use designation. The existing zoning classification AU is consistent with the Future Land Use Designation. The proposed zoning classification of RR-1 is also consistent with the current RES 1 Future Land Use Designation.

Applicable Land Use Policies

Current Future Land Use: FLUE Policy 1.9 – The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 land use designation; or
- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser density; or
- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.
- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote interconnectivity with surrounding uses. This density

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. This parcel is located on the south side of Arlington Avenue's westernmost edge. This site and the parcels across Arlington Avenue to the north, across the railroad ROW to the west, and to the northeast all have a Future Land Use (FLU) designation of RES 1. The other parcel to the east and the adjacent parcel to the south have a Future Land Use (FLU) designation of RES 1:2.5.

- 1. The historical land use pattern in this area has remained consistent over time, characterized by residential uses on lots ranging from an acre to 2.5 acres.
- 2. There has not been any development over the preceding three years.
- 3. There are no approved developments within the past three years that have not yet been constructed.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area can be defined as single-family homes, some with accessory agricultural uses, on lots ranging from one acre to 2.5 acres.

Surrounding Area

The adjacent parcels to the east and south and the parcels across the rights-of-way to the north and west are zoned AU. Many of the AU lots are one acre nonconforming lots of record due to being platted prior to March 6, 1975, when AU required a minimum lot size of one acre. If this request is granted, it would be an introduction of a new zoning classification on Arlington Avenue.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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

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

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected Species
- Land Clearing & Landscape Requirements

No noteworthy land use issues were identified. NRM 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 US Highway 1, between Lionel and Burkholm, which has a Maximum Acceptable Volume of 40,300 trips per day, an acceptable Level of Service (LOS) of E, and currently operates at 24.49% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 24.49% to 24.53% (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 not served with potable water by the County. The closest water main is located approximately 9,500 feet southeast of the property at the intersection of Lionel Road and Old Dixie Highway. The subject property is not served by Brevard County sewer. The nearest sewer is located approximately 6,240 feet southwest of the subject property.

For Board Consideration

The Board may wish to consider whether the introduction of RR-1 is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT

Zoning Request Review & Summary

Item # 21Z00013

Applicant: Gary & Joanna Mills

Zoning Request: AU to RR-1

Note: Create a 1.26-acre lot from the 2.84-acre lot and rezone to RR-1.

P&Z Hearing Date: 07/12/21; **BCC Hearing Date:** 08/05/21

Tax ID No: 2001899

- 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:

- Aquifer Recharge Soils
- Protected Species
- Land Clearing & Landscape Requirements

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:

Aquifer Recharge Soils

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

Protected Species

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

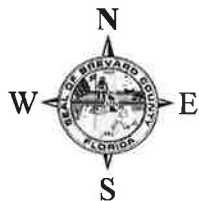
Land Clearing & Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

MILLS, GARY E. AND JOANNA L.

21Z00013





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: 5/13/2021

-  Buffer
-  Subject Property

ZONING MAP




MILLS, GARY E. AND JOANNA L.
21Z00013



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.

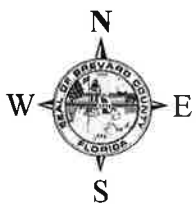
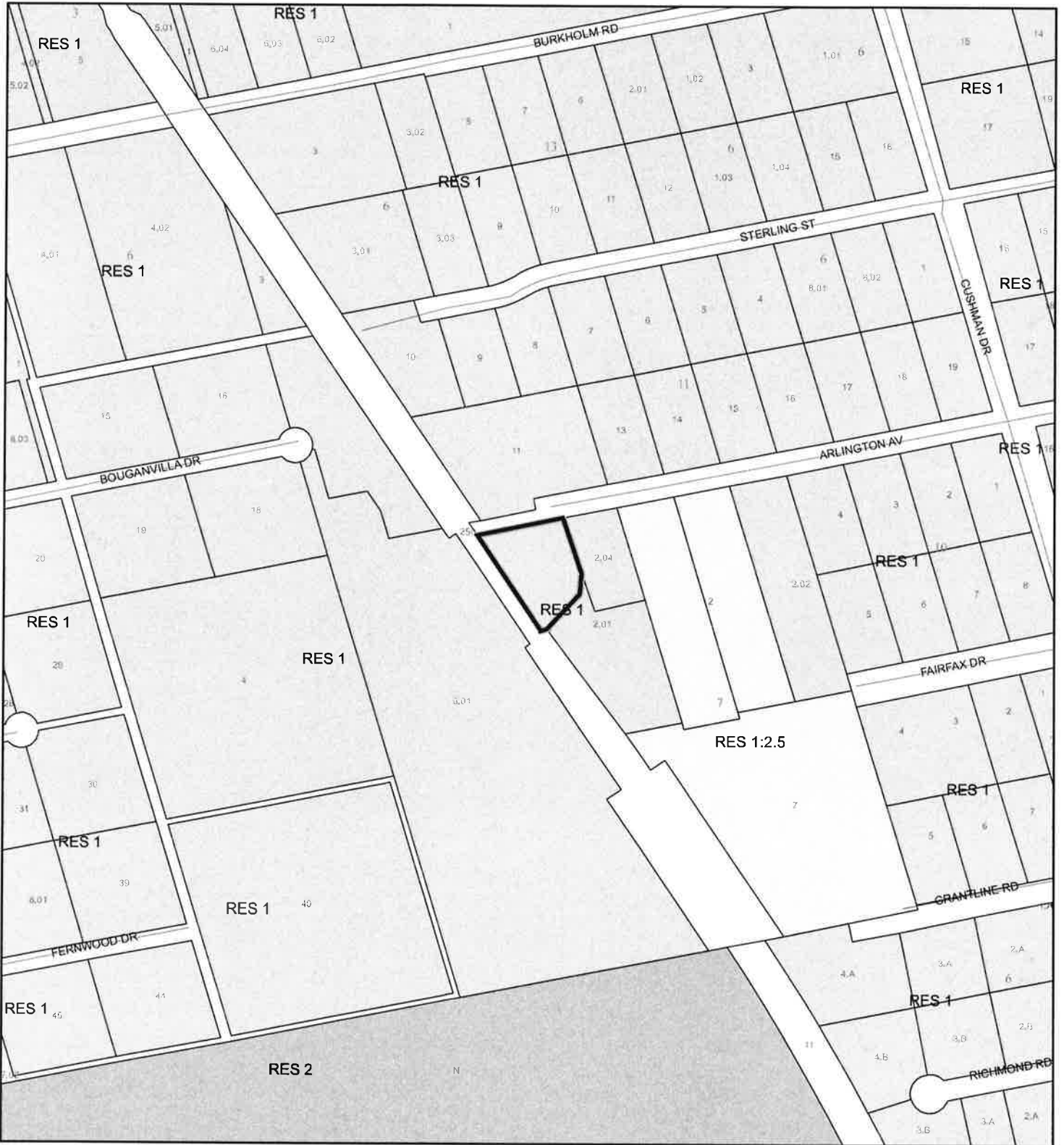
Produced by BoCC - GIS Date: 5/13/2021

-  Subject Property
-  Parcels
-  Zoning



FUTURE LAND USE MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

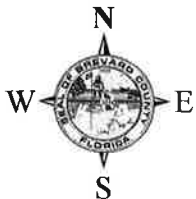
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/13/2021

AERIAL MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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: 5/13/2021

 Subject Property

 Parcels

NWI WETLANDS MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



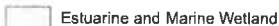









1:4,800 or 1 inch = 400 feet

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: 5/13/2021

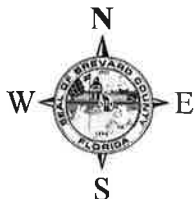
National Wetlands Inventory (NWI)

	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

MILLS, GARY E. AND JOANNA L.

21Z00013



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: 5/13/2021

SJRWMD FLUCCS WETLANDS

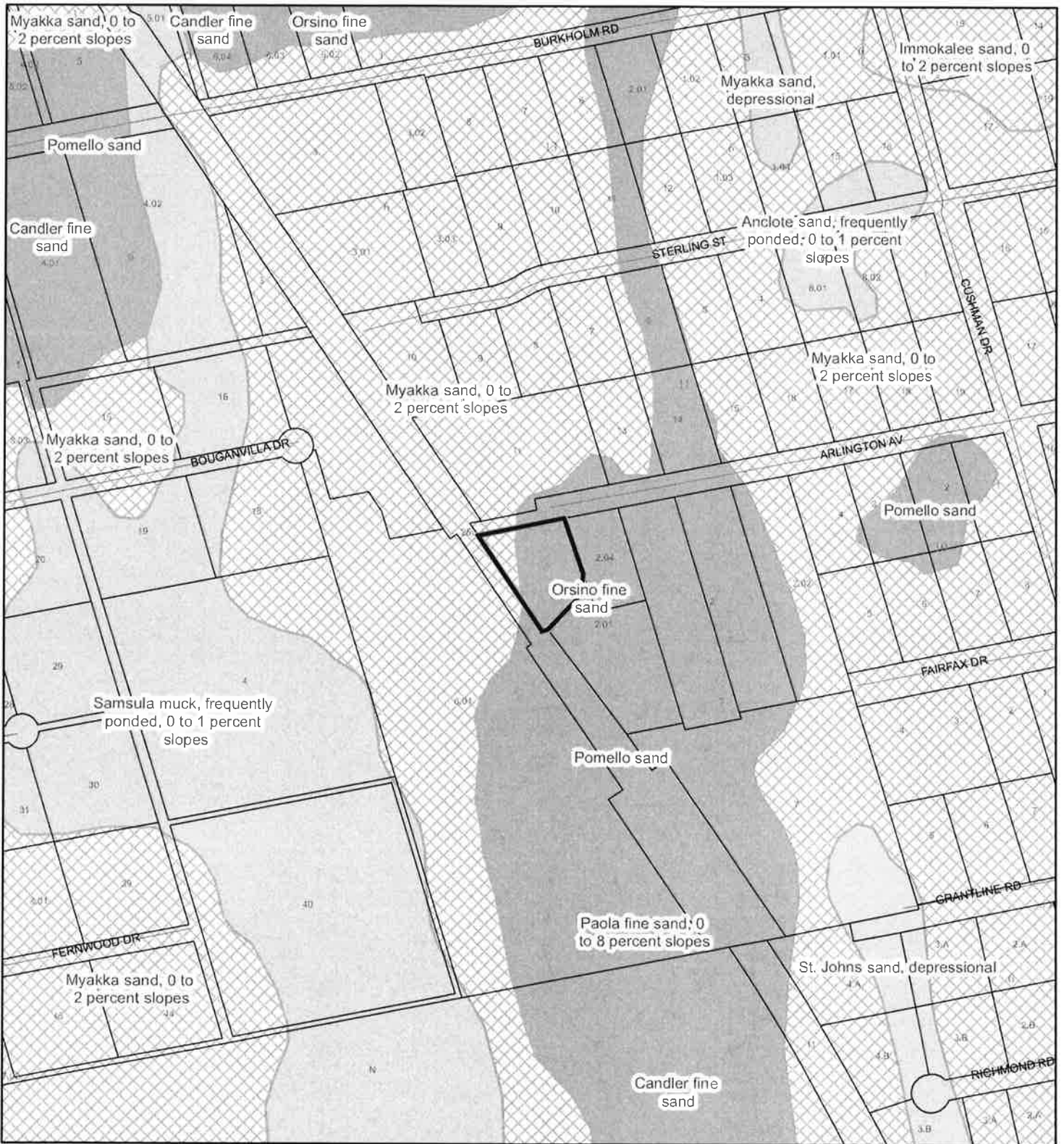
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

USDA SCSSS SOILS MAP

MILLS, GARY E. AND JOANNA L.

21Z00013









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: 5/13/2021

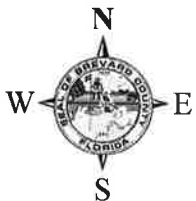
USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None
-  Subject Property
-  Parcels

FEMA FLOOD ZONES MAP

MILLS, GARY E. AND JOANNA L.










21Z00013



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 herein.

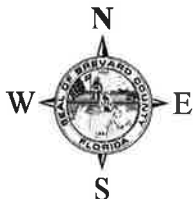
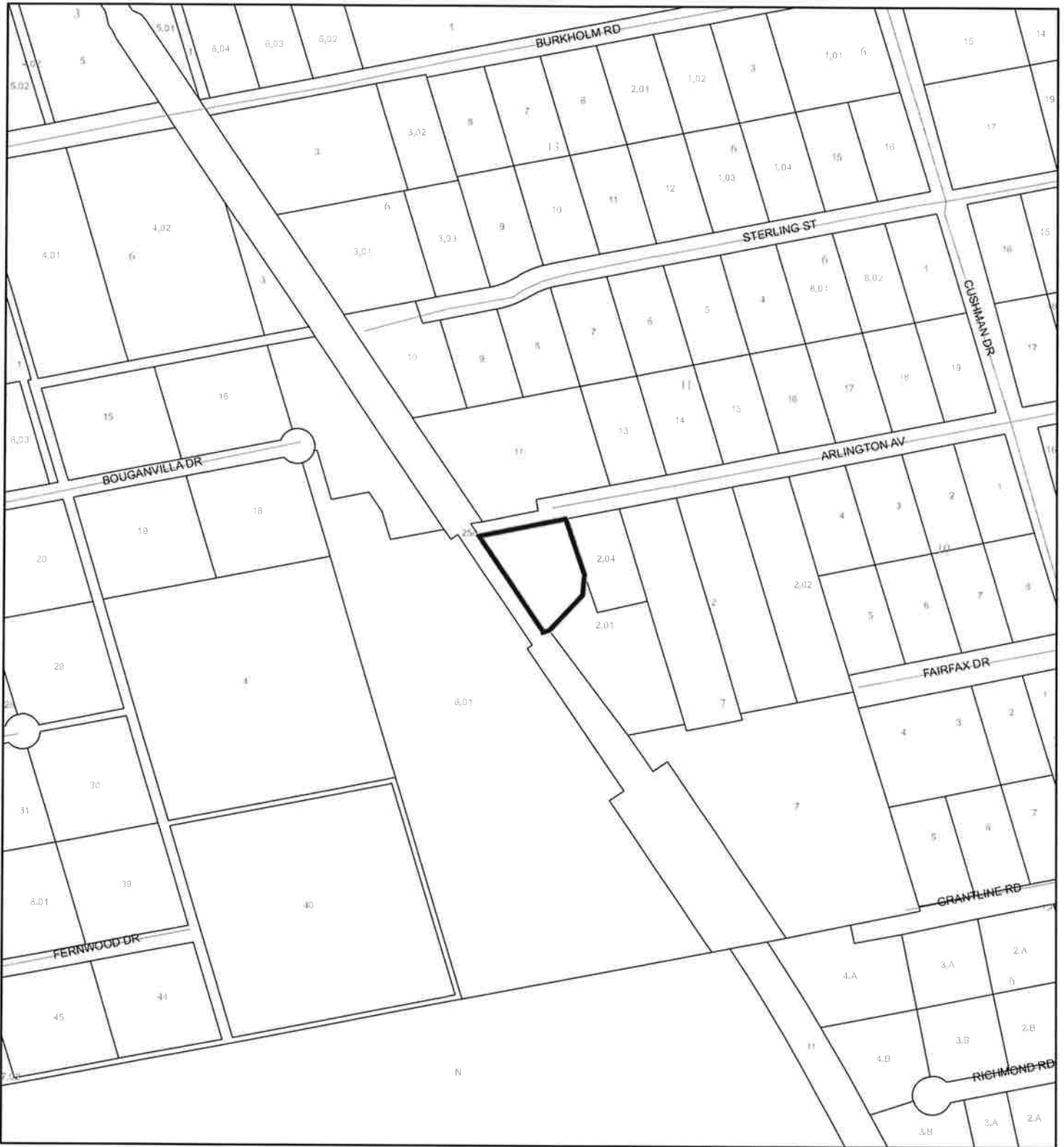
Produced by BoCC - GIS Date: 5/13/2021

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

COASTAL HIGH HAZARD AREA MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



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: 5/13/2021

 Subject Property

 Parcels

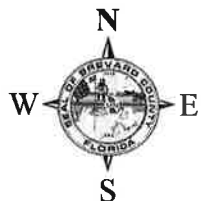
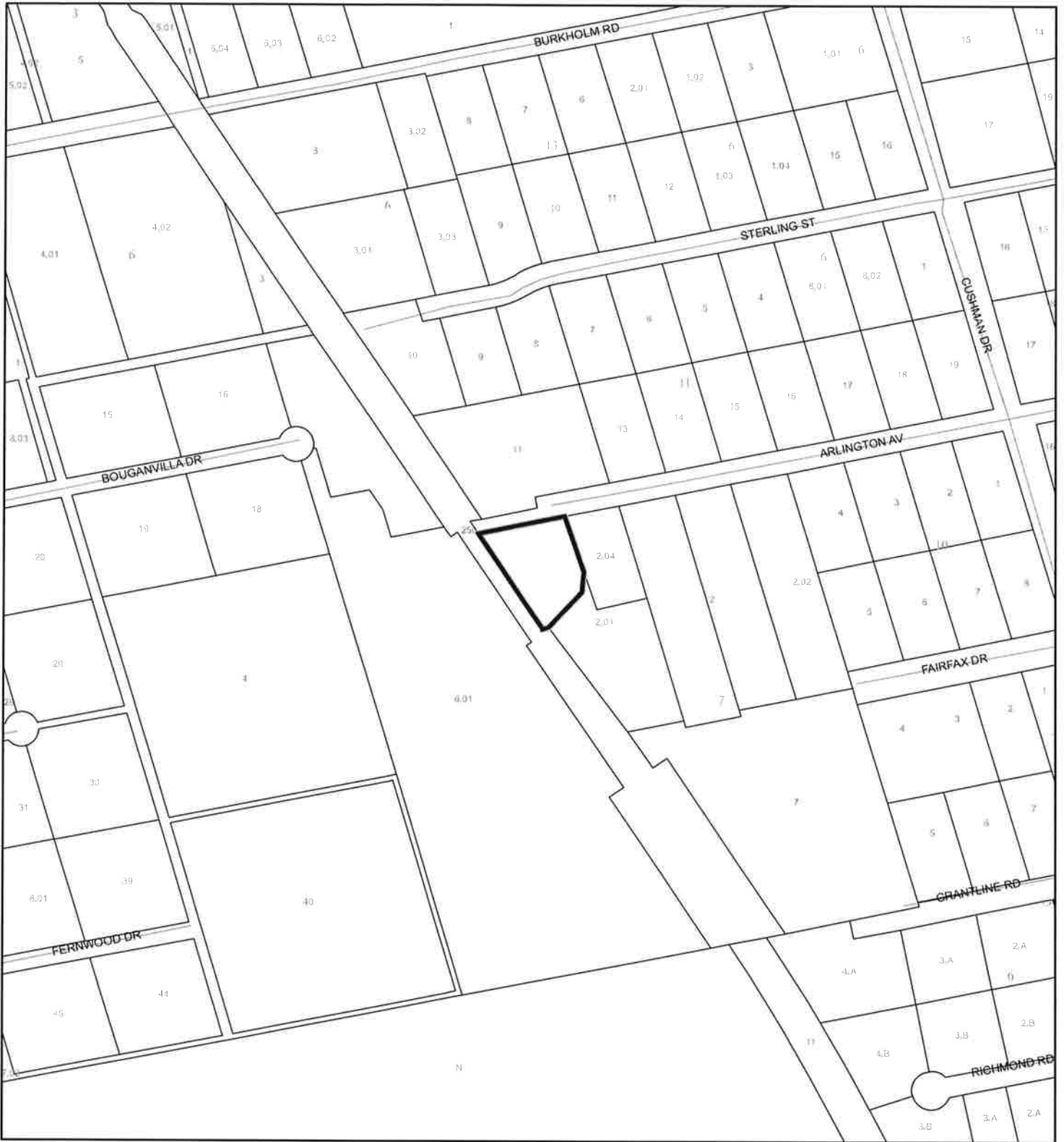
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MILLS, GARY E. AND JOANNAL.

21Z00013



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: 5/13/2021

 Subject Property

 Parcels

Septic Overlay

 40 Meters

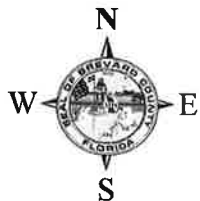
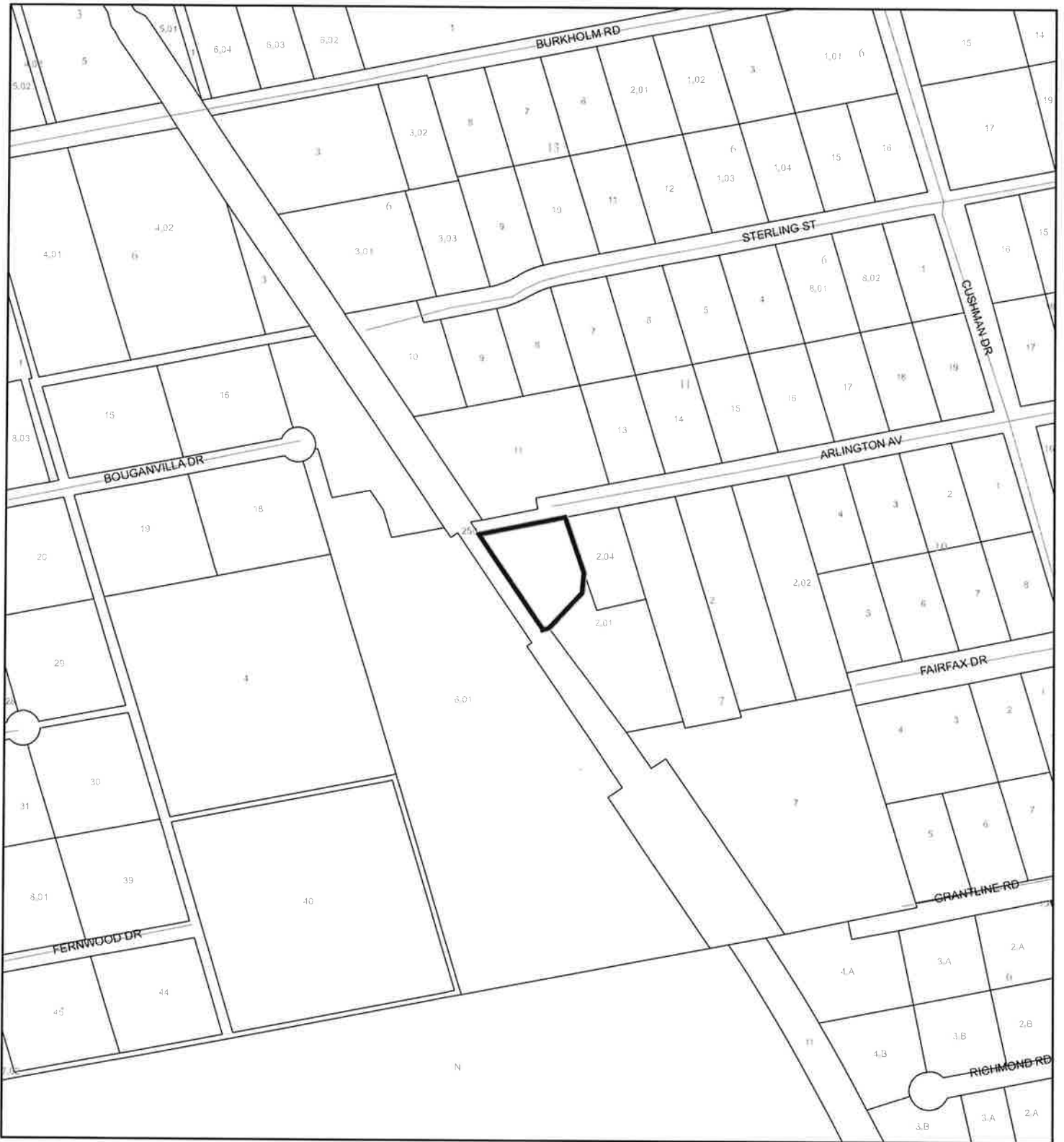
 60 Meters

 All Distances

EAGLE NESTS MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



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: 5/13/2021

 Subject Property

 Parcels

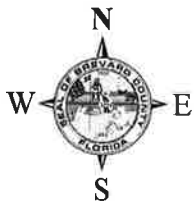
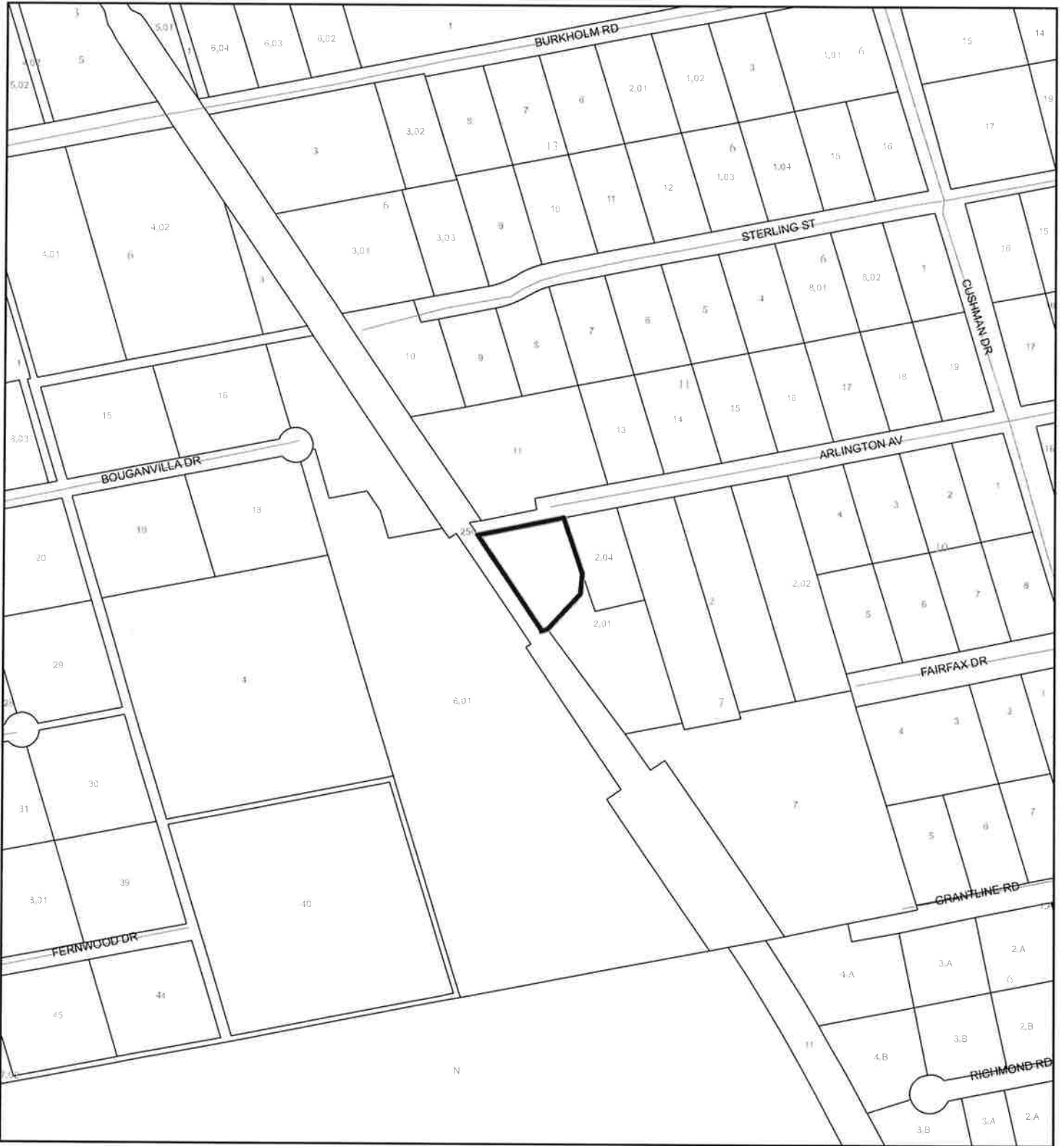


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MILLS, GARY E. AND JOANNA L.




21Z00013



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.

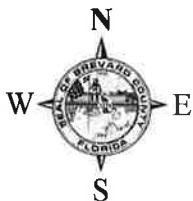
Produced by BoCC - GIS Date: 5/13/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MILLS, GARY E. AND JOANNA L.

21Z00013



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: 5/13/2021

SJRWMD FLUCCS Upland Forests

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

 Subject Property  Parcels



Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

BOARD OF COUNTY COMMISSIONERS

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21Z00013

Existing FLU: Res 1 Existing Zoning: AU

Proposed FLU: N/A Proposed Zoning: RR-1

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

GARY E. AND JOANNA L. MILLS
Name(s) Company

4255 ARLINGTON AVE. MIMS FL 32754
Street City State Zip Code

EM44@CFL.RR.COM 321-693-7925
Email Phone Cell

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

Attorney Agent Contract Purchaser Other _____

Name(s) Company

Street City State Zip Code

Email Phone Cell



APPLICATION NAME

- Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- Text Amendment (CP): Element _____
- Other Amendment (CP): _____
- Rezoning Without CUP (RWOC)
- Combination Rezoning and CUP (CORC)
- Conditional Use Permit (CUP)
- Binding Development Plan (BDP)
- Binding Development Plan (BDP) (Amendment)
- Binding Development Plan (BDP) (Removal)
- Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- Administrative Approval of Flag Lot or Easement
- Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- Other Action: _____

Acreage of Request: 1.26

Reason for Request:

AU → RR-1 on 1.26 acres

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- An approval of this application does not entitle the owner to a development permit.
- For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

[Signature]
 Signature of Property Owner or Authorized Representative

4-9-21
 Date

State of Florida
 County of Brevard

Subscribed and sworn before me, by physical presence or _____ online notarization, this 9th day of, April, 2021, personally appeared Gary Mills and Joanna Mills, who is personally known to me or produced FLDL as identification, and who did / did not take an oath.

[Signature]
 Notary Public Signature

Seal



Office Use Only:

Accela No. 21200013 Fee: \$1,149.00 Date Filed: 5/5/21 District No. 1

Tax Account No. (list all that apply) 2001899

Parcel I.D. No.

20G 34 21 A1 7 2.01
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued to: Code Enforcement Notification Radius: 500'

MEETINGS

DATE

TIME

- | | | |
|---|----------------|------------------|
| <input checked="" type="checkbox"/> P&Z | <u>7/12/21</u> | <u>3:00 p.m.</u> |
| <input type="checkbox"/> PSJ Board | _____ | _____ |
| <input type="checkbox"/> NMI Board | _____ | _____ |
| <input type="checkbox"/> LPA | _____ | _____ |
| <input type="checkbox"/> BOA | _____ | _____ |
| <input checked="" type="checkbox"/> BCC | <u>8/5/21</u> | <u>5:00 p.m.</u> |

Wetland survey required by Natural Resources Yes No Initials _____

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

Yes No If yes, list _____

Location of subject property:

South side of Arlington Ave. approx. 1,313 feet west of Cushman Drive

Description of Request:

Rezone front 1.26 acres to RR-1 from AU



From: Allen
To: Jones, Jennifer
Subject: Rezoning
Date: Sunday, July 11, 2021 2:56:30 PM

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

Hi Jennifer,

I have lived on Arlington Ave in Mims since 1984. I am in No Way for the rezoning from Agriculture to Rural. I know there is others that strongly feel the same way especially the horse and cow owners.

No to rezone!

Thank you for your time in this matter.

Allen White

From: [Missi White](#)
To: [Jones, Jennifer](#)
Subject: Re: Rezoning
Date: Monday, July 12, 2021 10:03:12 AM

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

Good morning,
It's the property on Arlington Ave in Mims

On Mon, Jul 12, 2021 at 8:22 AM Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

Hi, Missi

What area of the county are you in? Do you know the property owner's name of the property you received a notice for? Is there an I.D. number on the notice you received.

We have 9 items for rezoning going before the Planning and Zoning Board today and I don't have a way of determining which property you are referring to.

Thanks,

Jennifer

From: Missi White <dawn3410@gmail.com>
Sent: Sunday, July 11, 2021 10:27 PM
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: Rezoning

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

Good evening,

I was recently made aware of a proposed rezoning change in my area. I'm completely against this. If I have a vote it's a definite no and I would encourage you to do the same.

Thank you,

Missi White

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 12, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher (D1); Brian Hodgers (D2); Mark Wadsworth, Chair (D4); Joe Buchanan (D4 Alt); Peter Filiberto (D5); and David Bassford (D5 Alt).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, David Bassford announced he had a conflict of interest on Items H.1., H.7., and H.8., and would need to abstain from voting.

Excerpt of Complete Minutes

Gary E. and Joanna L. Mills

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.26 +/- acres, located on the south side of Arlington Ave., approx. 0.25 mile west of Cushman Dr. (4257 Arlington Ave., Mims) (21Z00013) (Tax Account 2001899) (District 1)

Gary Mills, 4255 Arlington Avenue, Mims, stated they purchased their house in 2015, but when the house was built in 1994 it encompassed two parcels of land. When the former owner tried to sell it in 2000, the buyer only wanted one acre, so they split off one acre and that is the residence he and his wife purchased, zoned AU. The remaining acreage was sold off and made into a blueberry farm. He stated he owns both parcels now; their home is on one acre, which is not in compliance with AU, and with the remaining acreage he would like to take a little over 1.5 acres and adjoin it with their house. With the remaining 1.26 acres, he would like to leave that set aside in the event that they want to sell it in the future, that it can be developed. The dilemma they face is that AU requires 2.5 acres, and RR-1 requires one acre. What it will do is put the house back in compliance and then this 1.25 acres will be RR-1.

Mark Wadsworth ask how many acres Mr. Mills wants to rezone. Mr. Mills replied 1.26 acres at the dead-end of Arlington Avenue.

No public comment.

Ron Bartcher noted that the two letters from neighbors do not give a reason for objections, and asked if there have been any other comments. Kyle Harris stated no one else has contacted him regarding the request.

Mr. Mills stated he doesn't know the people who objected, and he doesn't know why they would be concerned.

Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the requested change of zoning classification from AU to RR-1. The motion passed unanimously.

Upon consensus, the meeting adjourned at 4:11 p.m.