



AGENDA REPORT
November 1, 2018

**Public Hearing, Re: Robert Allen Baker and Ruth Novelena Baker request a
change of zoning classification from RR-1 and GU to AU. (18PZ00096)
(District 1)**

SUBJECT:

Public Hearing, Re: Robert Allen Baker and Ruth Novelena Baker request a change of zoning classification from RR-1 and GU to AU. The property is 3.37 acres, located on the north side of Camp Road, approximately 0.21 mile east of Grissom Parkway. (940 Amazing Grace Lane, Cocoa) (18PZ00096) (District 1)

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 the request for a change of zoning classification from RR-1 and GU to AU.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is requesting to combine two parcels under one zoning classification, Agricultural Residential (AU) for the purpose of raising miniature cattle onsite. The parcels as a whole are a total of 3.37 acres in size. The applicants have stated that a fenced area in the NE quadrant of the lot that the RR-1 zoning classification is currently being utilized to house the cattle, who were feral and are now being housed by the property owners. This agricultural use is not permissible on the site within either of its current zoning classifications and the property owners are seeking to legitimize the use.

The area surrounding the parcel is mostly divided into one acre home and mobile home sites, but the area is sparsely developed. The Brevard County Correctional Facility and the FDOT Brevard Operations Center are also located nearby, similarly getting access directly from Camp Road. There are only two properties in the surrounding area which retain the AU zoning classification. Additionally, there are many county and state facilities in the nearby vicinity that retain the GML zoning classification. Two parcels to the west of the subject property lies a 65.85 acre parcel that retains the AU zoning classification. Another piece of a larger parcel to the southeast, across Camp Road has the AU zoning classification. Smaller parcels directly abutting the subject property retain the RR-1, TR-

1, GU, and RRMH-1 zoning classifications.

The Board may wish to consider whether the requested AU zoning classification is consistent and compatible with the surrounding neighborhood, as nearby development has occurred in a mixture of Rural Residential zonings, including RRMH-1, RR-1, TR-1, GU and GML zonings.

The Board may wish to consider whether the commercial nature of the agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, as well as the other uses permitted within the AU zoning classification, are compatible with surrounding development or whether they should be limited in any way.

On October 8, 2018, the Planning & Zoning Board heard the item and recommended unanimous approval.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **Maps**
- ▢ **Planning and Zoning Board Minutes**

RESOLUTION NO. 18PZ00096

On motion by Commissioner Barfield, seconded by Commissioner Isnardi, the following resolution was adopted by a unanimous vote:

WHEREAS, ROBERT ALLEN AND RUTH NOVELENA BAKER, have applied for a change of zoning classification from RR-1 (Rural Residential) and GU (General Use) to AU (Agricultural Residential), on property described Tax Parcel 536, as recorded in ORB 4144, Page 2278, of the Public Records of Brevard County, Florida; and Tax Parcel 540, as recorded in ORB 4148, Page 3568, of the Public Records of Brevard County, Florida. (3.37 acres) Located on the north side of Camp Road, approx. 1,100 ft. east of Grissom Pkwy. (940 Amazing Grace Ln., Cocoa); and

Section 25, Township 23S, Range 35E, and,

WHEREAS, a public hearing of the Brevard County Planning & 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 & Zoning Board recommended that the application be approved; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RR-1 and GU to AU, be APPROVED, and that the zoning classification relating to the above described property be changed to AU. The Planning & 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 November 1, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on November 1, 2018.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)



(P&Z Hearing – October 8, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD 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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

REZONING REVIEW WORKSHEET

18PZ00096

Commission District # 2

Hearing Dates: P&Z 10/08/18

BCC 11/01/18

Owner Name: ROBERT ALLEN BAKER AND RUTH NOVELENA BAKER

Request: RR-1 & GU to AU

Subject Property:

Parcel ID# 23-35-25-00-536 & 540

Tax Acct.# 2311629

Location: North side of Camp Rd., approx. 1,100 ft. east of Grissom Pkwy.

Address: 940 Amazing Grace Ln., Cocoa

Acreage: 3.37

Consistency with Land Use Regulations

- YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1 & GU	AU
Potential*	2 SF lots	1 SF lot
Can be Considered under FLU MAP	YES Residential 1	YES Residential 1

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

	ADT	PM PEAK		
Trips from Existing Zoning	19	2	Segment Number	052
Trips from Proposed Zoning	10	1	Segment Name	Camp Road
Maximum Acceptable Volume (MAV)	15,600	1,404	Acceptable LOS	E
Current Volume	2,728	1,352	Directional Split	0.5
Volume With Proposed Development	2,719	245	ITE CODE	
Current Volume / MAV	17.49%	17.49%	210	
Volume / MAV with Proposal	17.43%	17.43%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicant is requesting to combine two parcels under one zoning classification, Agricultural Residential (AU) for the purpose of raising miniature cattle onsite. The parcels as a whole are a total of 3.37 acres in size. The applicants have stated that a fenced area in the NE quadrant of the lot that the RR-1 zoning classification is currently being utilized to house the cattle, who were feral and are now being housed by the property owners. This agricultural use is not permissible on the site within either of its current zoning classifications and the property owners are seeking to legitimize the use.

The northern 2/3 of the lot area contains 2.27 acres and is zoned Rural Residential (RR-1) under **Z-10398** approved on May 25, 2000 and was a rezoning from the parcel's original General Use (GU) zoning. The southern 1/3 of the lot area is 1.10 acres and is zoned GU, the original 1958 zoning for this parcel. As the owners wish to combine the two properties under one zoning, they are willing to remove one access easement of the two existing access easements that cross the lower portion of this request, as approved under administrative action # **AA-1486** on May 26, 2000. The northern lot was developed with a house back in 2000.

This request, while it seeks to allow for agricultural uses to be permissible on the parcel, would reduce the development potential of the parcel from two single-family dwelling units to one single-family residence.

Land Use Compatibility

This parcel retains the Residential 1 (Res 1) Future Land Use designation. The current zoning and the proposed zoning are consistent with the current Res 1 Future Land Use designation.

FLUE Policy 1.9 – addresses the Res 1 residential land use designation. The Res 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 Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The area surrounding the parcel is mostly divided into one acre home and mobile home sites, but the area is sparsely developed. The Brevard County Correctional Facility and the FDOT Brevard Operations Center are also located nearby, similarly getting access directly from Camp Road. There are only two properties in the surrounding area which retain the AU zoning classification. Additionally, there are many county and state facilities in the nearby vicinity that retain the GML zoning classification. Two parcels to the west of the subject property lies a 65.85 acre parcel that retains the AU zoning classification. Another piece of a larger parcel to the southeast, across Camp Road has the AU zoning classification. Smaller parcels directly abutting the subject property retain the RR-1, TR-1, GU, and RRMH-1 zoning classifications.

There have been no rezonings in the area within a half-mile radius around this site within the last 10 years. The most recent change within the area but longer than 10 years ago was a rezoning on a nearby parcel Under **Z-11186**, adopted on February 2, 2006, which changed the zoning from Suburban Residential (SR) with a Binding Development Plan (BDP) to GU zoning with removal of the BDP.. That rezoning request restored development rights which were erroneously removed as part of a prior zoning action which took place in April 1, 2003 under **Z-**

10097. The SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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 minimum one acre lots, 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. The keeping of horses and agricultural pursuits are accessory to a principle residence within the RR-1, rural residential zoning classification. The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The owner/applicant owns the almost 5 acres located to the north of this site, which is zoned GU. Adjacent to the subject parcel's northern half of its eastern property line is a 2.27 acre parcel with GU zoning also owned by the applicant. Adjacent to the subject parcel's southern half of its eastern property line is a 1.06 acre developed parcel not owned by the applicant with Single-family Mobile Home (TR-1) zoning. TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet. To the west of the northern half of the subject property is a 2.07 acre parcel with RR-1 zoning which is not owned by the applicant, but gains access to the single-family residence via an easement across the subject property, via administrative action # **AA-1486**, described in the Background & Purpose section of this report. To the west of the southern half of the subject property is a 1.1 acre parcel also owned by the applicant that retains TR-1 zoning, but remains undeveloped.

Across Camp Road to the south is 107.5 acre parcel owned by Brevard County with Government Managed Lands (GML) zoning. A similarly large 127.62 acre parcel with GML zoning wraps around this parcel to the north and east, but does not directly abut the subject property. The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

For Board Consideration

The applicant is requesting to combine two parcels under one zoning classification, Agricultural Residential (AU) for the purpose of raising miniature cattle onsite. The parcels as a whole are a total of 3.37 acres in size. The applicants have stated that a fenced area in the NE quadrant of the lot that the RR-1 zoning classification is currently being utilized to house the cattle, who were feral and are now being housed by the property owners. This agricultural use is not permissible on the site within either of its current zoning classifications and the property owners are seeking to legitimize the use.

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Staff Comments: Page 4
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10/08/18 PZ // 11/01/18 BCC

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The Board may wish to consider whether the commercial nature of the agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, as well as the other uses permitted within the AU zoning classification, are compatible with surrounding development or whether they should be limited in any way.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
 Rezoning Review**

SUMMARY

Item #: 18PZ00096	Applicant: Robert and Ruth Baker
Zoning Request: RR1 & GU to AU	
P&Z Hearing Date: 10/8/2018	BCC Hearing Date: 11/01 /18

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Wetlands Potential/Hydric Soils	Mapped	Coastal	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 23, Rng. 35, Sec. 25;
 Tax ID No. 2311629**

The subject parcel has an area of mapped hydric soils (Basinger sand) on the northwest portion of the property as shown on the USDA Soil Conservation Service Soils Survey Map, an indicator that wetlands may be present on the property. Section 62-3694(a)(1) states that agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not adversely affect the functions of wetlands and do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-3694(c)(6). Any other permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any land clearing activities, plan or permit submittal.

Information available to NRM indicates that federally and/or state protected species may be present on the property. As shown on the Scrub Jay Occupancy Map, a large Florida Scrub Jay polygon is mapped over the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant shall obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service (FWS), as applicable.

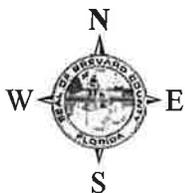
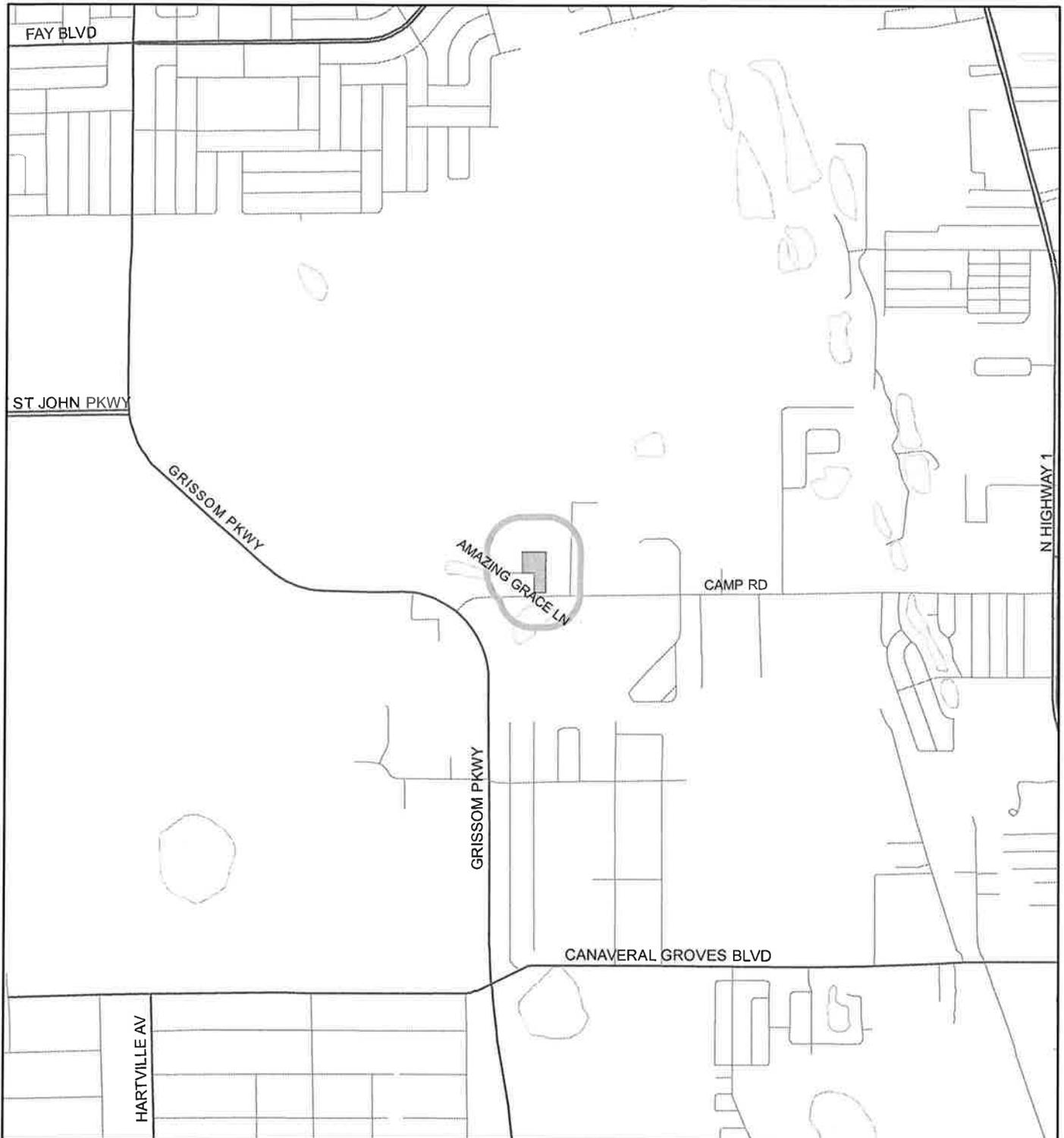
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is

Staff Comments: Page 6
(18PZ00096)
10/08/18 PZ // 11/01/18 BCC

not permitted without prior authorization by NRM. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



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

Buffer Distance: 500 feet

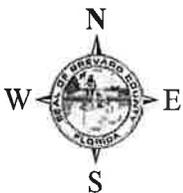
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/10/2018

-  Buffer
-  Subject Property

ZONING MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

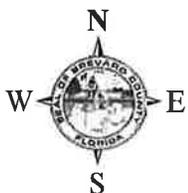
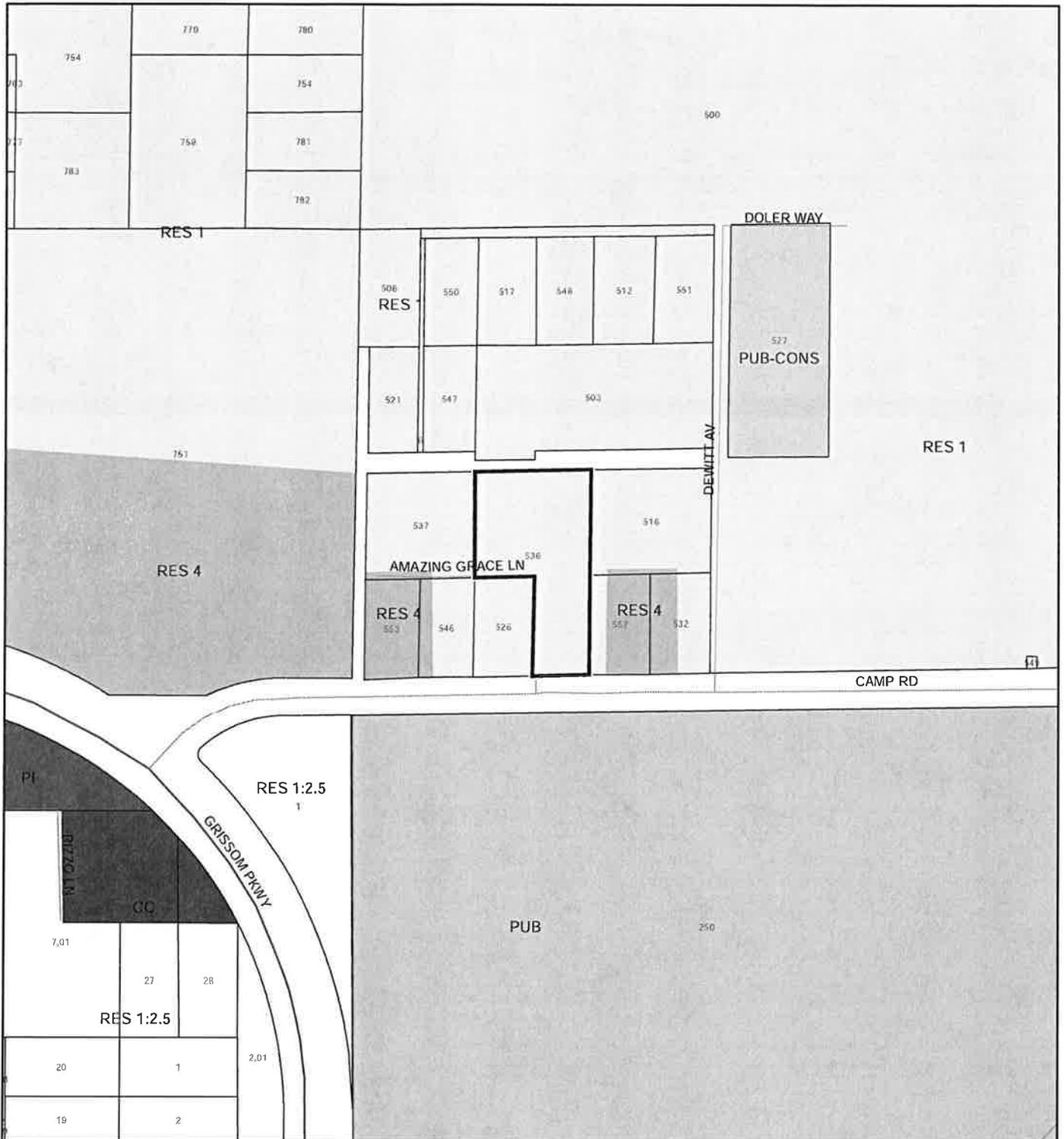
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Produced by BoCC - GIS Date: 8/10/2018

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

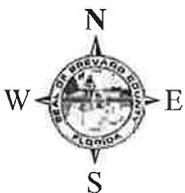
Subject Property
 Parcels

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Produced by BoCC - GIS Date: 8/7/2018

AERIAL MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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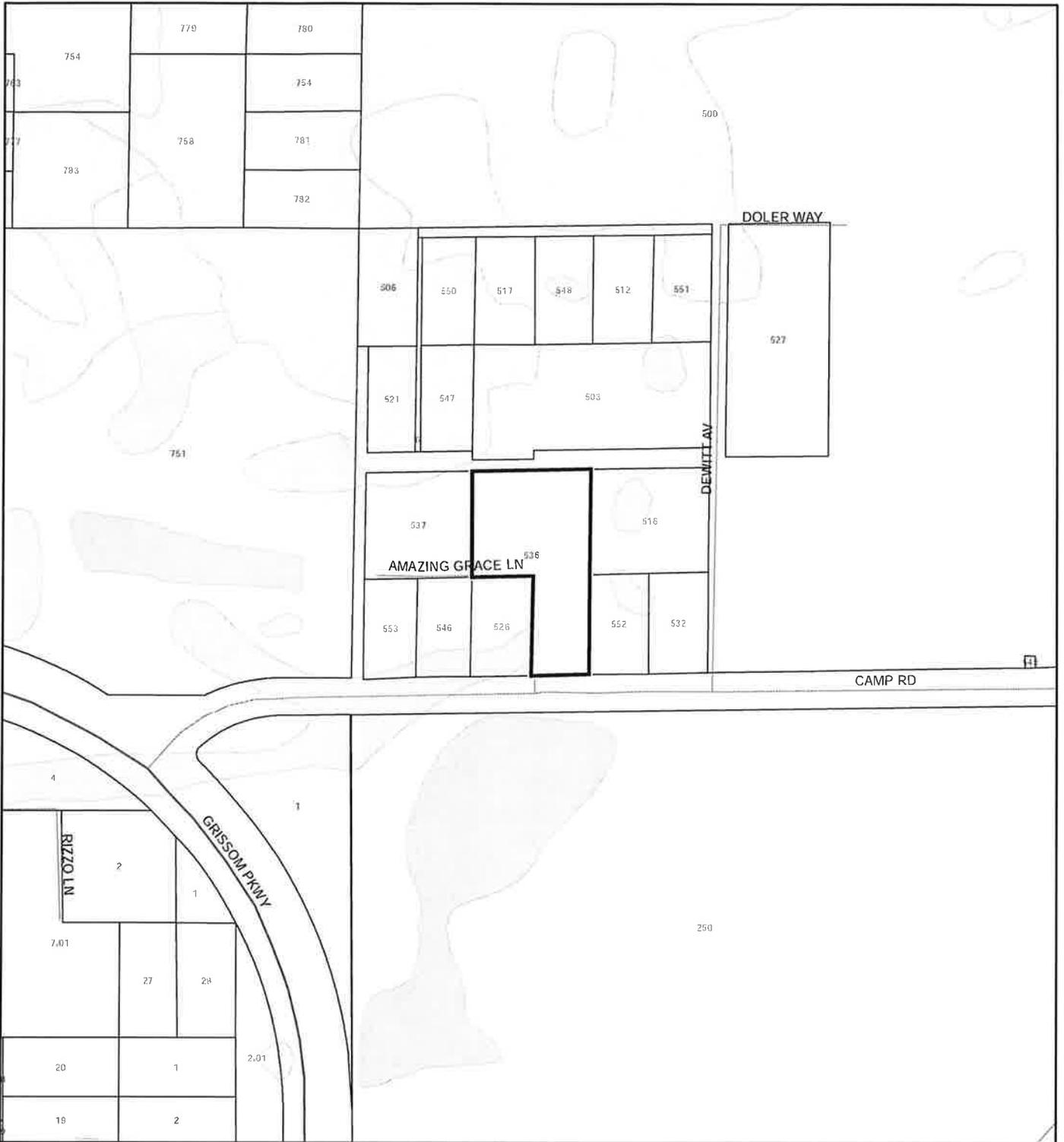
Produced by BoCC - GIS Date: 8/7/2018

 Subject Property

 Parcels

NWI WETLANDS MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2018

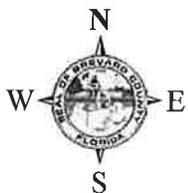
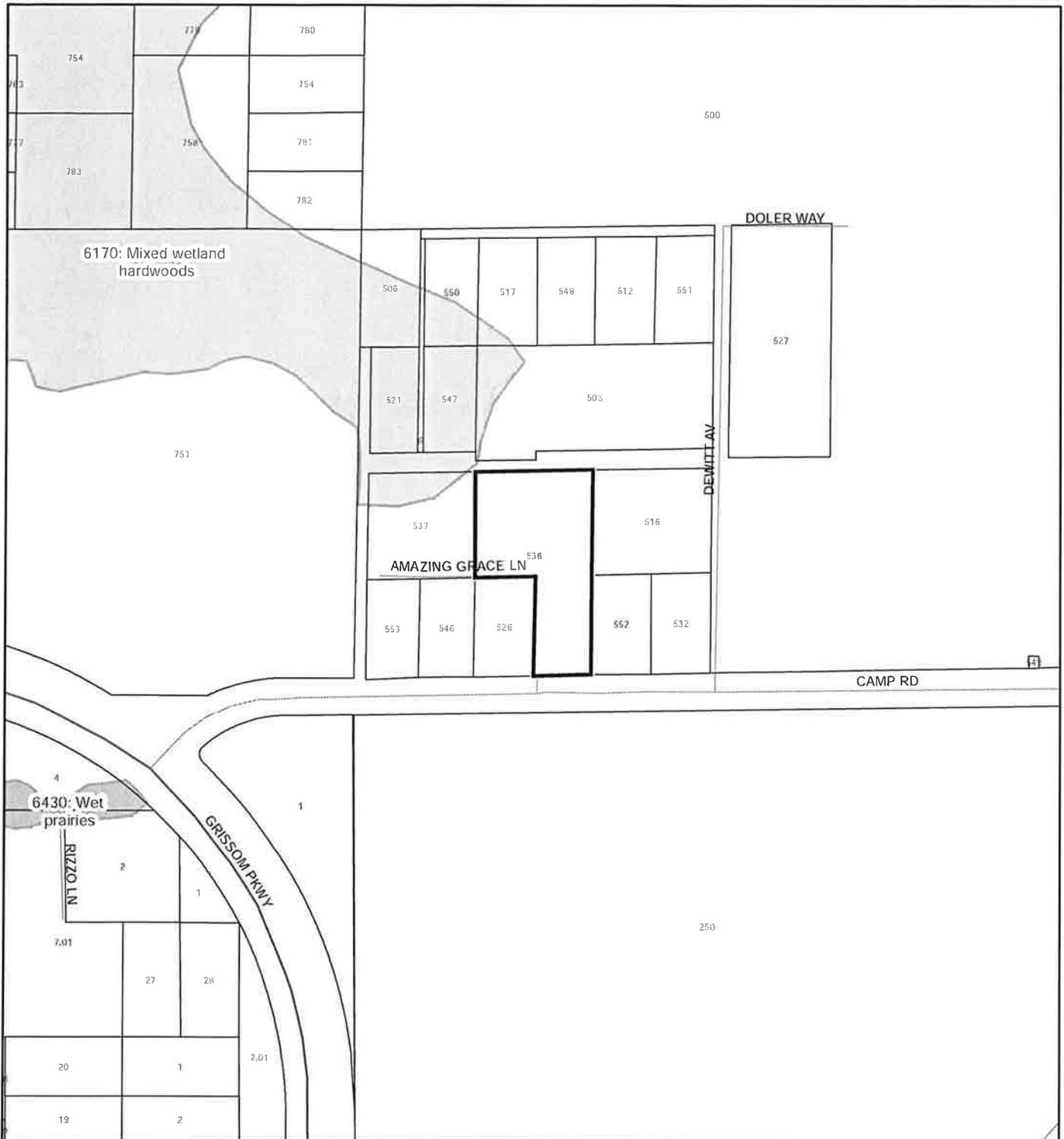
National Wetlands Inventory (NWI)

- | | |
|--|---|
|  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

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA

18PZ00096



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2018

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

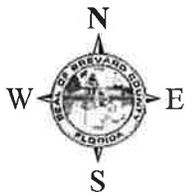
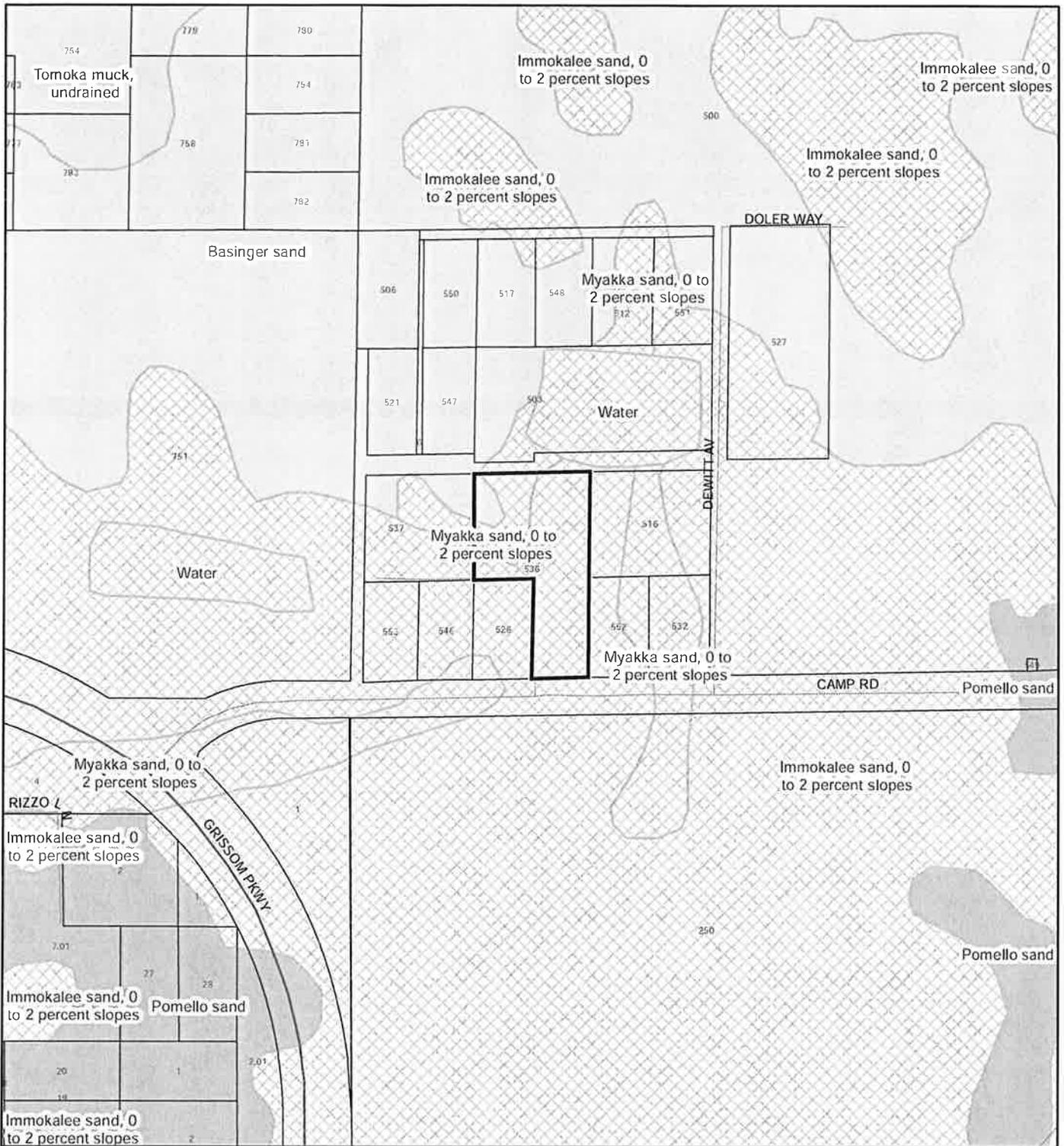
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA

18PZ00096



1:4,800 or 1 inch = 400 feet

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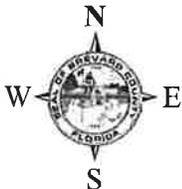
Produced by BoCC - GIS Date: 8/7/2018

USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

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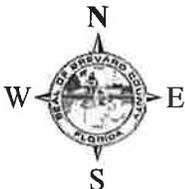
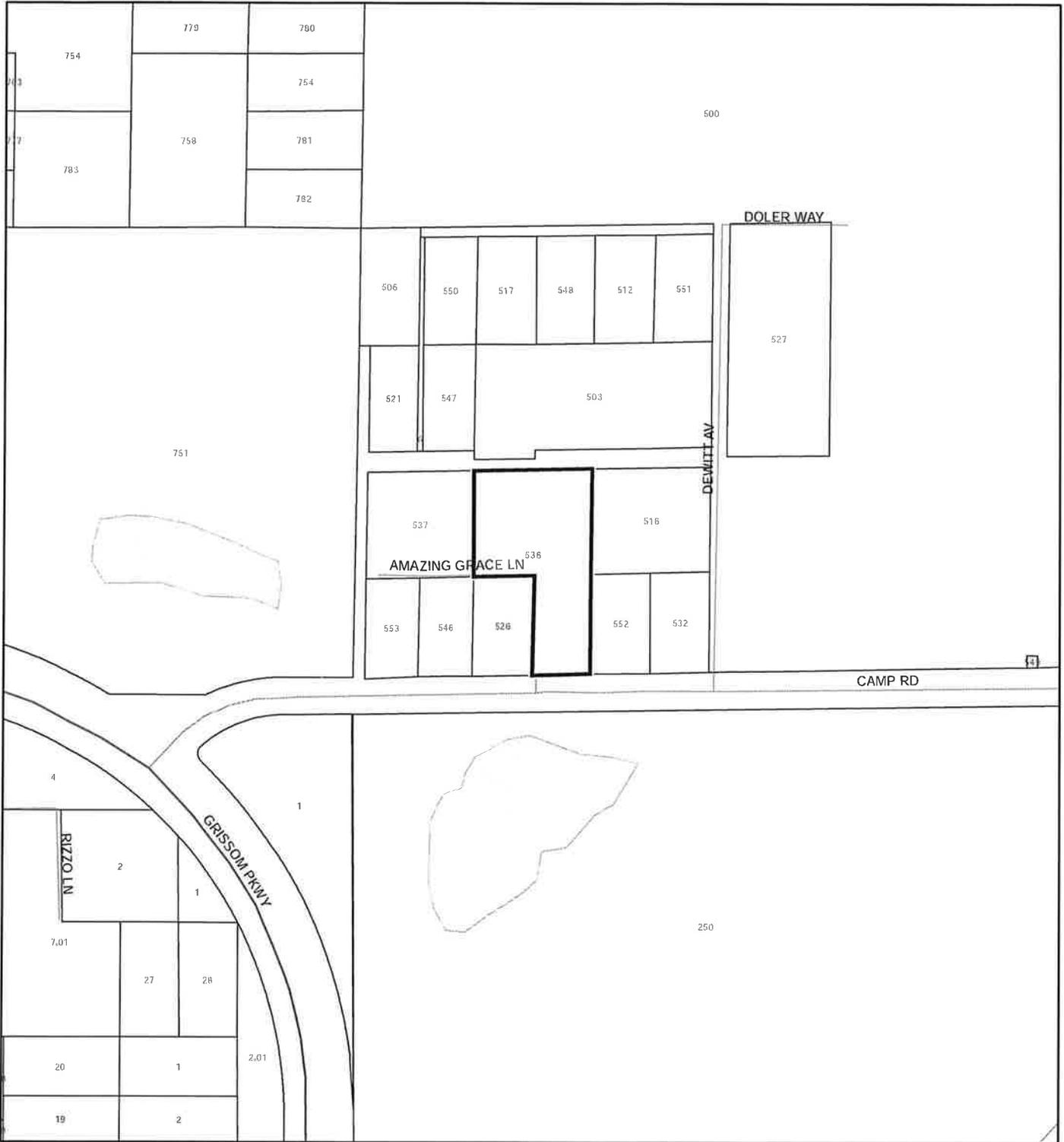
Produced by BoCC - GIS Date: 8/7/2018

FEMA Flood Zones

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

EAGLE NESTS MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA
18PZ00096



1:4,800 or 1 inch = 400 feet

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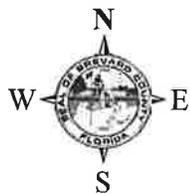
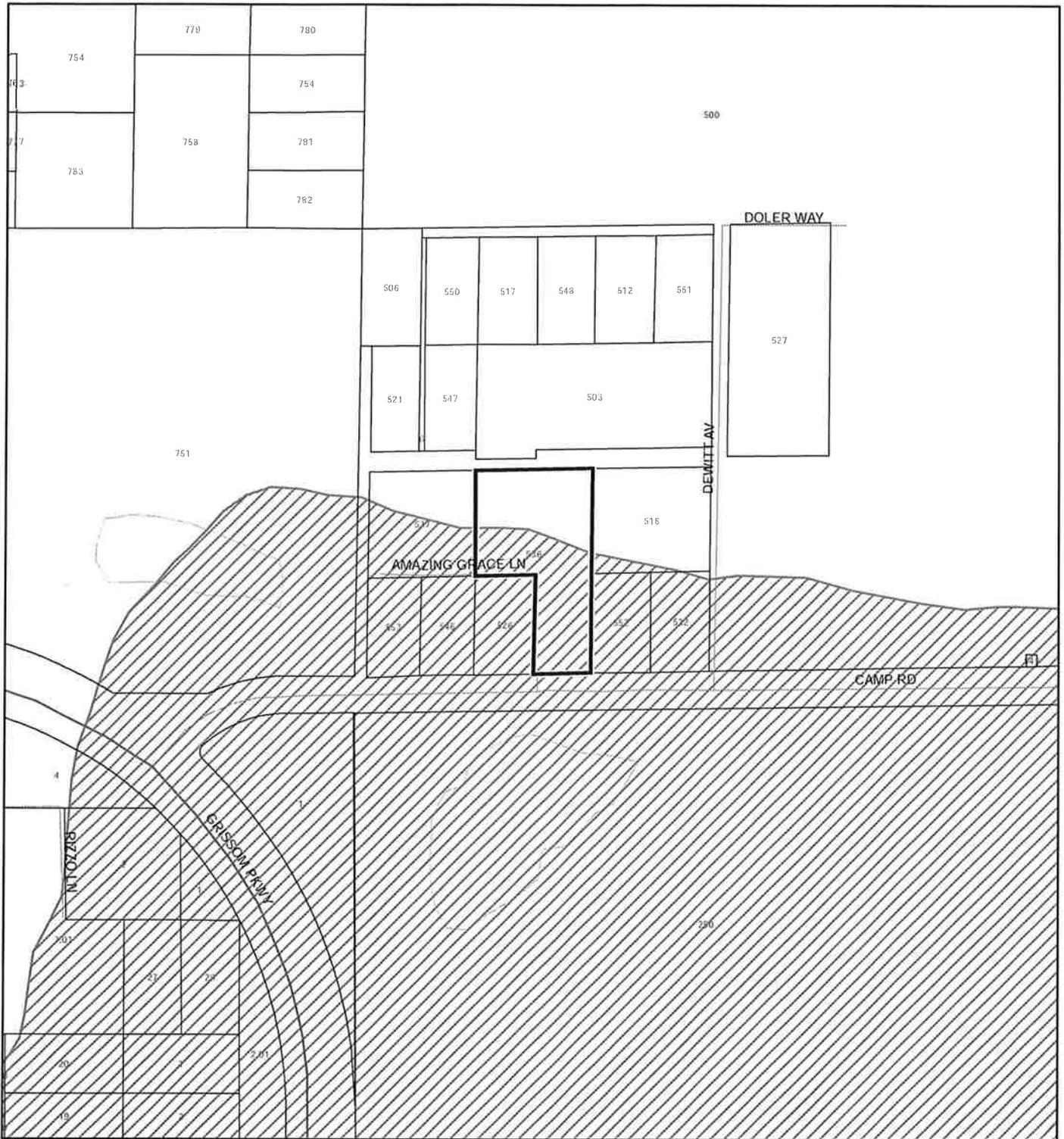
Produced by BoCC - GIS Date: 8/7/2018

-  Subject Property
-  Parcels
-  Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA

18PZ00096



1:4,800 or 1 inch = 400 feet

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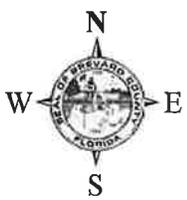
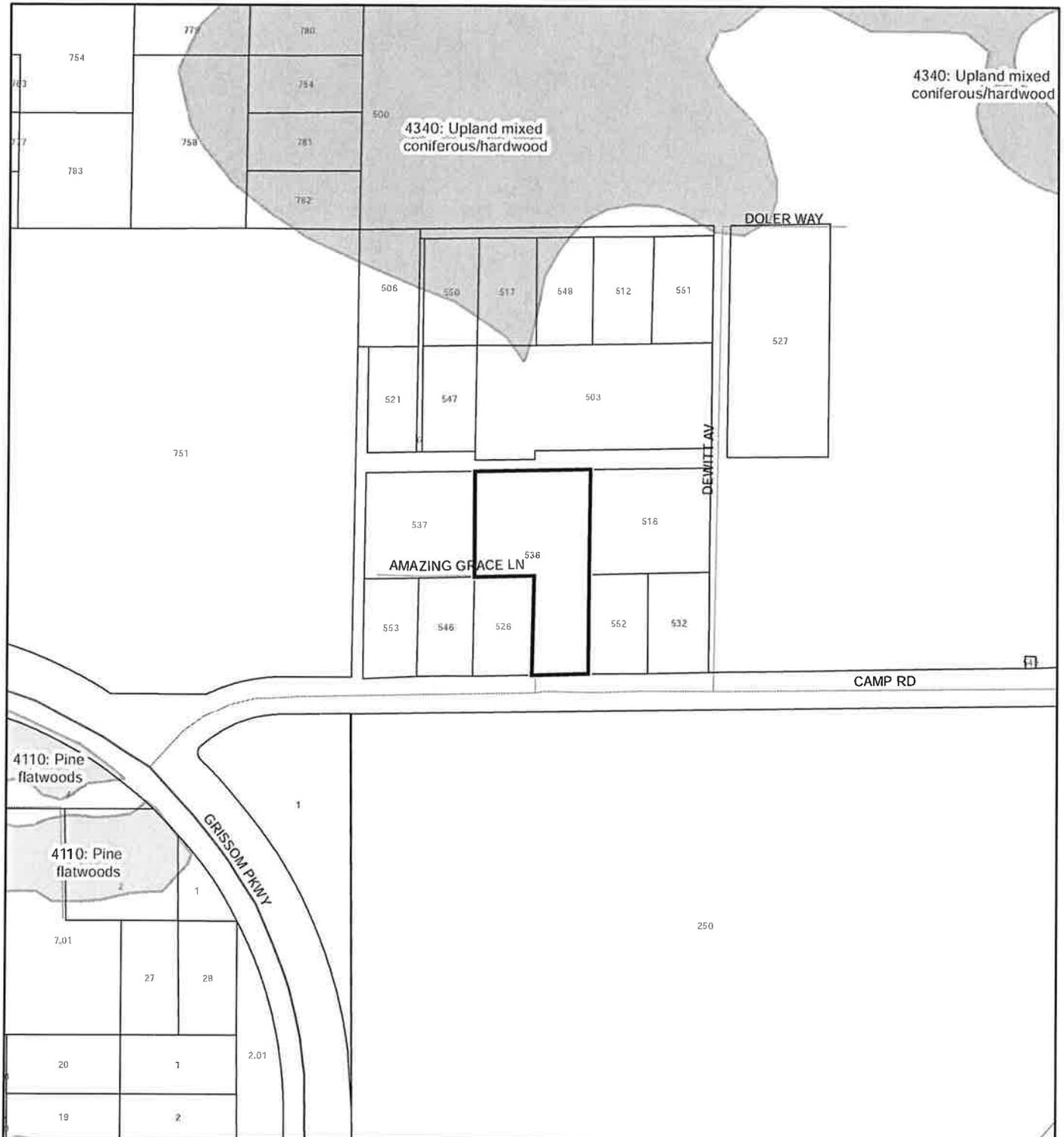
Produced by BoCC - GIS Date: 8/7/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BAKER, ROBERT ALLEN AND BAKER, RUTH NOVELENA

18PZ00096



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2018

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 ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 8, 2018, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Vice Chair, Robert LaMarr, at 3:00 p.m.

Board members present were: Robert LaMarr, Vice Chair; Ron Bartcher, Andy Barber; Brian Hodgers; Ron McLellan; Mark Wadsworth; and Scott Langston.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Rebecca Ragain, Planning and Development Assistant Director; George Ritchie, Planner II; Darcie McGee, Natural Resources Management Assistant Director; and Jennifer Jones, Special Projects Coordinator II.

Robert LaMarr, Vice Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, October 4, 2018, at 5:00 p.m.

Excerpt from complete agenda.

1. **Robert Allen and Ruth Novelena Baker** request a change of zoning classification from RR-1 (Rural Residential) and GU (General Use) to AU (Agricultural Residential). The property is 3.37 acres, located on the north side of Camp Road, approximately 0.21 mile east of Grissom Parkway. (940 Amazing Grace Lane, Cocoa) (18PZ00096) (District 1)

Robert Baker, 940 Amazing Grace Lane, Cocoa, stated he'd like to be zoned agricultural because he has some cattle he'd like to have a fenced in area for, to protect them. He further stated he would like to hook up electric to his stable, but cannot because he is zoned RR-1, so he is requesting AU in order to legally have his cows, and also to have electric in his stable.

No public comment.

Motion by Andy Barber, seconded by Ron McLellan, to approve the requested change of zoning classification from RR-1 and GU to AU. The motion passed unanimously.