



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

10/3/2019

Subject:

Monica Ellis requests a change of zoning classification from AU to SR. (19PZ00092) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from AU to SR on 0.95 acres located at 950 North Tropical Trail, Merritt Island, in order to split out the southern 100 feet of the 7.05-acre parcel to create one 0.95-acre lot for resale as a conforming lot under the proposed SR zoning classification. The SR zoning classification allows for single-family residential development on a minimum lot size of 0.5-acre with a minimum lot width of 100 ft. and a minimum lot depth of 150 ft.

The Board may wish to consider whether a 0.95-acre single-family lot is consistent and compatible with abutting AU zoned properties to the north and the south given the Residential 15 Future Land Use designation, zoning classifications of the surrounding properties (EU, RU-1-9, and RU-1-13), and existing development patterns and trends within a half-mile radius of the subject property.

On September 9, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolutions are received, please execute and return to Planning and Development.

Resolution 19PZ00092

On motion by Commissioner Lober, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote:

WHEREAS, Monica Ellis has requested a change of zoning classification from AU (Agricultural Residential) to SR (Suburban Residential), on property described as the south 100 ft., measured perpendicular by a line parallel with and 100 ft. north of the south line of Tax Parcel 13, as recorded in ORB 7091, Pages 1230 – 1231, of the Public Records of Brevard County, Florida. **Section 27, Township 24, Range 36.** (0.95 acres) Located on the east side of N. Tropical Trail, approx. 0.27 mile south of Lucas Rd. (950 N. Tropical Trail, Merritt Island); and

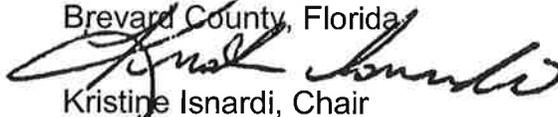
WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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; 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 SR 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 October 3, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Kristine Isnardi, Chair
Brevard County Commission

As approved by the Board on October 3, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – September 9, 2019

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 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

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

19PZ00092

Monica Ellis

AU (Agricultural Residential) to SR (Suburban Residential)

Tax Account Number: 2420809
 Parcel I.D.: 24-36-27-00-13
 Location: 950 South Tropical Trail, Merritt Island (District 2)
 Acreage: 0.95 acres

Planning and Zoning Board: 09/09/19
 Board of County Commissioners: 10/03/19

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)

ATTRIBUTE NAME	CURRENT	PROPOSED
Zoning	AU	SR
Potential*	0 Units	1 Unit
Can be Considered under the Future Land Use Map	YES, RES 15	YES, RES 15

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from Agricultural Residential (AU) to Suburban Residential (SR) in order to split out the southern 100 feet of the 7.05-acre parcel to create one 0.95-acre lot for resale as a conforming lot under the proposed SR zoning classification.

The AU zoning is original to the lot adopted May 22, 1958. A request to rezone the property from AU to Single-Family Residential (RU-1-A) was denied by the Board on March 25, 1968 under resolution Z-2247. There have been no other zoning actions requested on the subject property until the current request.

Land Use Compatibility

The subject property retains the Residential 15 (RES 15) Future Land Use (FLU) designation. The current AU zoning and the proposed SR zoning are both consistent and compatible with the RES 15 FLU designation.

FLUE Policy 1.4 addresses the RES 15 Future Land Use designation. The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre, except as otherwise may be provided for within this element. The proposed SR zoning is consistent with the Residential 15 Future Land Use designation.

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 in the Administrative Policies.

Environmental Constraints

The parcel has mapped hydric soils and wetlands. The presence of wetlands could affect the development potential of the southern portion of the parcel proposed to be subdivided. Natural Resources Management highly recommends a wetland determination and delineation be conducted before subdividing parcel.

Natural Resources Management reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. For details, please refer to comments provided by the Natural Resources Management Department.

Preliminary Concurrency Analysis

The closest concurrency management road segment to the subject property is North Tropical Trail, between Merritt Avenue and Lucas Road, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 44.13% of capacity daily. The larger source parcel is developed with an existing single-family residence and a barn, but the proposed new lot, the subject of this proposed zoning change, is vacant. The maximum development potential from the proposed rezoning increases the proposed trip generation by 10 Average Daily Trips (ADT) and one trip at pm peak-hour. The corridor is projected to operate at 44.19% of capacity daily (LOSC), an increase of 0.06%. The proposal is not anticipated to create a deficiency in LOS.

Neither the density of the existing AU zoning nor of the proposed SR zoning is near the four unit per acre threshold that requires central water or sewer service. However, water and sewer mains are both located approximately 900 feet up North Tropical Trail to the north at the intersection of North Tropical Trail and Lucas Road. There are closer water mains, less than 400 feet from the subject property, but those potable water distribution pipes do not have sewer collection system pipes located next to them and, while right-of-way exists between them and the subject property, unlike North Tropical Trail, this connecting right-of-way is not improved.

This proposed zoning action would add only one potential dwelling unit. This is below the eight-unit threshold that triggers school concurrency review, therefore, no school concurrency is required.

Applicable Land Use Policies

The developed character of the parcels along North Tropical Trail and adjacent to the subject property to the east is single-family residential with density ranging from as low as one unit per 2.5

acres (AU) to as high as 6.6 units per acre (RU-1-9) and Future Land Use designations ranging from Residential 4 to Residential 15.

The current AU zoning classification permits single-family residences and agricultural pursuits on 2.5 acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet, and a minimum house size of 1,300 square feet.

The 0.95-acre new lot that is the subject of this proposed change of zoning classification is undeveloped. The remaining 7.05-acre portion of Parcel 13, which is not part of the subject request, is developed with a single-family residence, a barn, and an active orchard of various species. This 7.05 acres north of the subject property, and the 4.78-acre parcel to the north of that, will both retain their current zoning of AU. The 7.71 acre and 0.51-acre properties adjacent to the east, which are separated by an unimproved right-of-way, both retain Single-Family Residential zoning of RU-1-9. The 2.19 acre property to the south retains AU zoning. Six lots across North Tropical Trail to the west are described from south to north as follows:

- Two lots developed as Single-Family Residential (RU-1-13) at just over 1/3 acre each;
- Two lots developed as Estate Use (EU) single-family zoning at just over 2 acres each;
- One 1.46-acre parcel zoned EU is developed as a Nonconforming Mobile Home Park (NMH-81);
- One 1.98-acre, currently vacant lot, which is zoned RU-1-13.

The following four zoning actions have been approved by the Board within a half-mile of the subject property in the last five years:

- **18PZ00123** approved February 7, 2019, changed the zoning classification from AU and RU-1-9 to Single-Family Residential (RU-1-7) on a 0.69-acre vacant parcel on the south side of Bevis Road, approximately 250 feet north-northeast of the subject property;
- **18PZ00051** approved September 6, 2018, changed the zoning classification from Planned Unit Development (PUD) to Medium-Density Multiple-Family Residential (RU-2-15) on an 11.88 acre lot proposed for redevelopment by the Housing Authority of Brevard County, approximately 1,850 feet southeast of the subject property;
- **17PZ00138** approved February 1, 2018, changed the zoning classification from AU to Single-Family Residential (RU-1-11) on a 0.83-acre parcel, on the east side of North Tropical Trail, approximately 1,125 feet north of the subject property, and;
- **17PZ00051** approved August 3, 2017 changed the zoning classification from RU-1-11 to RU-1-9 on a 0.576-acre parcel, on the east side of North Tropical Trail approximately 1,200 feet north of the subject property.

For Board Consideration

The applicant is seeking a change of zoning classification from Agricultural Residential (AU) to Suburban Residential (SR) in order to split out the southern 100 feet of the 7.05-acre parcel to create one 0.95-acre lot for resale as a conforming lot under the proposed SR zoning classification.

The Board may wish to consider whether a 0.95-acre single-family lot is consistent and compatible with abutting AU zoned properties to the north and the south given the Residential 15 Future Land Use designation, zoning classifications of the surrounding properties (EU, RU-1-9, and RU-1-13), and existing development patterns and trends within a half-mile radius of the subject property.

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

Item # 19PZ00092

Applicant: Monica Ellis

Zoning Request: AU to SR

Note: Applicant wants to subdivide parcel

P&Z Hearing Date: 09/09/19; **BCC Hearing Date:** 10/03/19

Tax ID No: 2420809

- 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.**

Substantial Natural Resources Land Use Issues:

The parcel has mapped hydric soils and wetlands. The presence of wetlands could affect the development potential of the southern portion of the parcel proposed to be subdivided. NRM highly recommends a wetland determination and delineation be conducted before subdividing parcel. If the owner/applicant has any questions regarding any potential limitations, s/he is encouraged to contact NRM at (321) 633-2016 prior to any land clearing activities, plan, or permit submittal. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development

Summary of Mapped Natural Resources Present on the Subject Property:

- NWI Wetlands
- SJRWMD Wetlands – Mixed Wetland Hardwoods
- Hydric Soils
- Aquifer Recharge soils
- Indian River Lagoon Septic Overlay

Land Use Comments:

Wetlands

The subject parcel contains mapped areas of NWI and SJRWMD wetlands, and hydric soils (Anclote sand – frequently ponded 0 to 1% slopes) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Sec. 65-3694(c)(1)a above. 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 Sec. 65-694(c)(6). Any 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 plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello 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.

Indian River Lagoon Septic Overlay

The entire parcel is mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

Heritage Specimen Trees

The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 6170 - Mixed Wetland Hardwoods. Aerials indicate that Heritage Specimen Trees (greater than or equal to 24 inches in diameter) may be located in the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

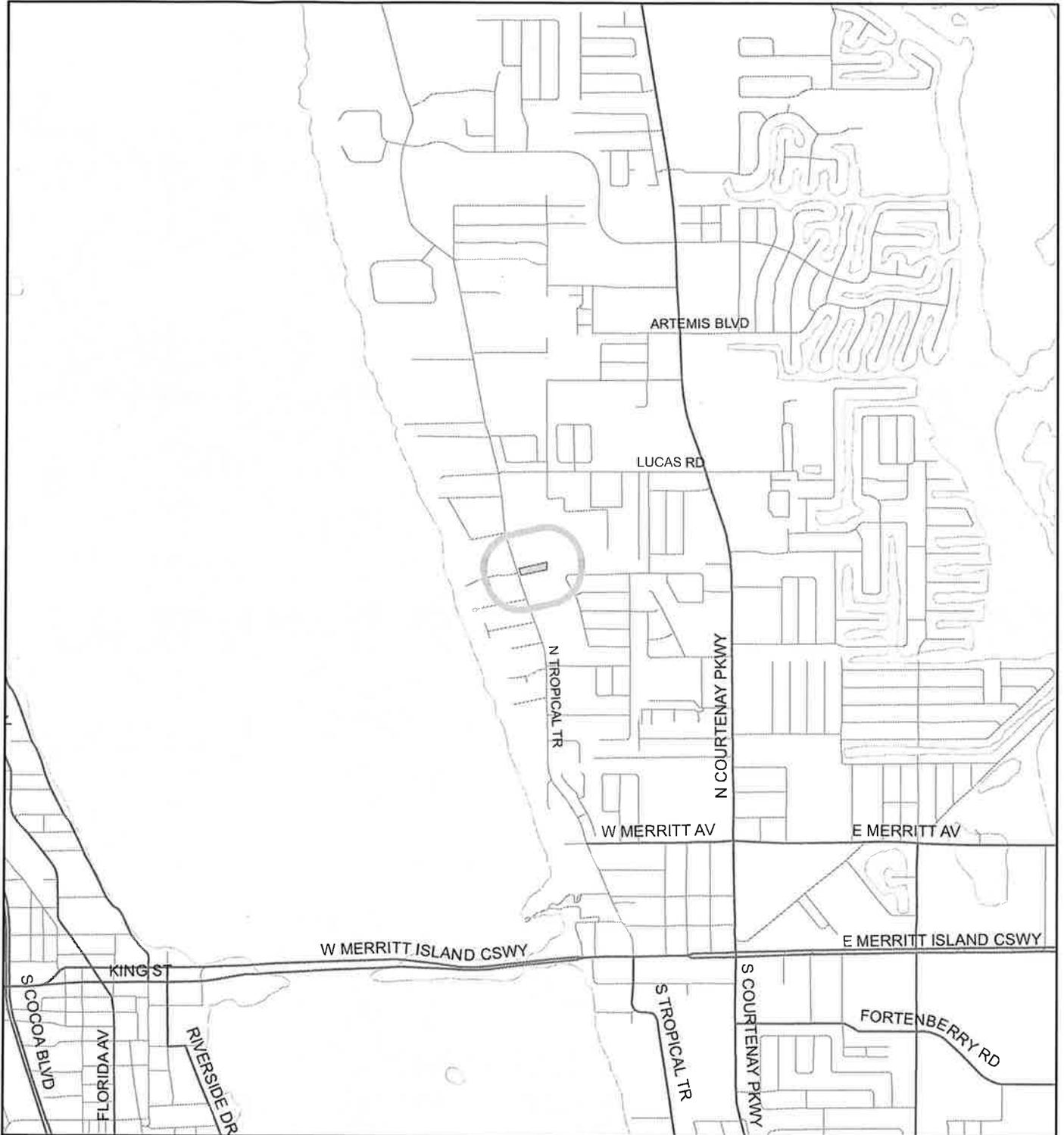
Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils. Should any protected species be present, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

LOCATION MAP

ELLIS, MONICA

19PZ00092



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

Buffer Distance: 500 feet

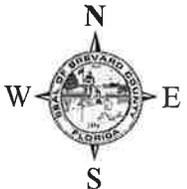
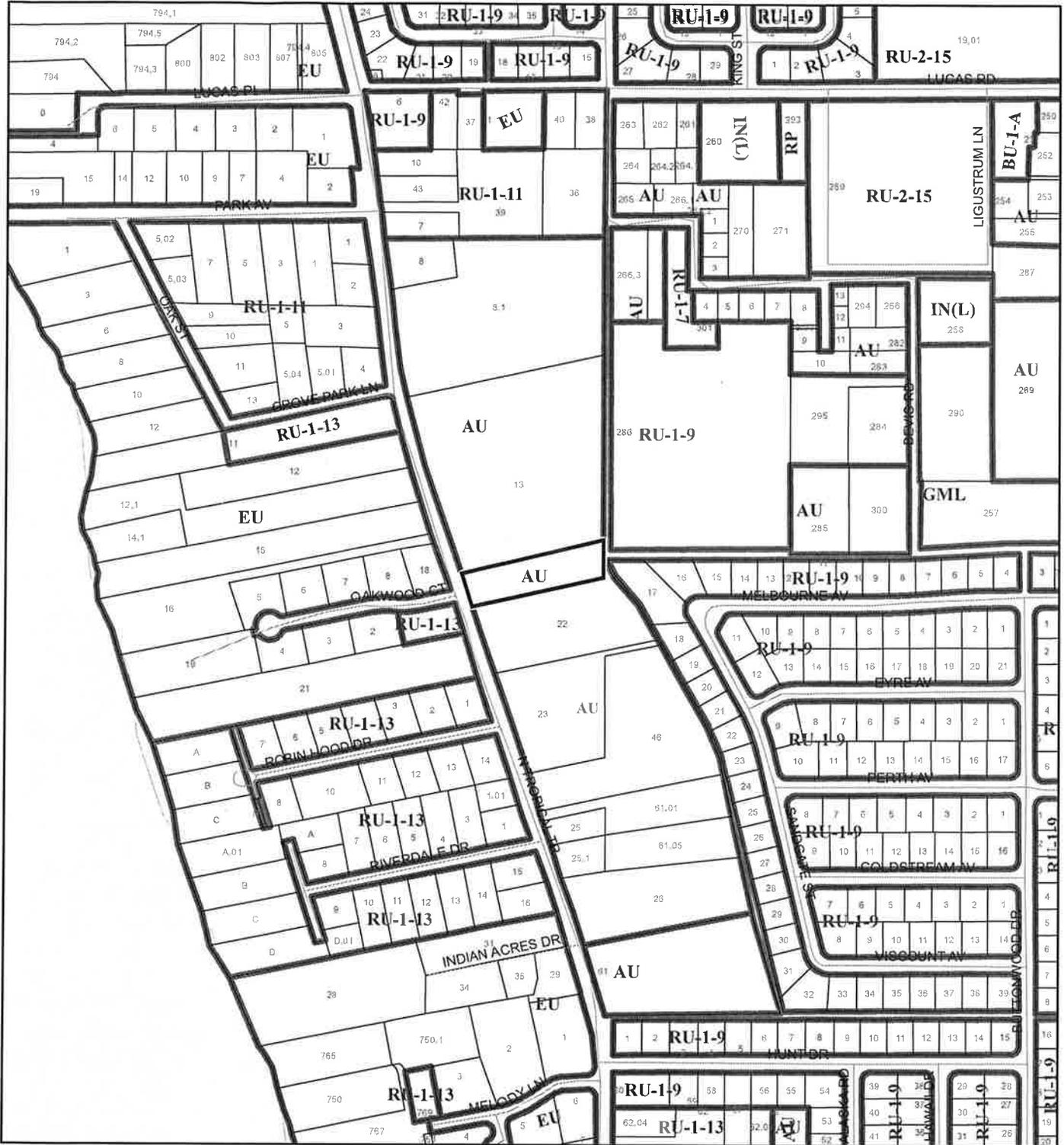
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/17/2019

-  Buffer
-  Subject Property

ZONING MAP

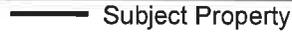
ELLIS, MONICA
19PZ00092



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.

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-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

ELLIS, MONICA

19PZ00092



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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AERIAL MAP

ELLIS, MONICA

19PZ00092



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

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Produced by BoCC - GIS Date: 7/17/2019

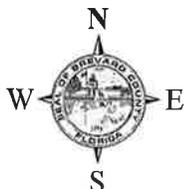
— Subject Property

□ Parcels

NWI WETLANDS MAP

ELLIS, MONICA

19PZ00092



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.

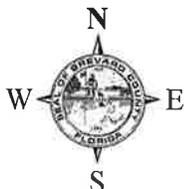
Produced by BoCC - GIS Date: 7/17/2019

- National Wetlands Inventory (NWI)**
- Estuarine and Marine Deepwater
 - Estuarine and Marine Wetland
 - Freshwater Emergent Wetland
 - Freshwater Forested/Shrub Wetland
 - Freshwater Pond
 - Lake
 - Other
 - Riverine
 - Subject Property
 - Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

ELLIS, MONICA

19PZ00092



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: 7/17/2019

SJRWMD FLUCCS WETLANDS

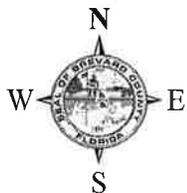
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property Parcels

USDA SCSSS SOILS MAP

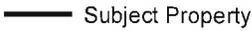
ELLIS, MONICA

19PZ00092



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

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

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

Produced by BoCC - GIS Date: 7/17/2019

FEMA FLOOD ZONES MAP

ELLIS, MONICA

19PZ00092



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: 7/17/2019

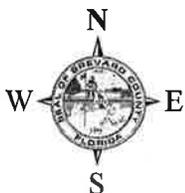
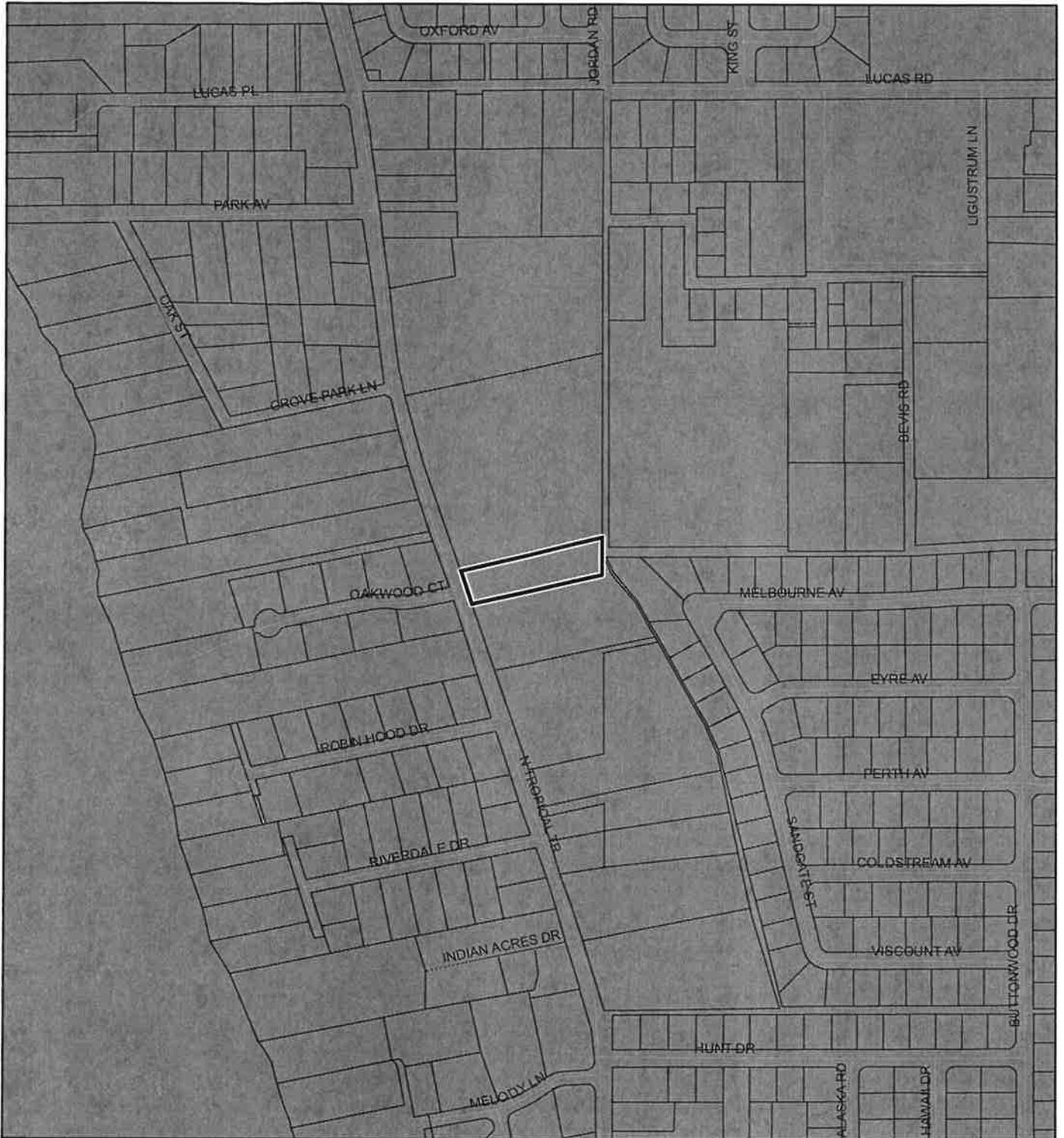
FEMA Flood Zones

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INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

ELLIS, MONICA

19PZ00092



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.

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— Subject Property

▭ Parcels

Septic Overlay

▭ 40 Meters

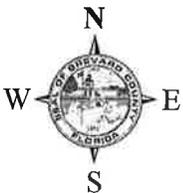
▭ 60 Meters

▭ All Distances

EAGLE NESTS MAP

ELLIS, MONICA

19PZ00092



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: 7/17/2019

 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

ELLIS, MONICA

19PZ00092



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: 7/17/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



ecospatial

ANALYSTS

August 6, 2019

Ms. Monica Ellis
PO Box 540604
Merritt Island FL 32954
Email kiwi88me@gmail.com
Phone 321-961-5600

Project: ± 7.05 acres
950 N Tropical Trail, Merritt Island, FL 32953
Brevard Parcel ID: 24-36-27-00-13
Brevard Tax ID: 2420809

Subject: Wetland Site Assessment for Brevard County Natural Resource Management Department

Dear Ms. Ellis;

Ecospatial Analysts, Inc. conducted an environmental assessment and wetland determination on the above-referenced parcel on July 31, 2019. The parcel is a single-family residence with associated small-scale agriculture located on east side of North Tropical Trail, Brevard Co., Florida. The parcel is bordered by low density, family residence to the north and south, a large drainage ditch maintained by Brevard County to the east and North Tropical Trail to the west.

PURPOSE The purpose of the site assessment was to identify wetlands and rare, threatened or endangered species habitat that may influence desired improvements to the single-family residence and associated agricultural practices.

LANDCOVER Landcover (Figure 1) was mapped using the Florida Land Use Cover and Forms Classification System (FLUCFCS) (1999) within the Brevard County Parcel boundary as obtained from the Florida Department of Revenue Geographic Information System (GIS) data. The landcover within the parcels consisted of nine landcover types (Table 1).

The parcel was comprised of approximately ± 1.25 acres of Residential (FLUCFCS 110). This area consisted of a home, associated lawn and landscaping and also a small Reservoir (FLUCFCS 534; 0.07-acres). The wooded area to the east of the house had a canopy of large laurel oaks with an understory of maintained ruderal forbs and tropical ornamentals (ferns, bromeliads, etc.). In some areas air potato vines (*Dioscorea bulbifera*) have invaded. Since these vines are highly invasive, they should be removed to prevent their invasion of the nearby woodlands. More dense invasive shrubs

and vegetation occurred adjacent to North Tropical Trail. An 18-inch cement culvert was located to the northwest of the pond and appeared to drain stormwater from the west side of N. Tropical Trial onto the residential parcel. No swale or surface water feature existed to contain the stormwater other than the small reservoir.

Table 1. Land cover types and approximate acreages found with the parcel.

FLUCFCS Code	FLUCFCS Description	Area (acres)
110	Residential, Low Density	1.25
223	Other Groves	1.90
260	Other Open Lands Rural; Apiary	0.80
329	Other Shrubs and Brush	1.55
438	Mixed Hardwoods	0.60
510	Drainage Ditch	0.13
534	Reservoir	0.07
617	Mixed Wetland Hardwoods	0.28
619	Exotic Wetland Hardwoods	0.33
	Total	1.05

The most dominant land use on the parcel is Other Groves (FLUCFCS 223; 1.9-acres). This area is cultivated mangos (*Mangifera indica*) and lychee (*Litchi chinensis*). The groundcover is mowed Bahia grass and other grasses and forbs. A 0.80-acre area of Other Open Lands Rural (FLUCFCS 260) is maintained Bahia grass adjacent to the grove. This area contains a small apiary and some of cultivated bananas.

Other Shrub and Brush (FLUCFCS 329; 1.55-acres) covers three areas of the parcel. These regions area overgrown abandoned citrus that is now dominated by a mixed of Brazilian pepper (*Schinus terebinthifolia*), young cabbage palm (*Sabal palmetto*), Guinea grass (*Megathyrus maximus*), muscadine vines (*Muscadine spp.*), Surinam cherry (*Eugenia uniflora*), camphor trees (*Cinnamomum camphora*) and other invasive forbs.

Mixed Hardwoods (FLUCFCS 438) consisted of ±0.60 acres of very mixed forested uplands located on the south east corner of the parcel and adjacent to the Drainage Ditch (FLUCFCS 510; 0.13-acres). This area has live oaks (*Quercus virginiana*), cabbage palms (*Sabal palmetto*), camphor trees (*Cinnamomum camphora*) and a few smaller American elm (*Ulmer americana*). Shrub and ground cover were native and invasive shrubs, forbs and vines which included frostweed (*Verbesina spp.*) and Brazilian Pepper (*Schinus terebinthifolius*).

The Mixed Wetland Hardwoods (FLUCFCS 617; ±0.28 acres) had many of the same trees and shrub as the Mixed Hardwoods community but occurred on hydric soils. Cabbage palm (*Sabal palmetto*), Brazilian Pepper (*Schinus terebinthifolius*), Florida strangler fig (*Ficus aurea*) and American elm (*Ulmer americana*) occurred throughout the Mixed Wetland Hardwoods. An area of Exotic Wetland Hardwoods (FLUCFCS 619; 0.33-acres) occurred adjacent to the Mixed Wetland Hardwoods but this area was dominated by exotics vegetation on hydric soil. Brazilian Pepper and cabbage palm had dense ground cover of wild coffee (*Psychotria nervosa*) and exotic ornamentals that include but were

not limited to a variety of palms, African climbing fern (*Stenochlaena tenuifolia*) and mother-in-law's tongue (*Sansevieria trifasciata*).

WETLANDS The investigation concluded that approximately ± 0.61 -acres of jurisdictional wetland (Chapter 62- 340 of the Florida Administrative Code (F.A.C.)) occurred near the northeast portion of the parcel (Figure 1).

Soil profiling was conducted throughout the parcel and along the wetland margin to confirm the presence of hydric soils. The wetland area consisted of organic soil with more than 70% of the sand grains coated with organic material including pockets of some peat soil. Soil throughout the other portions of the parcel indicated years of soil disturbance related to agricultural practices. Soils were mineral with varying amounts of organics coating the sand grains.

WETLAND IMPACT No site plan has been reviewed so wetland impacts cannot be determined at this time. If the wetland is avoided in your site development plan, no further environmental permitting will be required. If site improvements are planned, a survey of the wetland boundaries may be required by Brevard County. Best management practices for wetland protection during construction requires the installation of a silt fence between construction activity and the wetland prior to site clearing.

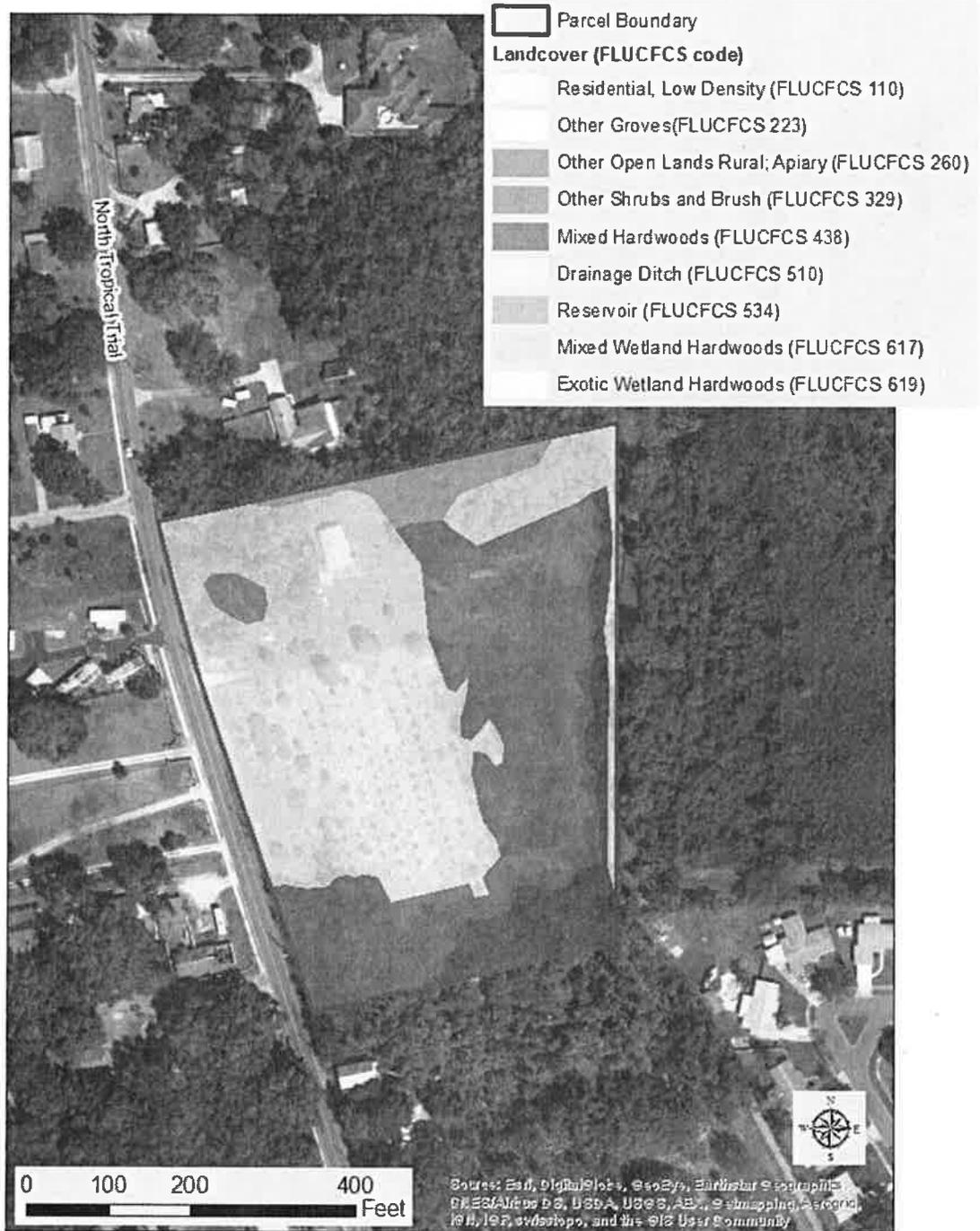
PROTECTED SPECIES No evidence of protected species was found on the parcel. The trees located throughout the forested area of the parcel are likely used by migratory birds and raptors that may be protected under the Migratory Bird Treaty Act. The migratory bird species protected by the Act are listed in 50 CFR 10.13. The U.S. Fish and Wildlife Service has statutory authority and responsibility for enforcing the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712). If migratory or raptor species seen on the parcel they should be left alone.

Please contact me if you have any questions regarding the information provided or other environmental questions related to the development of this parcel.

Regards,



(electronically submitted)
Vickie L. Larson
President



ecospatial
ANALYSTS

3245 N. Courtenay Pkwy Ste 37
Merritt Island, FL 32953
321.403.5147

Title: Landcover (7.05-acres)
Address: 950 N Tropical Trail, Merritt Island, FL 32953
Parcel ID: 24-36-27-00-13
Tax Account: 2420809
Source: ESRI Basemap Imagery
Notes: Locations approximate.

Figure No.

1

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 9, 2019**, 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 at 3:00 p.m.

Board members present were: Ron Bartcher; Ian Golden; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; and Peter Filiberto, Vice Chair.

Staff members present were: Amanda Elmore, Interim Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; Darcie McGee, Natural Resources Management Assistant Director; Virginia Barker, Natural Resources Director; and Jennifer Jones, Special Projects Coordinator II.

Excerpt from Complete Agenda

4. Monica Ellis:

A change of zoning classification from AU (Agricultural Residential) to SR (Suburban Residential). The property is 0.95 acres, located on the east side of North Tropical Trail, approximately 0.27 mile south of Lucas Road. (950 North Tropical Trail, Merritt Island) (19PZ00092) (District 2)

Monica Ellis, 950 North Tropical Trail, Merritt Island, stated as far as she knows there are no issues with any of the reviewing agencies; there are some wetlands in the back, but there is enough land in the front to build a house.

Mark Wadsworth asked if she wants to split the lot into one-acre tracts. Ms. Ellis replied no, the parcel is a total of seven acres, but she does not use the .95-acre she is requesting the rezoning on; she would just like to split off the .95-acre and sell it to someone to build a home. She stated she is keeping the remaining six acres intact and has no intention of ever splitting them.

Brian Hodgers asked if she is currently using the property for agriculture and tree farming. Ms. Ellis replied no, the property is wooded and has never been used.

Rochelle Lawandales asked staff if she understood correctly that because the subject property is less than one acre, it would not meet the requirements to be sold or used as a single-family residence because it would be non-conforming, and that is why Ms. Ellis is asking to rezone to SR. Ms. Elmore replied the minimum lot requirement for SR is a half-acre, so it would be conforming with SR.

No public comment.

Motion by Ben Glover, seconded by Rochelle Lawandales, to approve the change of classification from AU (Agricultural Residential) to SR (Suburban Residential), with the stipulation that the remaining acreage of the parent parcel not be divided. The motion passed unanimously.