



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
123 West Indiana Avenue, DeLand, Florida 32720
(386) 736-5959

PUBLIC HEARING: May 16, 2019 - Planning and Land Development Regulation Commission (PLDRC)

CASE NUMBER: V-19-049

SUBJECT: A variance to separate nonconforming lots on Prime Agriculture (A-1) zoned property.

LOCATION: Two parcels on the south side of Putnam Grove Road, Oak Hill

APPLICANT(S): Robert and Samantha Brannen

OWNER(S): Middle River Management, Inc.

I. SUMMARY OF REQUEST

The applicant requests a variance to separate nonconforming lots that were once under common ownership. The requested variance is as follows:

Variance: A variance to Section 72-206(1) nonconforming lots, to separate parcel 9537-01-00-0020 from parcel 9537-02-0-0140.

Staff Recommendation:

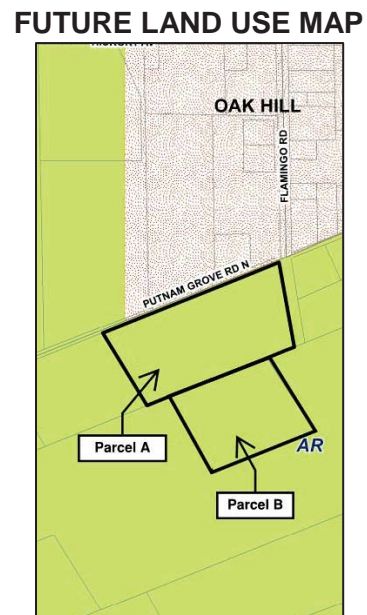
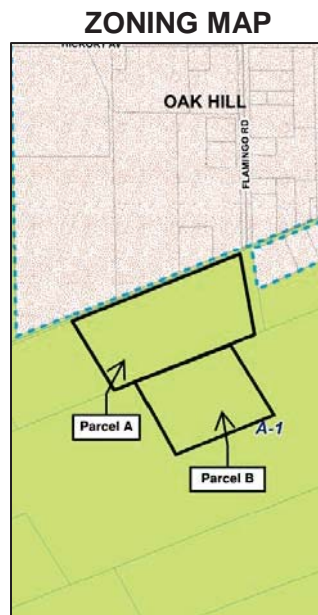
Approve the variance request, case number V-19-049, as the application successfully meets all five criteria for granting said variance.

II. SITE INFORMATION

1. Location: South side of North Putnam Grove Road, approximately 1,850 feet southwest of its intersection with South US Highway 1
2. Parcel Numbers: 9537-01-00-0020 and 9537-02-00-0140
3. Property Size: ± 8.1 acres and ± 5 acres
4. Council District: 3
5. Zoning: Prime Agriculture (A-1)
6. Future Land Use: Agricultural Resource
7. Overlays: Not Applicable
8. Local Plan Area: Not Applicable
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	EXISTING USE
North:	City of Oak Hill R-1	City of Oak Hill Agriculture	Single-family residence and vacant woodland
East:	City of Oak Hill A-1 and Volusia County A-1	City of Oak Hill Agriculture and Volusia County Agricultural Resource	Single-family residence and vacant woodland
South:	A-1	Agricultural Resource	Improved agricultural property with existing buildings
West:	A-1	Agricultural Resource	Orange grove

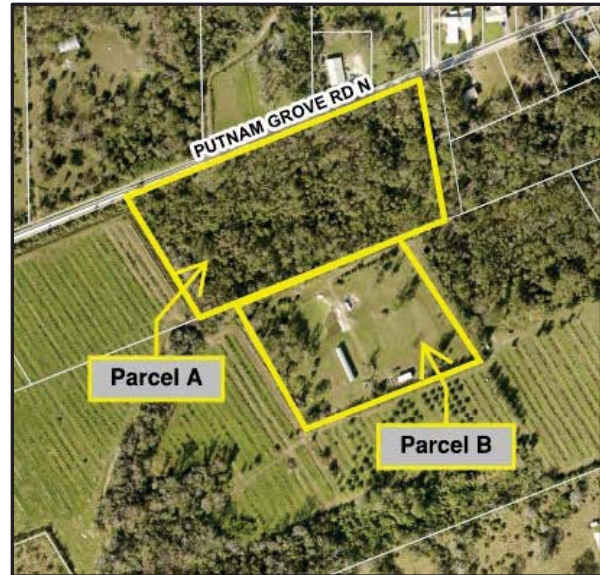
10. Location Maps:



III. BACKGROUND AND OVERVIEW

The subject property is located on the south side of North Putnam Grove road, approximately 1,850 feet southwest of its intersection with South US Highway 1, in the Oak Hill area. The ± 8.1 -acre property is vacant and heavily wooded. In addition, the property is described as Lot 2W and 19W, west of county road, within the Assessor's Subdivision of Pablo Rosette Grant, recorded January 25, 1909.

The property is zoned A-1, which requires a minimum of 10 acres. This is considered a nonconforming parcel as it does not meet the required minimum lot size of the A-1 zoning classification. The subject property was created prior to the adoption of the Uniform Zoning Ordinance 80-8, on July 28, 1980, when the A-1 zoning classification was applied to this area, making it nonconforming.



A nonconforming lot letter prepared by Edwin D. Davis, II, P.A., dated March 5, 2019, states that common ownership existed between the subject property, Parcel A (9537-01-00-0020) and Parcel B (9537-02-00-0140) to the south from September 20, 2007 to June 25, 2009. Pursuant to Section 72-206(1), of the zoning code, nonconforming lots, which abut in single ownership are considered to be an undivided lot and no portion shall be sold in a manner which does not comply with the lot width or lot area established by that zoning classification. Therefore, in order for the subject property to be eligible for a building permit, a variance to this code requirement is necessary. The applicants are in the process of purchasing the subject property and wish to construct a single-family dwelling on it.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4, Zoning Code, contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

Parcel A and Parcel B to the south have been under separate ownership since 2009. In addition, although the property has maintained its current configuration since at least 1978 and the adoption of the uniform zoning ordinance in 1980 made the parcel nonconforming with the placement of the A-1 zoning classification on this area.

Staff finds that this criterion is met.

ii. The special conditions and circumstances do not result from the actions of the applicant.

Common ownership occurred under a previous owner, from September 20, 2007 to June 25, 2009. Since 2009, both Parcel A and Parcel B have exchanged hands twice. Therefore, the special circumstance does not result from the actions of the applicants.

Staff finds that this criterion is met.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

The applicants are unable to obtain a good nonconforming lot letter due to the previous common ownership, which will prevent them from obtaining a building permit for a single-family dwelling. Literal interpretation of the provisions of this ordinance would deprive the applicants of their ability to construct a single-family dwelling.

Staff finds that this criterion is met.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

The variance is the minimum necessary that will make it possible for the applicants to create a legal nonconforming lot, which is eligible for a building permit for a single-family dwelling.

Staff finds that this criterion is met.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

The future land use designation of Parcel A and Parcel B is Agricultural Resource (AR). This future land use designation is intended to ensure rural type densities and the protection of agricultural areas. Although the parcels exceed the maximum density requirement of the AR future land use designation, the development of Assessor's Subdivision of Pablo Rosette Grant precedes the Comprehensive Plan and is in harmony with the historic rural development pattern of the surrounding area.

Staff finds that this criterion is met.

V. STAFF RECOMMENDATION

Approve the variance request, case number V-19-049, as the application successfully meets all five criteria for granting said variance, with the following condition:

1. A lot combination is required through the Subdivision Exemption process for parcel 9537-01-00-0020.

VI. ATTACHMENTS

- Written Petition
- Survey
- Common Ownership Maps
- Environmental Comments
- Map Exhibits

VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, authorize, after due public notice upon application on a form prescribed by the zoning enforcement official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the county council.

Any new information to be presented at the planning and land development regulation commission meeting for any application will be grounds to continue an application to the next planning and land development regulation commission meeting. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission meeting.



Written Petition for a Variance

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a variance submit a written petition as part of the application. The written petition must clearly describe how the variance request satisfies all of the specific conditions necessary for the granting of the variance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance. **(Use additional sheets if necessary.)**

1. What special conditions and circumstances exist which are peculiar to your land, structure, building or sign that are not applicable to other lands, structures, buildings or signs in the same zoning classification. Are these special conditions and circumstances the result of actions by you?

We love the area the property is located in. Our children go to the school down the street and they will be able to continue at their favorite school. My husband and I were born and raised in Florida shores and we have always imagined raising our family in a small town. Our life wouldn't have to change and our dreams will continue with this beautiful piece of land.

2. How would literal interpretation of the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification? How would this interpretation be an unnecessary and undue hardship on you?

The literal interpretation of the zoning is stating I cannot build. This is a very difficult hardship for our family because we have sold our home in hopes to build our future family home here. Our children will have areas to run and play to grow as they develop into their own individual personalities. Our family loves the outdoors and live to be outside.

3. Explain how the variance you are requesting is the minimum variance that will make possible the reasonable use of your land, building, structure, or sign.

This variance will separate conforming lots and allow us to build our future home. We are not asking for more than the clearance to build our home and keep the remaining land untouched. We love wildlife and trees and hope to be surrounded by both with this land.

4. How is your request consistent with the general intent and purpose of the Volusia County Zoning Ordinance and Comprehensive Plan, which are to promote public health, safety, morals, and the general welfare; and to preserve the character, appearance and aesthetic qualities of Volusia County?

The only request we have is to be able to build our future home. Out of the 8 acres we only plan to clear an acre and a half to live. We want to preserve the land and surroundings to keep the natural character and beauty of wild life.

5. Explain how your request for a variance will not be injurious to the surrounding area.

Our plan is to help our area grow. We want to continue to nourish and grow our existing ~~pro~~ future property. We would love to teach our children the importance of growing fruit and vegetables with their own hands on labor; to continue to protect and nourish our existing wildlife and trees for the better of the future.



BEARINGS AS SHOWN HEREON ARE BASED ON SE"LY RW LINE
OF NORTH PUTNUM GROVE ROAD BEING N 69°00'00" E. DEED.

[illegible]

1) PROPERTY LINES, AND/OR IMPROVEMENTS SHOWN WERE PHYSICALLY LOCATED BY FIELD SURVEY
2) MONUMENTS FOUND OR SET ARE SHOWN, CALCULATED LINES AND INFORMATION IS NOTED BY (C)
3) COMPUTATIONS OF LINES OR DATA NOT FOUND ARE SHOWN AS (C)
4) ACCURACIES OBTAINED IN THIS SURVEY ARE GREATER THAN: (RURAL) 1" IN 500'; (SUBURBAN) 1" IN 750'

6) IF ONLY A DIGITAL SURVEY COPY IS REQUIRED A SURVEY REPORT WILL BE PLACED IN FILE. THE DIGITAL SURVEY IS NOT FILED AND COMPLETE WITHIN THE SURVEY REPORT FILE

LIST OF POSSIBLE ENCODING ELEMENTS.

**LIST OF POSSIBLE ENCROACHMENTS:
FENCE ALONG WEST AND SOUTH LINES AS DIMENSIONED**

CERTIFIED TO: (AS FURNISHED)

SAMANTHA AND ROBERT BRANNEN

NOTES

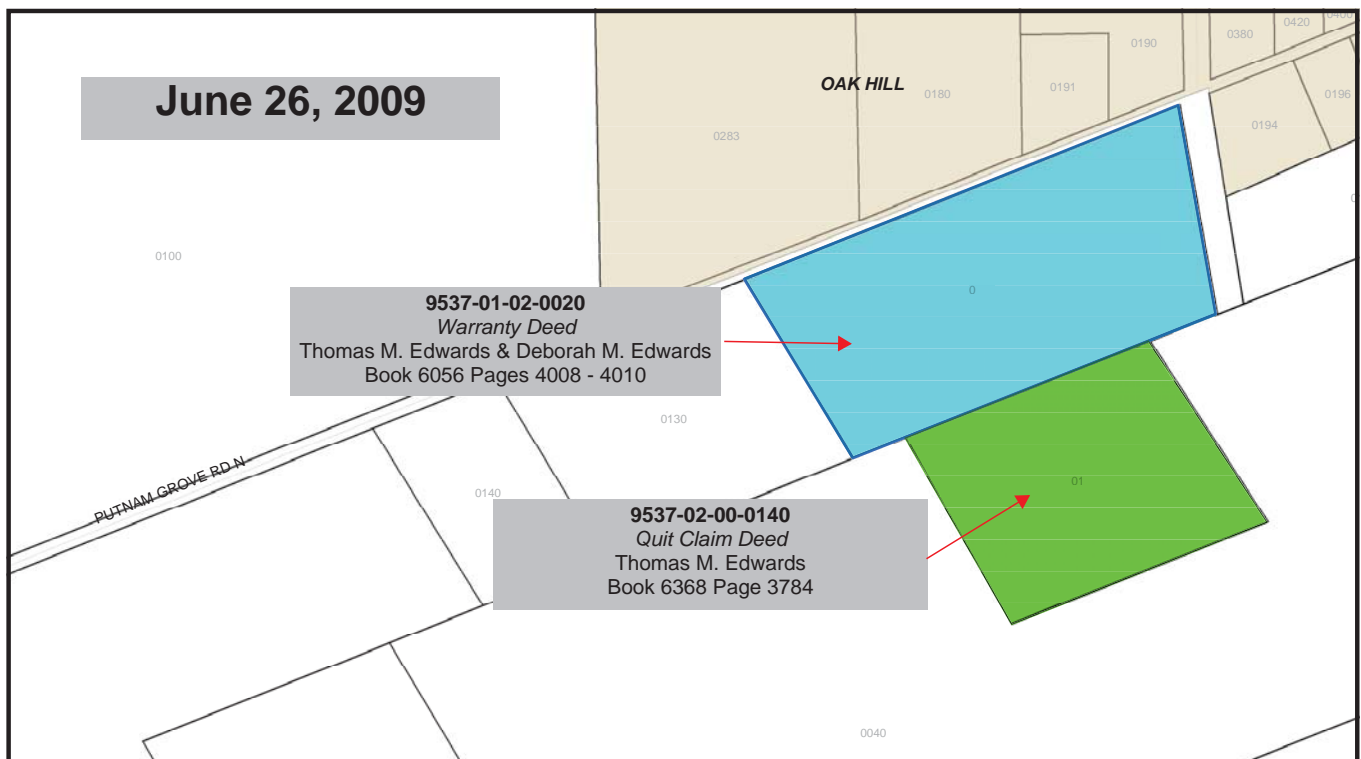
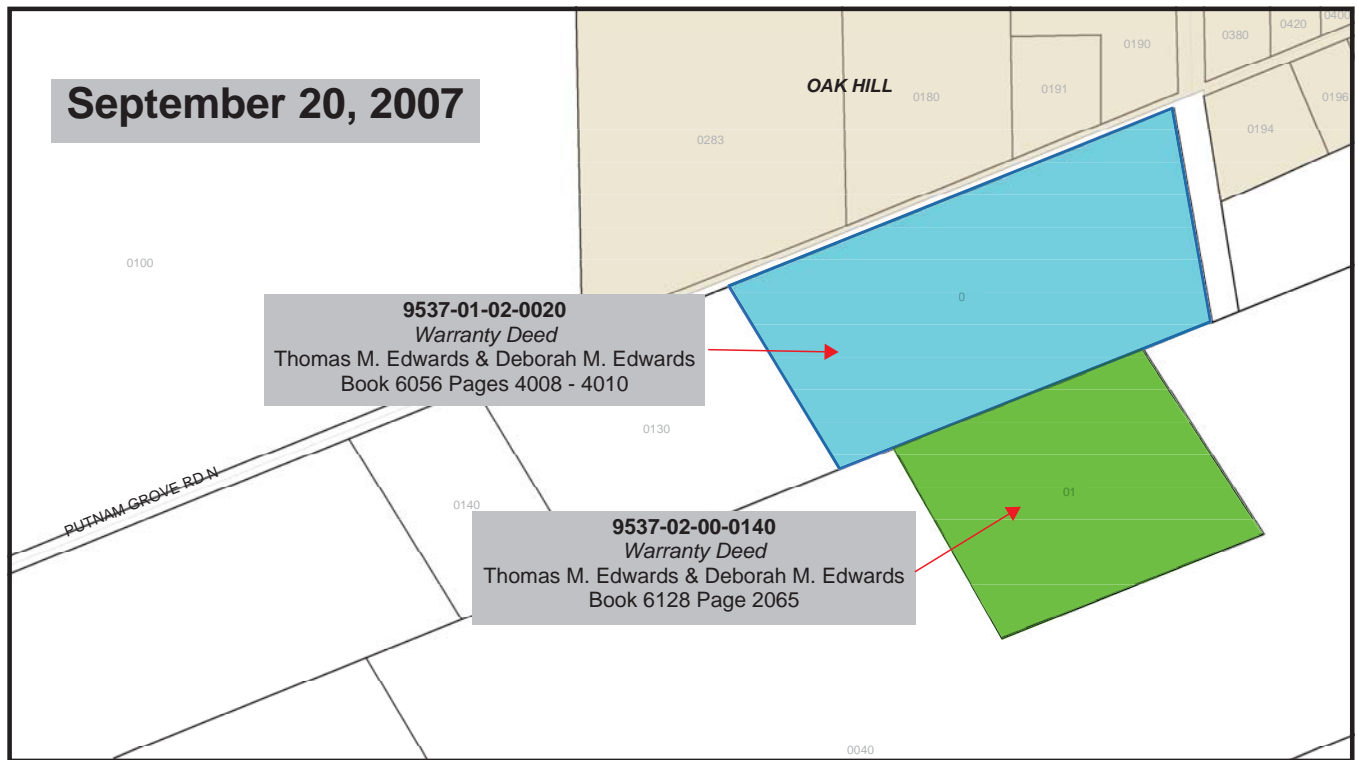
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FLOOD ZONE INFORMATION

SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN FLOOD ZONE X, AREA OUTSIDE OF THE 100 YEAR FLOODPLAIN, AND ZONES AE AND X500 AREAS WITHIN THE 100 YEAR FLOODPLAIN.
PER F.I.R.M. PANEL NUMBER 12127C 0830J
NOT AN OFFICIAL STATE DOCUMENT

THIS SURVEY IS PREPARED FOR THE EXCLUSIVE USE AND BENEFIT OF THE PARTIES LISTED HEREON. LIABILITY TO THIRD PARTIES MAY NOT BE TRANSFERRED OR ASSIGNED.

Common Ownership Map



***Inter-Office
Memorandum***



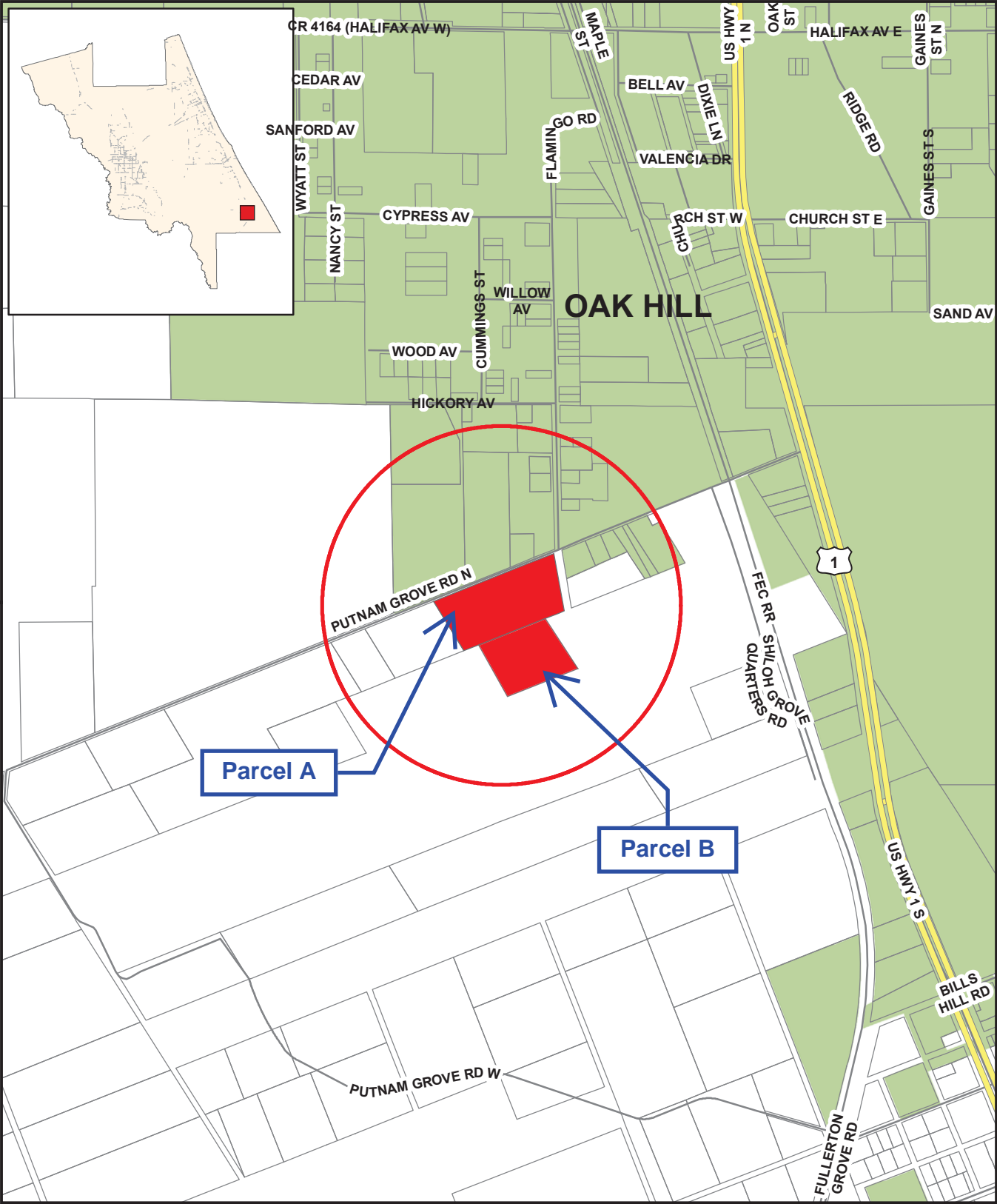
TO: Samantha West, Planner II **DATE:** April 5, 2019

FROM: Keith Abrahamson, Environmental Specialist III

SUBJECT: Planning & Land Development Regulation Commission meeting for
Date: May 16, 2019
Parcel #: 9537-01-00-0020
Case #: V-19-049

Environmental Permitting (EP) has reviewed the application and has no objection to this request. However, any future development must comply with all environmental regulations of the Land Development Code.

PROPERTY LOCATION
V-19-049



 SUBJECT PROPERTY



1" = 1,000'
3/28/2019

AERIAL
V-19-049



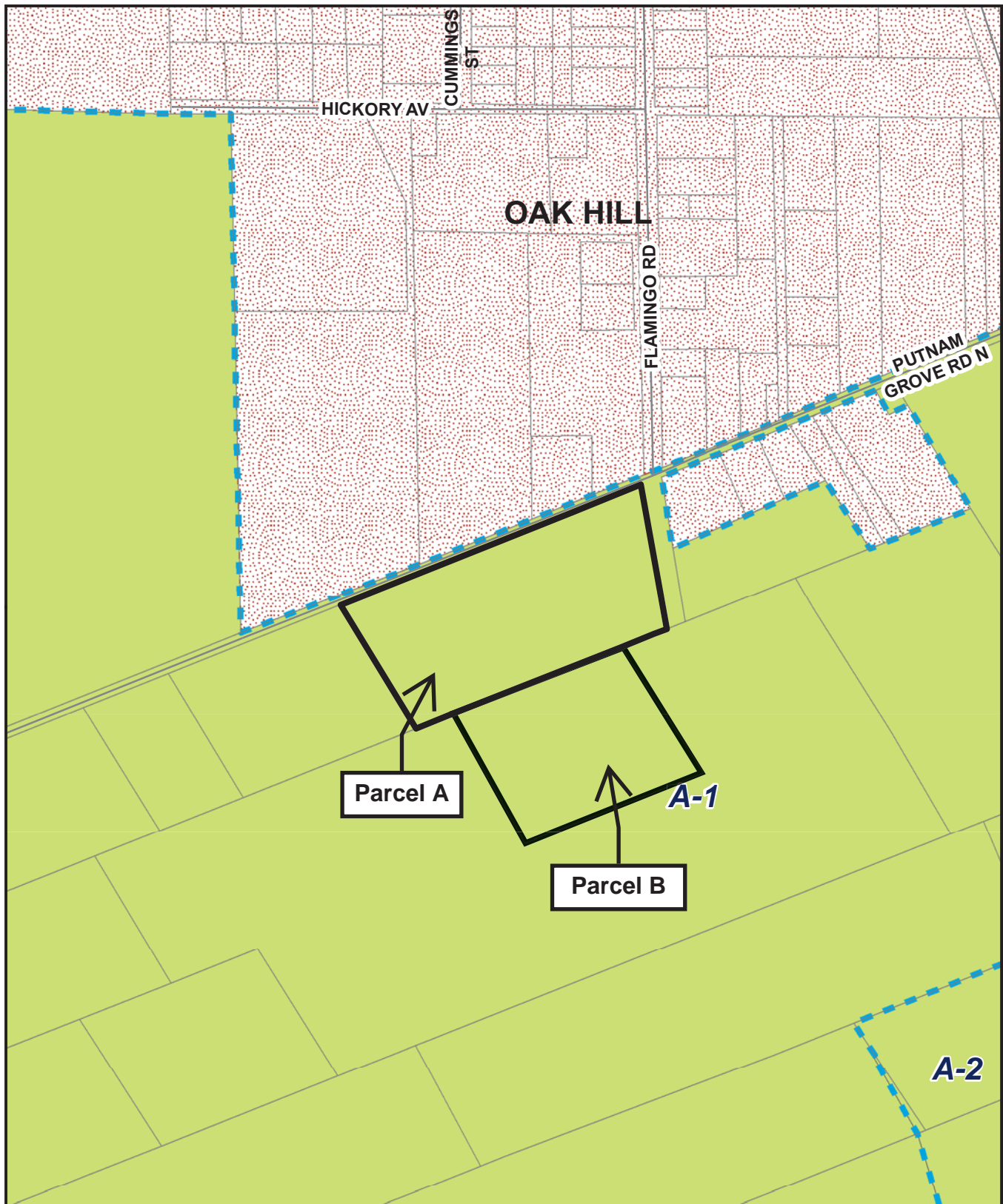
 SUBJECT PROPERTY



IMAGE DATE 2018



1 " = 400 '
3/28/2019

ZONING CLASSIFICATION V-19-049

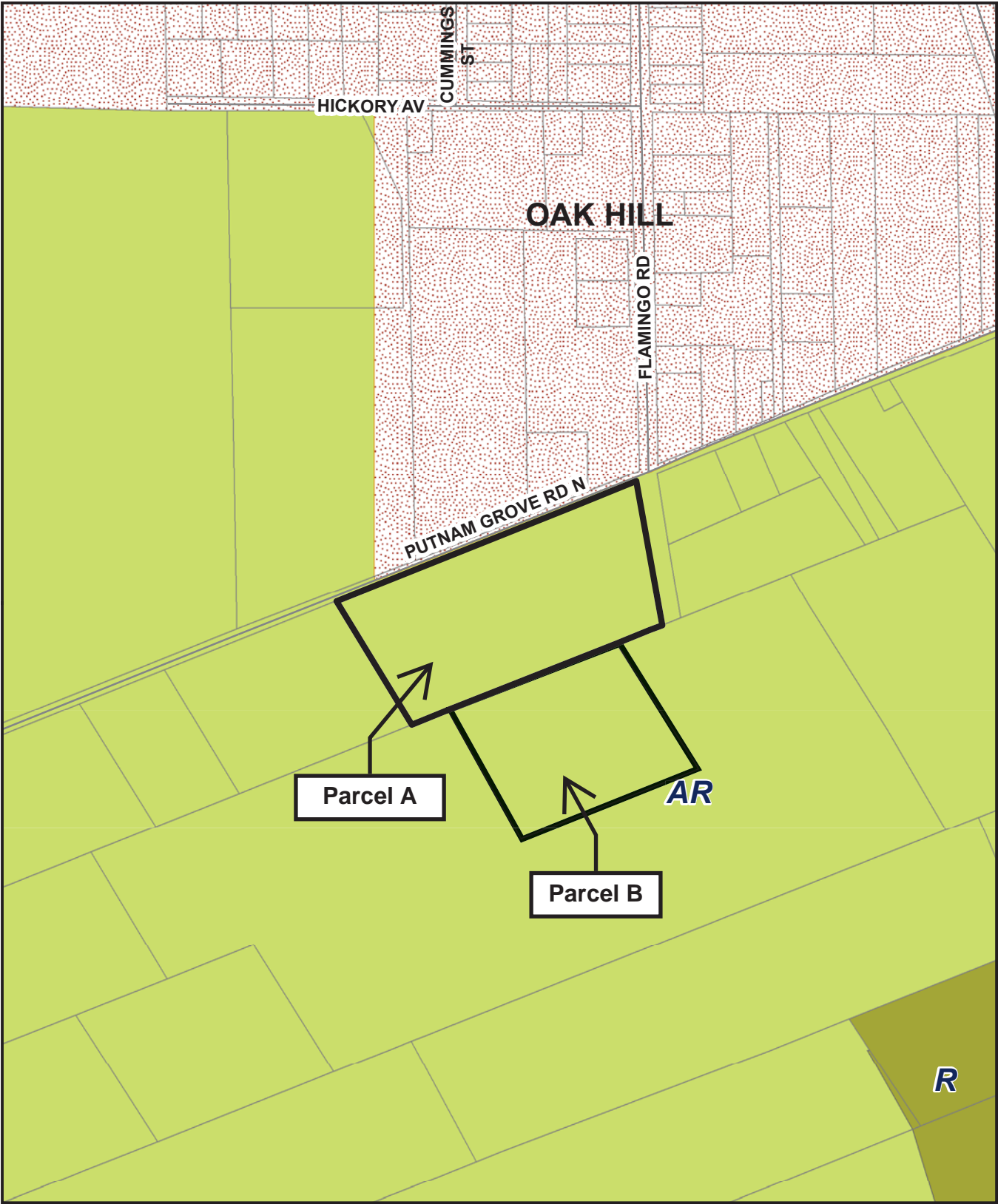






-  SUBJECT PROPERTY
-  INCORPORATED
-  ZONING BNDY
-  AGRICULTURAL



1" = 400'
3/28/2019

FUTURE LAND USE
V-19-049

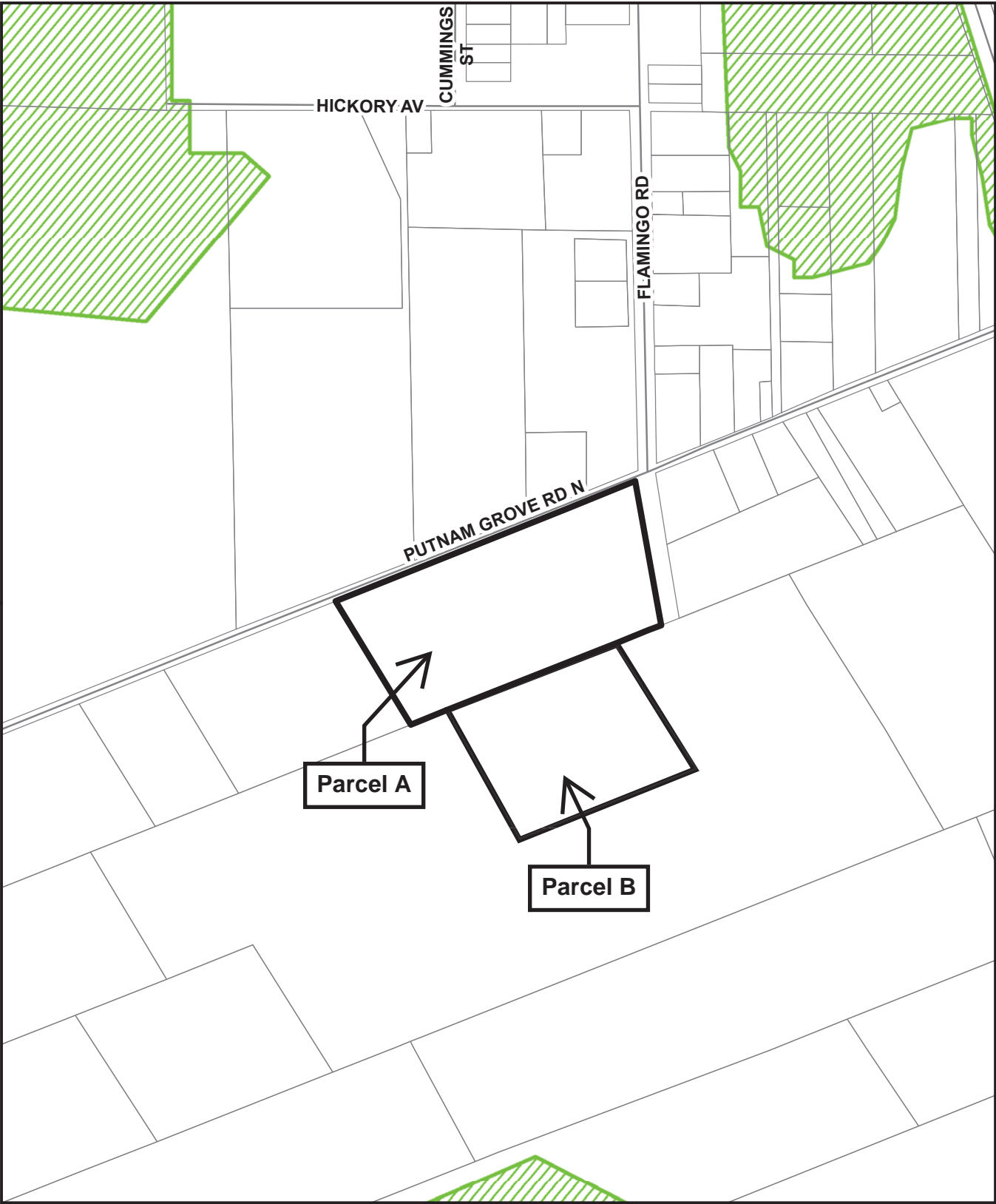





-  SUBJECT PROPERTY
-  AGRICULTURE RESOURCE
-  RURAL
-  INCORPORATED



1 " = 400 '
3/28/2019

ECO/NRMA OVERLAY
V-19-049



-  SUBJECT PROPERTY
-  ECO
-  NRMA



1 " = 400 '
3/28/2019