



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.5.

11/7/2019

### Subject:

Wayne R. Friedrich and Adam J. Saab (Andrew Bader) request a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential). (19PZ00103) (Tax Account 2607205) (District 4)

### 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 BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential).

### Summary Explanation and Background:

The applicant is seeking a change in zoning on property located at 272 Highway A1A, Satellite Beach, for the purpose of developing a 7-unit multi-family building. This site has been zoned BU-1 since May 1958. The current building size is 924 square feet most recently used as used automobile sales. The adjacent use to the south is automobile repair, and to the north is a convenience store with gas, and a chapel/church along its west property line.

Both the existing BU-1 and the proposed RU-2-15 zoning classifications are consistent with the Community Commercial Future Land Use designation.

The property is located on the west side of Highway A1A, adjacent to BU-1 on the north and south. To the west is a local street with RU-1-11 (Single-Family Residential), and across Highway A1A to the east is RU-2-15. The block to the north is disbursed with a mixture of BU-1, RU-2-15 and TU-1 (General Tourist Commercial). There are existing condominiums across the street to the south in the BU-1 zoning classification.

The Board may wish to consider whether RU-2-15 is consistent and compatible with the RU-1-11, RU-2-15, BU-1, and GML zoning classifications in the surrounding area and if the multi-family development is an appropriate land use at this location.

On October 7, 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 the Planning and Development Department.

**Resolution 19PZ00103**

On motion by Commissioner Smith, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote (Chair Isnardi absent):

**WHEREAS, Wayne R. Friedrich and Adam J. Saab** have requested a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential) on property described as Tax Parcel 762, as recorded in Official Records Book 5746, Pages 191 – 192, of the Public Records of Brevard County, Florida. Section 23, Township 26, Range 37. (0.52 acres) Located on the west side of Highway A1A, approximately 680 feet south of Ocean Boulevard. (272 Highway A1A, Satellite Beach); 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

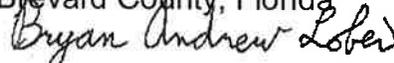
**WHEREAS,** the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be denied; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 to RU-2-15 be denied. 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 November 7, 2019.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Bryan Lober, Vice Chair

Brevard County Commission

As approved by the Board on November 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 7, 2019

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

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

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

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

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

- (c) General Standards of Review.

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

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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS  
 19PZ00103**

**Wayne R. Friedrich and Adam J. Saab**

**BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential)**

Tax Account Number: 2607205  
 Parcel I.D.: 26-37-23-00-762  
 Location: 272 Highway A1A, Satellite Beach (District 4)  
 Acreage: 0.52 acres

Planning and Zoning Board: 10/07/19  
 Board of County Commissioners: 11/07/19

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1	RU-2-15
<b>Potential*</b>	4,530 square feet	7 units
<b>Can be Considered under the Future Land Use Map</b>	YES Community Commercial	YES Community Commercial

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

**Background and Purpose of Request**

The applicant is seeking a change in zoning from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential) for the purpose of developing a 7-unit multi-family building. This site has been zoned BU-1 since May 1958. The Brevard County Property Appraiser record dates the building construction to 1959 and identifies the building use of a multi-tenant retail store. The current building size is 924 square feet.

**Land Use Compatibility**

Both the existing BU-1 and the proposed RU-2-15 zoning classifications are consistent with the Community Commercial Future Land Use designation. Although the area has historically been used for commercial activities, the site may be initiating a residential development trend.

## **FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands**

*“The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:*

### **Criteria:**

- A. Permitted/prohibited uses;*
- B. Existing commercial zoning trends in the area;*
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;*
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;*
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and*
- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.”*

## **FLUE Policy 2.7 - Activities Permitted in Community Commercial (CC) Future Land Use Designations**

*“Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:*

- a) Existing strip commercial;*
- b) Transient commercial uses;*
- c) Tourist commercial uses;*
- d) Professional offices;*
- e) Personal service establishments;*
- f) Retail establishments;*
- g) Non-retail commercial uses;*
- h) Residential uses;*
- i) Institutional uses*
- j) Recreational uses;*
- k) Public facilities;*
- l) Transitional uses pursuant to Policy 2.12; and*
- m) Planned Industrial Park development (as permitted by PIP zoning)*

## **FLUE Policy 2.13 - Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations**

*“Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density*

beyond this allowance may be considered through a public hearing. In the CCHA (Coastal High Hazard Area), however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

- a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
- b) Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.”

### **Environmental Constraints**

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

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is State Road A1A, between Berkeley Street and Ocean Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 50.1% of capacity daily. The maximum development potential from the proposed rezoning decreases the proposed trip generation by 0.01%. The corridor is anticipated to continue to operate at 50.09% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The subject property is served by potable water and sewer.

### **Applicable Land Use Policies**

The applicant is seeking a change in zoning from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential) for the purpose of developing a 7-unit multi-family building. This site has been zoned BU-1 since May 1958. The Brevard County Property Appraiser record dates the building construction to 1959 and identifies building use of a multi-tenant retail store. The current building size is 924 square feet.

The current site development depicts a drive-thru lane which provides access around the north, west and south sides of the building and potential space for two or more tenants. The site was most recently a used car lot business. The commercial building itself is surrounded by a convenience store with gas pumps on the north property line; a chapel (Bethany Chapel by the Sea) along its west property line and an auto repair facility along its southern property line.

Within the last three years only one zoning action was approved that affected the character of the area, **17PZ00037**. That request changed the zoning from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) zoning with a BDP (Binding Development Plan) allowing all BU-1 uses and limiting the BU-2 zoning use to dog boarding, grooming, training, and retail sales of related products. That property is located 853 feet north of this site lying on the north side of Ocean Boulevard approximately 152 feet west of Highway A1A within a small commercial center.

The applicant proposes to redevelop this site with up to a 7-unit multi-family building. To the west of this block are single-family lots and to the south adjacent to Highway A1A is the South Patrick Apartment Condominiums. Located across the street to the east is the Opal Seas Oceanfront Condos.

### **For Board Consideration**

The applicant is seeking a change in zoning from BU-1 to RU-2-15 (Medium Density Multi-Family Residential) for the purpose of developing a 7-unit multi-family building. This site has been zoned BU-1 since May 1958. The Brevard County Property Appraiser record dates the building construction to 1959 and identifies building use of a multi-tenant retail store. The current building size is 924 square feet most recently used as used automobile sales. The adjacent use to the south is automobile repair, and to the north is a convenience store with gas, and a chapel/church along its west property line.

Both the existing BU-1 and the proposed RU-2-15 zoning classifications are consistent with the Community Commercial Future Land Use designation.

The property is located on the west side of Highway A1A, adjacent to BU-1 on the north and south. To the west is a local street with RU-1-11 (Single-Family Residential), and across Highway A1A to the east is RU-2-15. The block to the north is disbursed with a mixture of BU-1, RU-2-15 and TU-1 (General Tourist Commercial). There are existing condominiums across the local street to the south in the BU-1 zoning classification.

The Board may wish to consider whether RU-2-15 is consistent and compatible with the adjacent RU-2-15, BU-1, and RU-11 zoning classifications and if the multi-family development is an appropriate land use at this location.

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

**Item # 19PZ00103**

**Applicant:** Andrew Bader for Saab & Friedrich

**Zoning Request:** BU-1 to RU-2-15

**Note:** Applicant requests multi-family use for four to seven units

**Planning and Zoning Hearing Date:** 10/07/19; **BCC Hearing Date:** 11/07/19

**Tax ID No:** 2607205

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

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

- Aquifer Recharge Soils
- Floodplain
- Indian River Lagoon Septic Overlay
- Protected Species

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

**Land Use Comments:**

**Aquifer Recharge Soils**

The entire subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach-urban land complex) 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.

**Floodplain**

The entire subject parcel is mapped as being within a floodplain as identified by FEMA and as shown on the FEMA Flood Zones Map. The portions of the property located within the floodplain are subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states,

"No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

#### **Indian River Lagoon Septic Overlay**

The site 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.

#### **Protected Species**

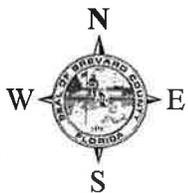
Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should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

#### **Land Clearing & Landscape Requirements**

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

# LOCATION MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.  
19PZ00103



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.

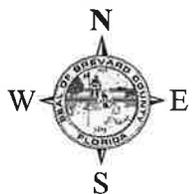
Produced by BoCC - GIS Date: 8/6/2019

 Buffer

 Subject Property

# ZONING MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.  
19PZ00103



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.

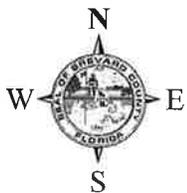
Produced by BoCC - GIS Date: 8/6/2019

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

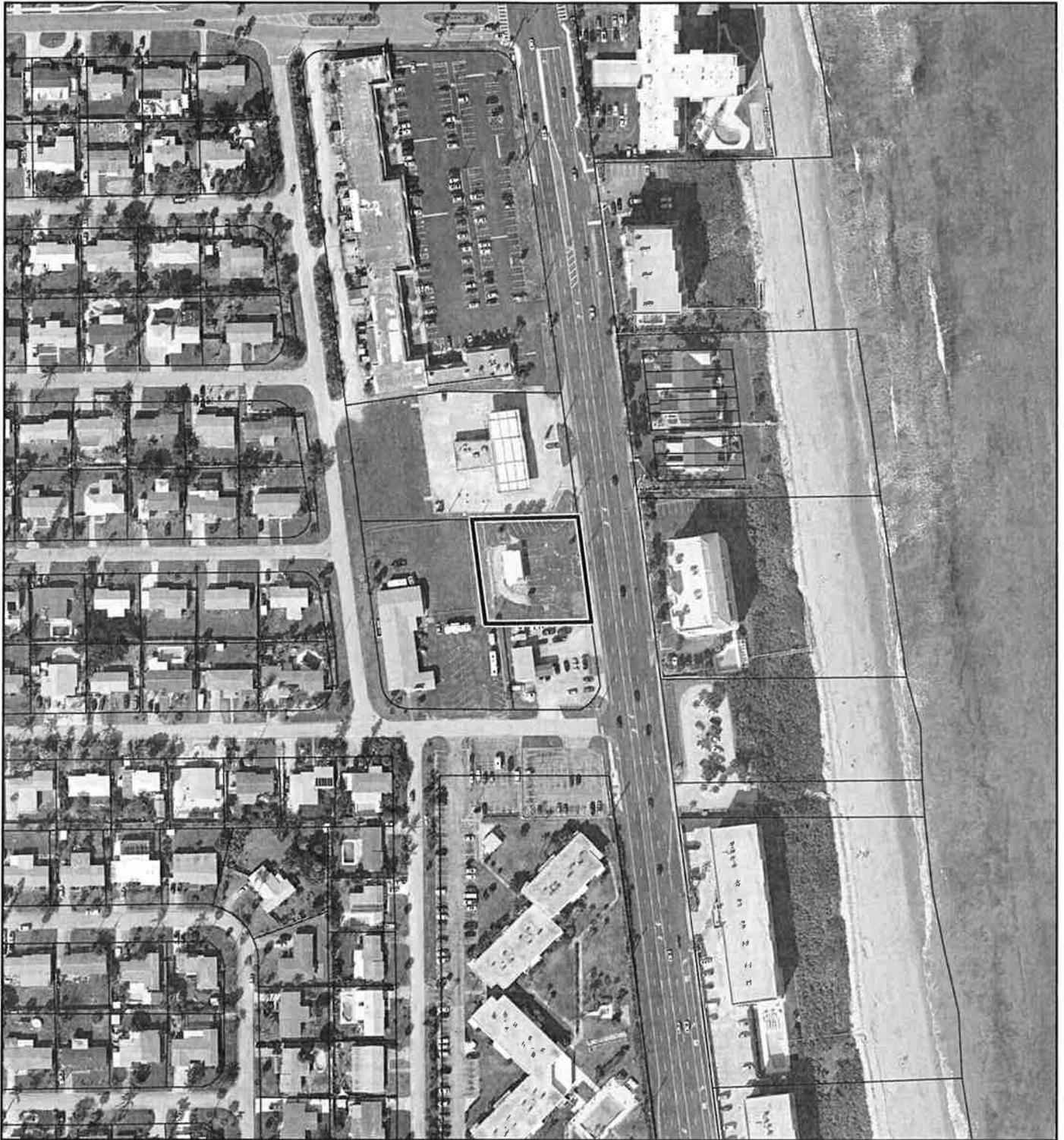
-  Subject Property
-  Parcels

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Produced by BoCC - GIS Date: 8/5/2019

# AERIAL MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.  
19PZ00103



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

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Produced by BoCC - GIS Date: 8/6/2019

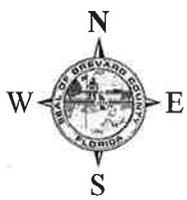
 Subject Property

 Parcels

# NWI WETLANDS MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/5/2019

- 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

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/5/2019

### 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

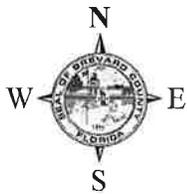
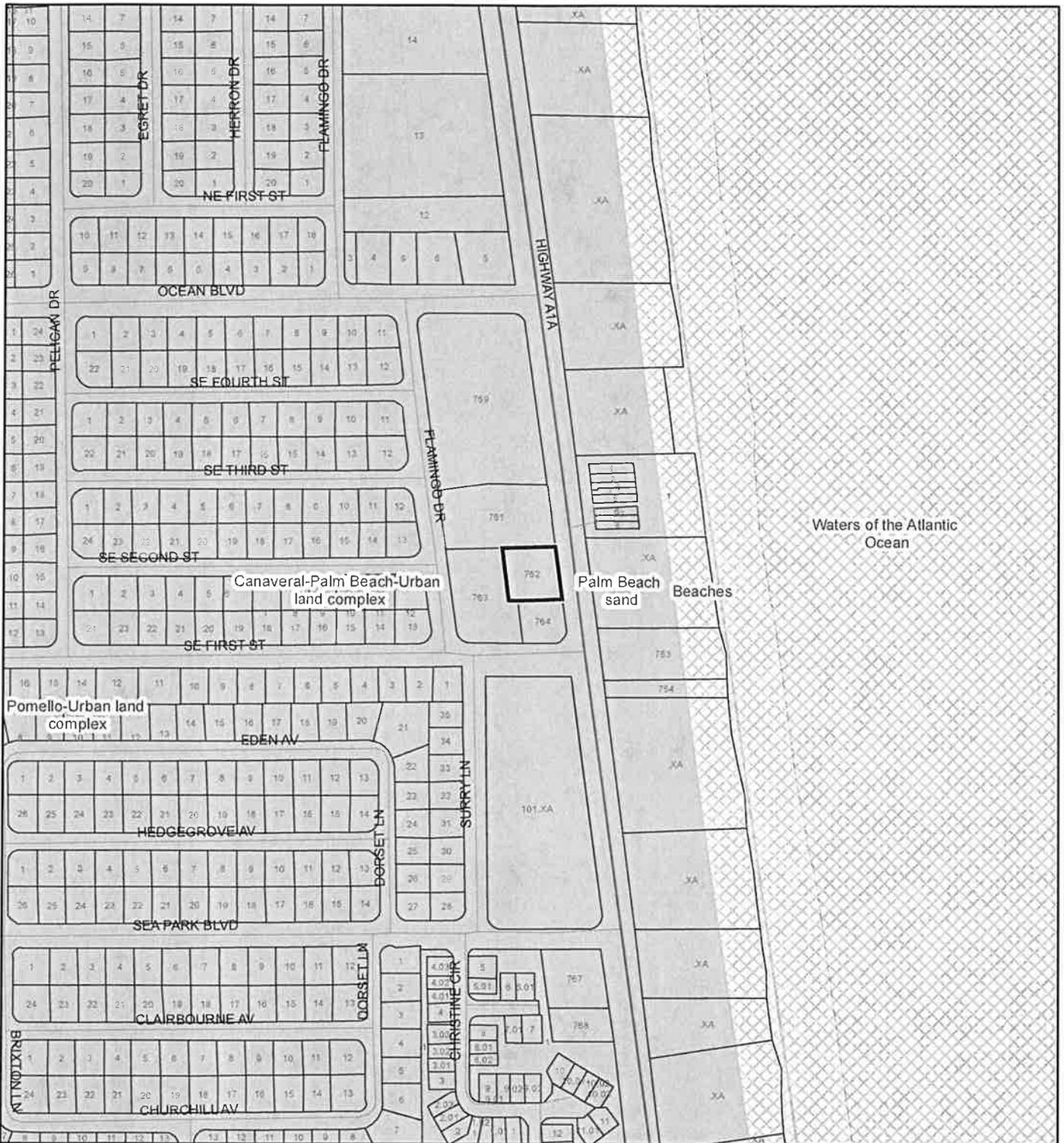
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

### USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property 204

Parcels

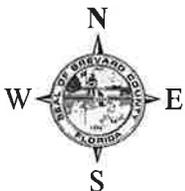
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/5/2019

# FEMA FLOOD ZONES MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



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: 8/5/2019

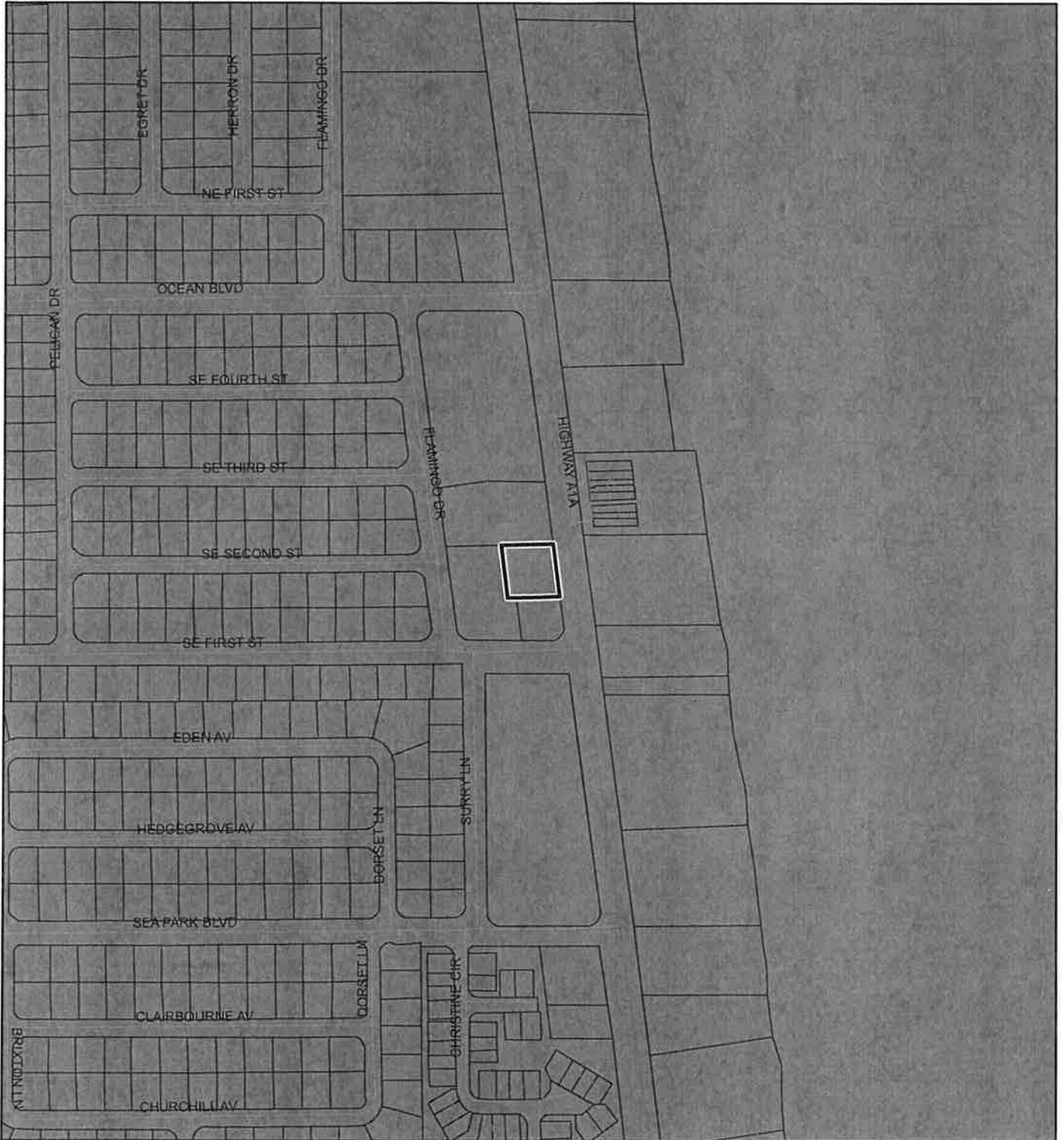
### FEMA Flood Zones

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# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/5/2019

— Subject Property

□ Parcels

**Septic Overlay**

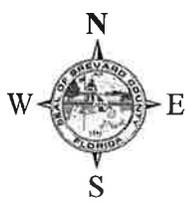
■ 40 Meters

■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.  
19PZ00103



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels
- Eagle Nests FWS 2010

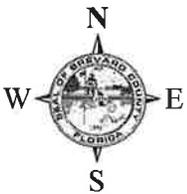
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/5/2019

# SCRUB JAY OCCUPANCY MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

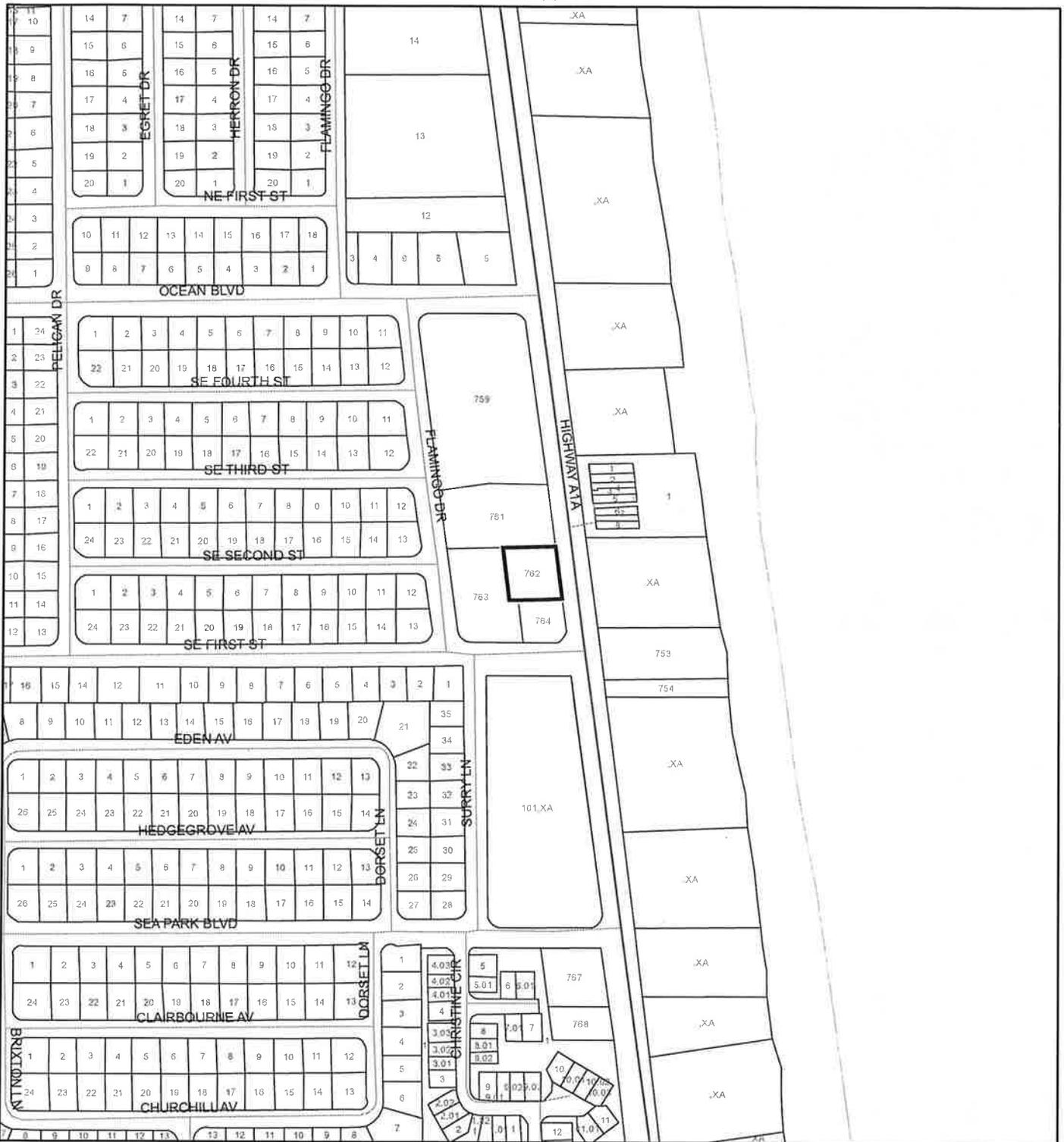
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/5/2019

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FRIEDRICH, WAYNE R. AND SAAB, ADAM J.

19PZ00103



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/5/2019

## SJRWMD FLUCCS Upland Forests

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

-  Subject Property
-  Parcels

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 7, 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; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; Peter Filiberto, Vice Chair; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Agenda

#### **5. Wayne R. Friedrich and Adam J. Saab (Andrew Bader):**

A change of zoning classification from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential). The property is 0.52 acres, located on the west side of Highway A1A, approximately 680 feet south of Ocean Boulevard. (272 Highway A1A, Satellite Beach) (19PZ00103) (District 4)

Wayne Friedrich, 1465 Fuji Lane, Melbourne, stated he would like to develop residential townhouses.

No public comment.

Bruce Moia stated the 15 units per acre density is consistent with the area, and it looks like they will be tearing down an old commercial facility, which would probably be an improvement to the area.

Rochelle Lawandales asked if Mr. Friedrich has done any engineering to know exactly what the yield is for stormwater requirements and utilities. Mr. Friedrich replied the most he has done is determine how many townhomes can be developed based on the size of the lot, but he didn't want to spend thousands of dollars if the rezoning was denied.

Ben Glover asked if it will be seven units. Mr. Friedrich replied yes, seven Key West-style townhomes.

Motion by Rochelle Lawandales, seconded by Peter Filiberto, to approve the requested change of zoning classification from BU-1 to RU-2-15. The motion passed unanimously.

H.S

Objection  
19PZ00103  
Friedrich-Saab

**From:** Ritchie, George C  
**To:** Jones, Jennifer  
**Subject:** FW: In Regard to ID#19PZ00103  
**Date:** Friday, September 27, 2019 8:24:35 AM

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FYI – objection to zoning item.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

George C. Ritchie, Planner III, Zoning Office  
Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

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**From:** rickathedj@aol.com [mailto:rickathedj@aol.com]  
**Sent:** Thursday, September 26, 2019 7:10 PM  
**To:** Ritchie, George C  
**Subject:** In Regard to ID#19PZ00103

I would like to go on record as opposing the change in zoning. I live in the neighborhood, and the last thing we need are more residential units connecting to the already inadequate sewer lines. The water system is also questionable with the all too often “boil water alerts.” There is also the matter of the ongoing investigation of groundwater contamination due to the former military dump on or near the property in question.

Rick Armstrong  
275B Melaleuca Drive  
Satellite Beach, FL  
321-614-6459

**From:** [Ritchie, George C](#)  
**To:** [Sandra Sullivan; Commissioner, D2](#)  
**Cc:** [Jones, Jennifer](#)  
**Subject:** RE: ID#19PZ00103  
**Date:** Wednesday, October 2, 2019 8:11:25 AM

---

Thank you for your comments. I will have a copy placed into the zoning file. Jennifer can you please flag this emailed concern. Thanks.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

George C. Ritchie, Planner III, Zoning Office  
Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** Sandra Sullivan [mailto:s2sully@gmail.com]  
**Sent:** Wednesday, October 2, 2019 1:11 AM  
**To:** Ritchie, George C; Commissioner, D2  
**Subject:** Re: ID#19PZ00103

Thank you Mr. Ritchie,

I would like to express that I am against this zoning change. There are many intermodal changes that are bringing more traffic to South Patrick Shores and indeed beachside; further these planned changes will bring more tourists. I believe this space side of A1A should remain commercial.

What we don't need with current infrastructure is more residents. Concurrency is an issue:

- 1) We presently have low water pressure and poor water quality issues - that is a concurrency issue that will not be resolved until the new pipes go in across Pineda.
- 2) We are at near capacity on the South Beaches Sewage plant - and when we have rain events we have dumps... consistently. There is no plan underway to expand the plant.
- 3) The traffic in the past few months has gotten to where we have in season traffic in the off season. It is unknown what the season traffic will be - and Oceana Condos (north build) doesn't yet have occupancy - along with other new developments. Their impact is still not realized.
- 4) As of the last LOS study - not considering the recent changes, " between Berkeley Street and Ocean Boulevard,..., a Level of Service (LOS) of D." It is not known yet the impact of the

noted developments - and there is no way to expand A1A to improve the LOS.

We need sustainable, managed growth. I have request the county to perform an impact study to ascertain the impact and project. In summary, until we address the water, sewage and roads - there should be no added density of residents!

Sincerely,  
Sandra Sullivan

On Mon, Sep 30, 2019 at 7:56 AM Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)> wrote:

Staff comments have been attached.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

George C. Ritchie, Planner III, Zoning Office  
Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** Sandra Sullivan [<mailto:s2sully@gmail.com>]  
**Sent:** Friday, September 27, 2019 8:46 PM  
**To:** Ritchie, George C  
**Subject:** ID#19PZ00103

Mr. Ritchie,

Thanks for calling me today. Could I please get a copy of the zoning request for this ID.  
Thank you.

Sandra Sullivan  
954.224.8624