



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

G.7.

8/3/2023

---

### **Subject:**

Cirrus Properties, LLC; and Donald C. and Julie M. Herndon (Bruce Moia) request a Small Scale Comprehensive Plan Amendment (23S.06) to change the Future Land Use designation from NC and CC to all CC. (23SS00004) (Tax Accounts 2602468, 2602464, 2602466, & 2602467) (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 Small Scale Comprehensive Plan Amendment to change the Future Land Use Designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC.

### **Summary Explanation and Background:**

The applicant is requesting to amend the Future Land Use designation from NC to CC on a 1.37-acre portion of the 2.4-acre subject property to establish a uniform land use designation across the entire property for a commercial wood flooring business. The subject property consists of four parcels developed as a retail store, a repair shop, and two single-family residences. Currently, three of the subject parcels (1.37 acres) are designated as NC on the Future Land Use Map (FLUM) with GU zoning, and the fourth parcel (1.03 acres) is designated as CC and zoned BU-1.

A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.37 acres and from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.03 acres (22Z00034).

The developed character of the surrounding area is primarily single-family residential that transitions to commercial along S. Highway 1. Existing residential uses are located west of the subject property along Aspinwall Avenue and on the north side of Gannett Plaza Avenue.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

On July 17, 2023, the Local Planning Agency heard the request and voted 7:1 to recommend approval.

**Clerk to the Board Instructions:**

Once filed with the State, please return an executed copy of the Ordinance to Planning & Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

August 4, 2023

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item G.7., Small Scale Comprehensive Plan Amendment (23S.06)

The Board of County Commissioners, in regular session on August 3, 2023, conducted the public hearing and adopted Ordinance No. 23-17, setting forth the fourth Small Scale Comprehensive Plan Amendment (23S.06) to change the Future Land Use designation from Neighborhood Commercial (NC) and Community Commercial (CC) to all CC. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

ORDINANCE NO. 23- 17

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2023, 23S.06, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2023 as Plan Amendment 23S.06; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 23S.06; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

APPROVED BY THE SECRETARY OF THE STATE ON AUGUST 7, 2023.

WHEREAS, on July 17, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.06, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 3, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 23S.06; and

WHEREAS, Plan Amendment 23S.06 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.06 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 23S.06 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 23S.06, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

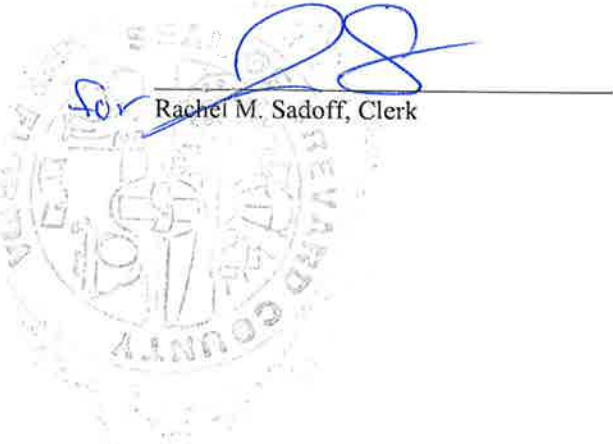
DONE AND ADOPTED in regular session, this 3rd day of August, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
\_\_\_\_\_  
By: Rita Pritchett, Chair

As approved by the Board on August 3rd, 2023.



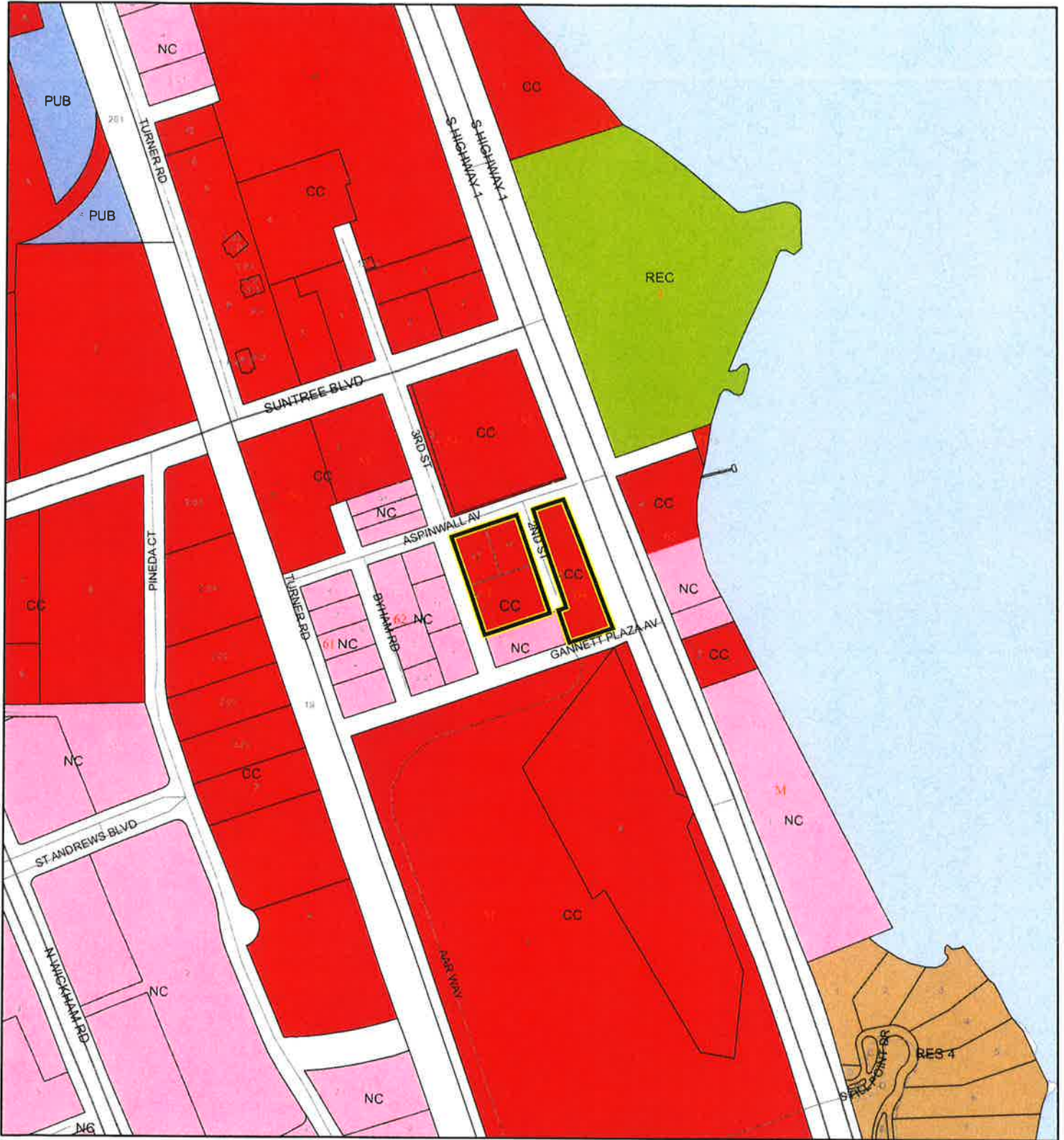
**EXHIBIT A**  
**23S.06 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**



- 1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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

Produced by BoCC - GIS Date: 6/27/2023



## **EXHIBIT B**

### **Contents**

#### **1. Legal Description**

## Public Notice

Published in Brevard County on June 30, 2023

### DISTRICT 4

**(23SS00004) Cirrus Properties, LLC; and Donald C. and Julie M. Herndon** (Bruce Moia) request a Small Scale Comprehensive Plan Amendment (23S.06) to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC, on property described as Lots 3 & 5, Blocks 63 & 64, Pineda, as recorded in ORB 9544, Pages 1560 - 1561, of the Public Records of Brevard County, Florida; Lot 11, Block 63, Pineda, as recorded in ORB 9727, Pages 1600 - 1601, of the Public Records of Brevard County, Florida; Lot 12, Block 63, Pineda, as recorded in ORB 7788, Pages 2696 - 2697, of the Public Records of Brevard County, Florida. **Section 13, Township 26, Range 36** . (2.4 acres) Located on the southwest corner of U.S. Highway 1 and Aspinwall Ave., and the southwest corner of Aspinwall Ave. and 2 nd St. (3115 Aspinwall Ave.; and 6550 & 6580 2 nd . St., Rockledge) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 23S.06: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled The Comprehensive Plan , amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a

## Helen Seaman

---

**From:** County Ordinances <CountyOrdinances@dos.myflorida.com>  
**Sent:** Monday, August 7, 2023 4:45 PM  
**To:** Helen Seaman; County Ordinances  
**Cc:** Clerk to the Board  
**Subject:** RE: BRE20230803\_ORDINANCE2023\_17  
**Attachments:** Brevard20230807\_Ordinance23\_17\_Ack.pdf

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Good afternoon,

Please find the attached acknowledgment letter for Brevard County Ordinance No. 23-17, which was filed in this office on August 7, 2023.

Best,

County Ordinances  
Florida Administrative Code and Register  
Room 701 The Capitol | Tallahassee, Florida

**From:** Helen Seaman <Helen.Seaman@brevardclerk.us>  
**Sent:** Monday, August 7, 2023 2:10 PM  
**To:** County Ordinances <CountyOrdinances@dos.myflorida.com>  
**Cc:** Clerk to the Board <ClerktotheBoard@brevardclerk.us>  
**Subject:** BRE20230803\_ORDINANCE2023\_17

### EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good Afternoon:

Attached please find Ordinance No. 2023-017 to be filed with the State.

Thank you,

*Helen Seaman*

Administrative Assistant

Clerk to the Board

(321) 637-2001

[Helen.Seaman@brevardclerk.us](mailto:Helen.Seaman@brevardclerk.us)



## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

August 7, 2023

Honorable Rachel M. Sadoff  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, FL 32781-0999

Attention: Helen Seaman

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 23-17, which was filed in this office on August 7, 2023.

Sincerely,

Anya Owens  
Administrative Code and Register Director

ACO/wlh

## **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, 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 zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development 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:**

- 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.

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 23S.06 (23SS00004)  
Township 26, Range 36, Section 13*

---

**Property Information**

**Owner / Applicant: Cirrus Properties LLC**

**Adopted Future Land Use Map Designation: Neighborhood Commercial (NC) and Community Commercial (CC)**

**Requested Future Land Use Map Designation: all Community Commercial (CC)**

**Acreage: 2.4**

**Tax Account #s: 2602468, 2602464, 2602466, and 2602467**

**Site Location: South side of Aspinwall Avenue on west side of US Highway 1**

**Commission District: 4**

**Current Zoning: General Use (GU) and General Retail Commercial (BU-1)**

**Requested Zoning: BU-2 (Retail, Warehousing and Wholesale Commercial) (23Z00034)**

**Background & Purpose**

The applicant is requesting to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.37-acre portion of the 2.4-acre subject property to establish a uniform land use designation across the entire property for a commercial wood flooring business. The subject property consists of four parcels developed as a retail store, a repair shop, and two single family residences. Currently, three of the subject parcels (1.37 acres) are designated as NC on the Future Land Use Map (FLUM) with GU zoning, and the fourth parcel (1.03 acres) is designated as CC and zoned BU-1.

A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.37 acres and from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) on 1.03 acres (**22Z00034**).

The existing GU zoning classification may be considered consistent with the existing NC FLU; however, the existing BU-1 zoning classification and the proposed BU-2 zoning classification cannot be considered consistent with the NC FLU designation.

The proposed BU-2 zoning classification can be considered consistent with the proposed Community Commercial (CC) FLU designation.

### **Comprehensive Plan Policies/Comprehensive Plan Analysis**

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

**Notice:** The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

### **FLUE Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

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;

**The applicant requests to expand the existing retail business and change the Future Land Use designation on 1.37 acres from NC to CC. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.**

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

**The developed character of the surrounding area is single-family residential to the west and transitions to commercial uses along S. Highway 1, a commercial corridor that serves local and regional markets. Commercial uses adjacent to the north and south of the subject property were established over 40 years ago. Existing residential uses are located west of the subject property along Aspinwall Avenue and south of the subject property on Gannett Plaza Avenue. South of the subject property is a commercial amusement/entertainment business on Gannett Plaza Avenue.**

**The proposed commercial use of the subject property may be considered compatible with the existing pattern of commercial development along US Highway 1. It may also be considered an encroachment into the existing residential development.**

**There are three (3) FLU designations within 500 feet of the subject site: CC, NC, and REC. The predominant FLU designation along Aspinwall Avenue is NC. REC FLU is located on the east side of Highway 1 along the Indian River Lagoon.**

2. actual development over the immediately preceding three years; and

**It appears no changes to the immediate area have occurred within the last three years.**

3. development approved within the past three years but not yet constructed.

**While there has not been any actual development within this area in the preceding three (3) years, one zoning action has been approved within one-half mile:**

**20Z00014, approved by the Board on September 30, 2020, was a request to rezone from PUD and PIP to all PUD with retention of the CUP for alcoholic beverages (full-liquor) at an Assisted Living Facility (ALF) on 16.33 acres located approximately one-half mile south of the subject property on N. Wickham Road.**

**There are three pending zoning actions within one-half mile of the subject property:**

**23Z00057 is a request to rezone from GU to BU-1 on 0.23 acres located immediately west of the subject property on Aspinwall Avenue.**

**23Z00043 is a request to rezone from BU-2 and RU-2-10 to all BU-2 on 1.72 acres located 160 feet east of the subject property on S. Highway 1.**

**23Z00009 is a request to amend an existing BDP to allow for a new site layout on 2.23 acres in BU-2 zoning located approximately 2,000 feet northeast of the subject property on Freeman Lane.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**No material violation of relevant policies has been identified.**

**FLUE Administrative Policy #4 - Character of a neighborhood or area.**

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The developed character of the surrounding area is primarily single-family residential that transitions to commercial use along S. Highway 1, a commercial corridor that serves local and regional markets. Commercial uses adjacent to the north and south of the subject property were established over 40 years ago. Existing residential uses are located west of the subject property along Aspinwall Avenue and on the north side of Gannett Plaza Avenue.**

**The proposed commercial use of the subject property may be considered compatible with the existing pattern of commercial development along S. Highway 1.**

- 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.

**The subject property is south of Aspinwall Avenue, north of Gannett Plaza Avenue, west of S. Highway 1, and east of Byham Road. The area is bounded to the west by the Florida East Coast Railway.**



- 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.

**Commercial uses adjacent to the north and south of the subject property were established over 40 years ago.**

- 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.

**The subject parcel is in a corridor of commercial uses along Highway US-1 with residential uses to the west on Aspinwall Avenue and south of the subject property on Gannett Plaza Avenue.**

**The applicant is requesting to change the FLU from NC to CC on 1.37 acres of the 2.4-acre subject site for a wood flooring business. As the immediate area is predominantly commercial, the proposed zoning maintains the commercial integrity of the area.**

**The existing commercial development to the north includes a 91,470 sq. ft. multiple-story office building. The abutting parcel to the south retains CC FLU designation and is developed with an approximately 170,000 sq. ft. commercial building (Gannett Plaza) currently utilized as indoor amusement and entertainment.**

### **Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1**

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

**The subject property has frontage on Aspinwall Avenue and Gannett Plaza Avenue which connect to S. Highway 1. A detailed analysis will be conducted when a use is proposed during site plan.**

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

**There are NC and CC future land use map designations adjacent to the subject property.**

- C. Existing commercial development trend in the area;

**Existing commercial development in the immediate area includes a commercial office building to the north, a commercial office building with light manufacturing and warehousing to the south, and a restaurant to the east, across S. Highway 1. Additional commercial uses are located along S. Highway 1, a commercial corridor that serves local and regional markets.**

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

**No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.**

E. Availability of required infrastructure at/above adopted levels of service;

**The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposal increases the percentage of MAV utilization by 10.63%. The corridor is anticipated to operate at 94.59% of capacity daily.**

**The subject parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 155 feet east on the east side of S. Highway 1. The next closest Brevard County sewer line is approximately 400 feet north of the subject site on 3rd Street. The proposed development is not anticipated to have an impact on the LOS for potable water service, sanitary sewer or solid waste disposal.**

F. Spacing from other commercial activities;

**The closest Community Commercial facilities are located immediately to the north, south, and east of the subject site. Additional commercial activities can be found along the US Highway 1 corridor.**

G. Size of proposed commercial designation compared with current need for commercial lands;

**The 2.4-acre subject property is designated as NC on approximately 1.37 acres and CC on approximately 1.03 acres. The request for CC across the entire site represents an increase of approximately 1.37-acre of CC.**

H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

**The provisions of this Criterion will be addressed at the site plan stage.**

I. Integration of open space; and

**The provisions of this Criterion will be addressed at the site plan stage.**

J. Impacts upon strip commercial development.

**The subject property is currently developed and could be considered redevelopment and not an expansion of strip development.**

**Activities Permitted in the Community Commercial (CC) Future Land Use Designations**

**FLUE Policy 2.7**

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 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

**The applicant is proposing to expand a commercial wood flooring business.**

**Locational and Development Criteria for Community Commercial Uses**

**FLUE Policy 2.8**

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

**The subject site is not located at an arterial/arterial intersection. While S. Highway 1 is classified as an urban principal arterial, both Aspinwall Avenue and Gannett Plaza Avenue are local roadways not classified as arterials or collectors.**

- B. Community commercial complexes should not exceed 40 acres at an intersection.

**The Community Commercial properties immediately adjacent to the north and south of the subject property total less than 25 acres. This request, if approved, would represent an increase of 1.37 acres of CC.**

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

**S. Highway 1 is a major arterial roadway serving the community and the surrounding region. As such, this area represents a historical strip development pattern and does not lend itself to cluster commercial analysis.**

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

**This criterion will be addressed at the site plan review stage of development.**

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

**The overall subject site has the potential for a 104,544 sq. ft. of commercial based on a FAR of 1.00. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.**

### Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
<b>North</b>	Commercial Office Building (across Aspinwall Ave.)	BU-1	CC
<b>South</b>	Single-Family Residence; Commercial (across Gannett Plaza Ave.)	GU; BU-1 and BU-2	NC; CC
<b>East</b>	Commercial Restaurant (across S. Highway 1)	BU-2 and RU-2-10	NC and CC

<b>West</b>	Single-Family Residences	GU; TR-1	NC
-------------	--------------------------	----------	----

To the north is a 3.01-acre parcel developed as a commercial office building with CC FLU designation.

To the south is a 0.51-acre parcel developed as a single-family residence with NC FLU designation. Further south, across Gannett Plaza Avenue is a 21.06-acre parcel developed as a commercial building (Gannett Plaza) with CC FLU designation currently utilized as commercial indoor amusement and entertainment.

To the east, across S. Highway 1, is a 1.72-acre parcel developed as commercial restaurant with NC and CC FLU designations. \*This parcel has a pending zoning action request to amend the FLU designation to all CC (23SS00008).

To the west, along Aspinwall Avenue, is a 0.23-acre parcel developed as a single-family residence with NC FLU designation. \*This parcel has a pending zoning action request to amend the FLU designation from NC to CC (23SS00017).

To the west, along Gannett Plaza Avenue, is a 0.46-acre parcel developed as a single-family residence with NC FLU designation.

**Preliminary Concurrency**

The closest concurrency management segment to the subject property is US 1 from Pineda Boulevard to Suntree 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 83.97% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 10.63%. The corridor is anticipated to operate at 94.59% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 155 feet east on the east side of S. Highway 1. The next closest Brevard County sewer line is approximately 400 feet north of the subject site on 3<sup>rd</sup> Street.

**Environmental Constraints**

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

No noteworthy land use issues were identified. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

**Historic Resources**

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

**For Board Consideration**

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Land Use Review & Summary**  
**Item #23SS00004**

**Applicant:** Bruce Moia (Owner: Darren Hearn-Cirrus Properties)

**Land Use Request:** NC, CC to all CC

**Note:** Requested to coincide with developer's intended use.

**LPA Hearing Date:** 07/17/2023; **BCC Hearing Date:** 08/03/2023

**Tax ID No:** 2602464; 2602466; 2602467; & 2602468

- 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
- Land Clearing and Landscape Requirements
- 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**

All of the subject parcels contain mapped aquifer recharge soils (Paola fine sand, 0 to 8 percent slopes, Candler fine sand, and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Land Clearing and Landscape Requirements**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal.

To incorporate valuable vegetative communities or robust trees into the design. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

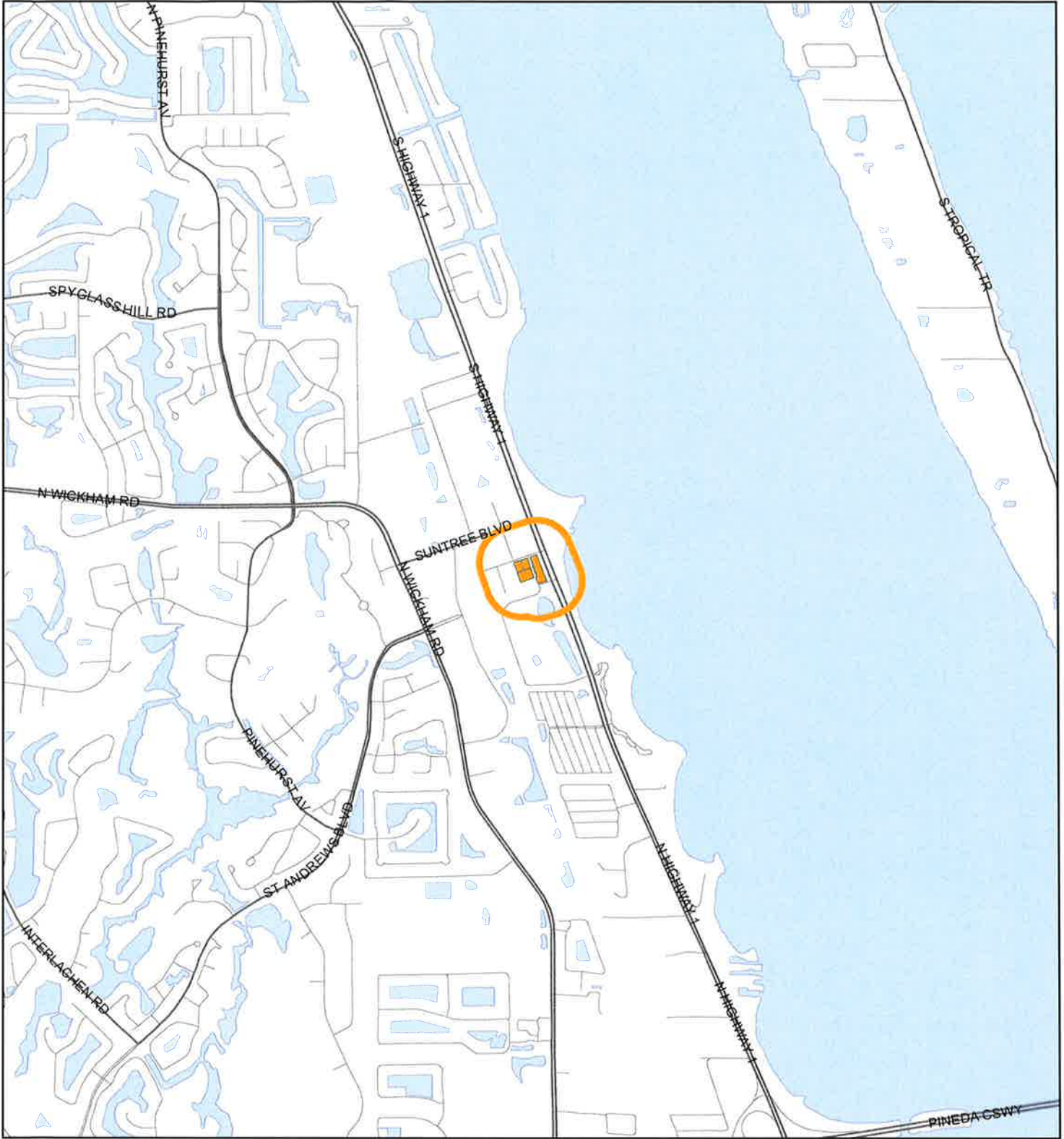
**Protected Species**

Federally and/or state protected species may be present on properties with aquifer recharge soils. Specifically, gopher tortoises have been observed in this area. If applicable, 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

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004





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: 6/27/2023

-  Buffer
-  Subject Property

# ZONING MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

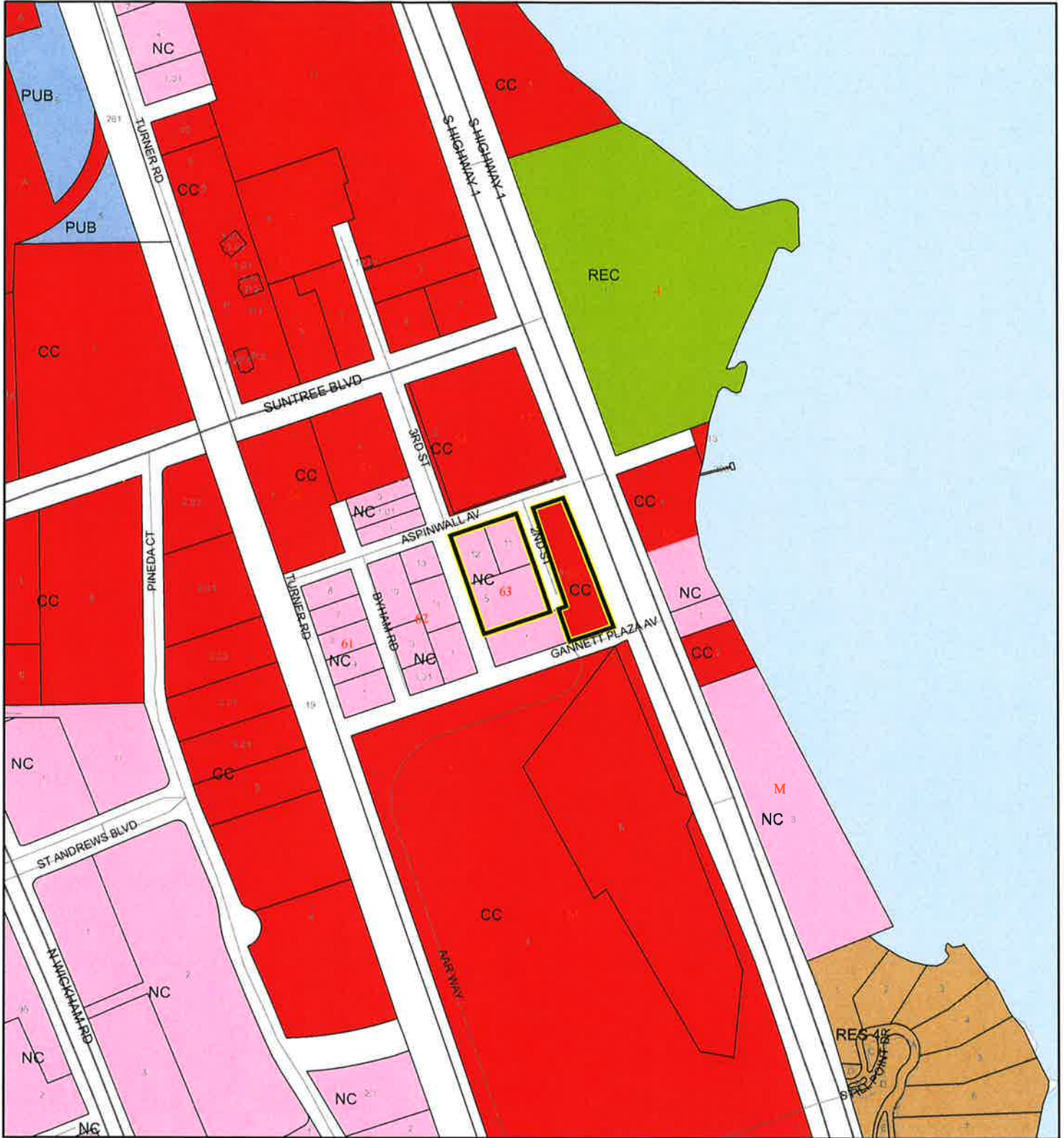
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
-  Zoning

# FUTURE LAND USE MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

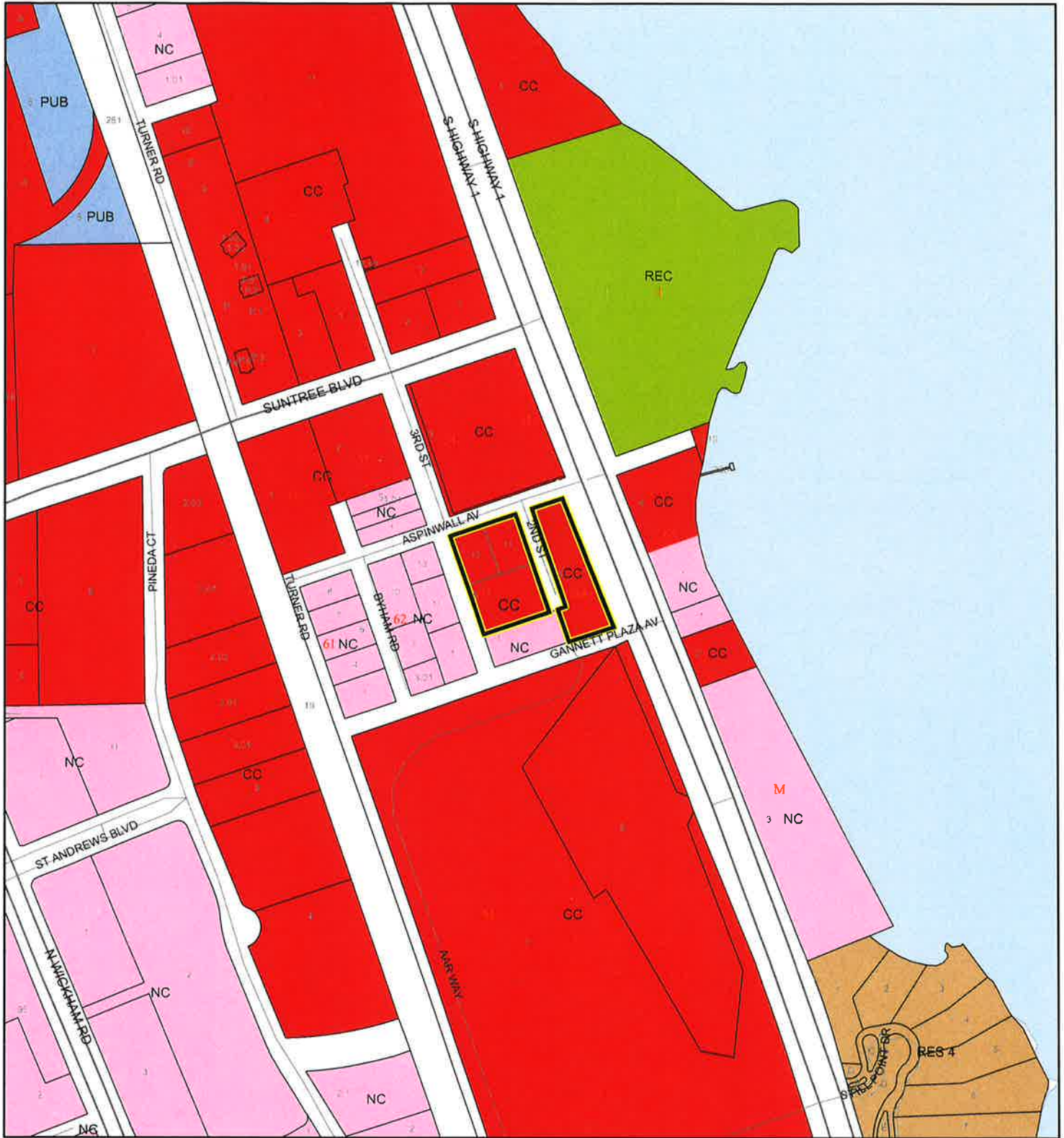
- Subject Property
- Parcels

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

Produced by BoCC - GIS Date: 6/27/2023

# PROPOSED FUTURE LAND USE MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

— Subject Property

▭ Parcels

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

Produced by BoCC - GIS Date: 6/27/2023

# AERIAL MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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: 6/27/2023

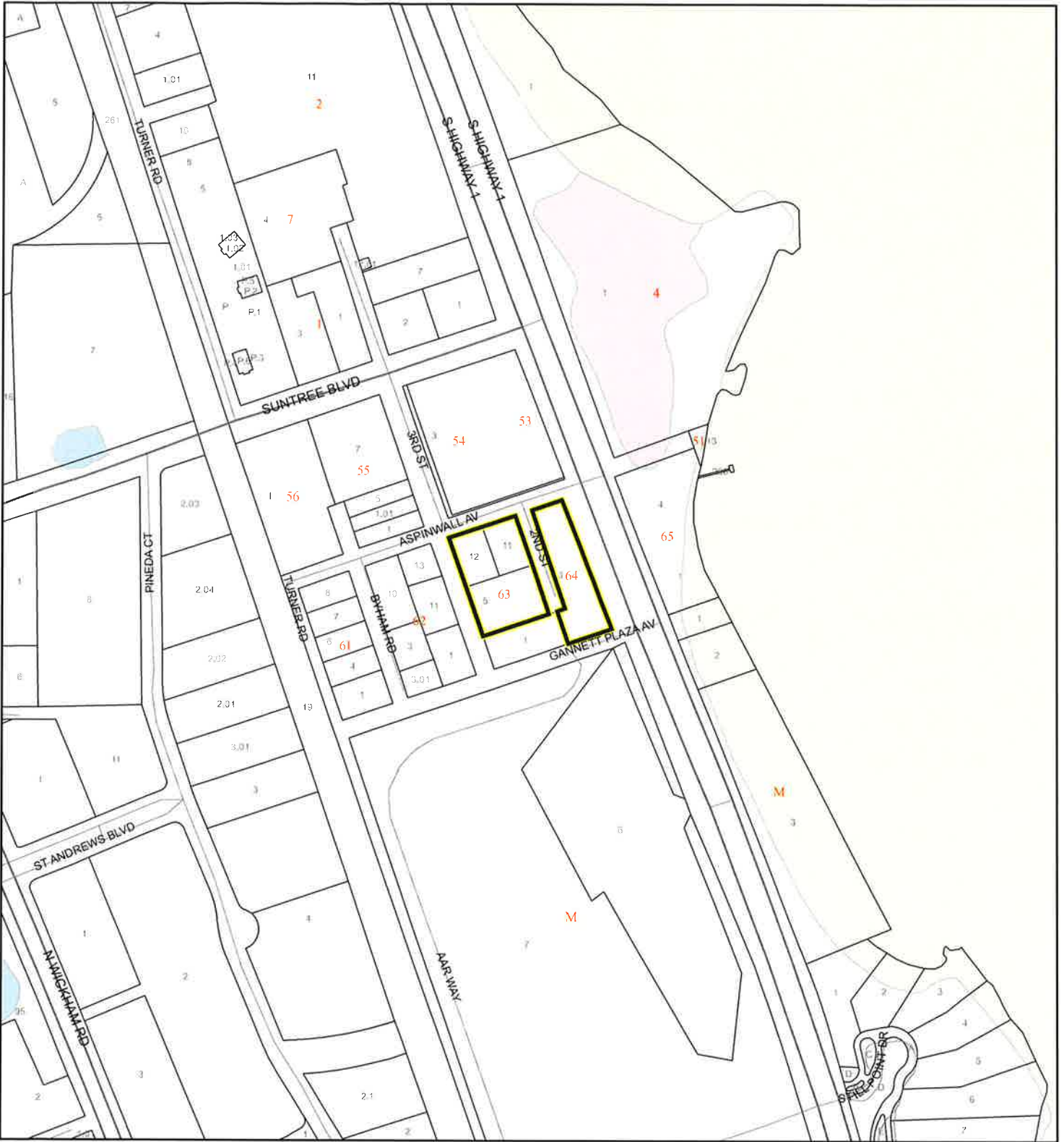
 Subject Property

 Parcels

# NWI WETLANDS MAP

Cirrus Properties LLC & Herndon, Donald & Julie

23SS00004




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: 6/27/2023

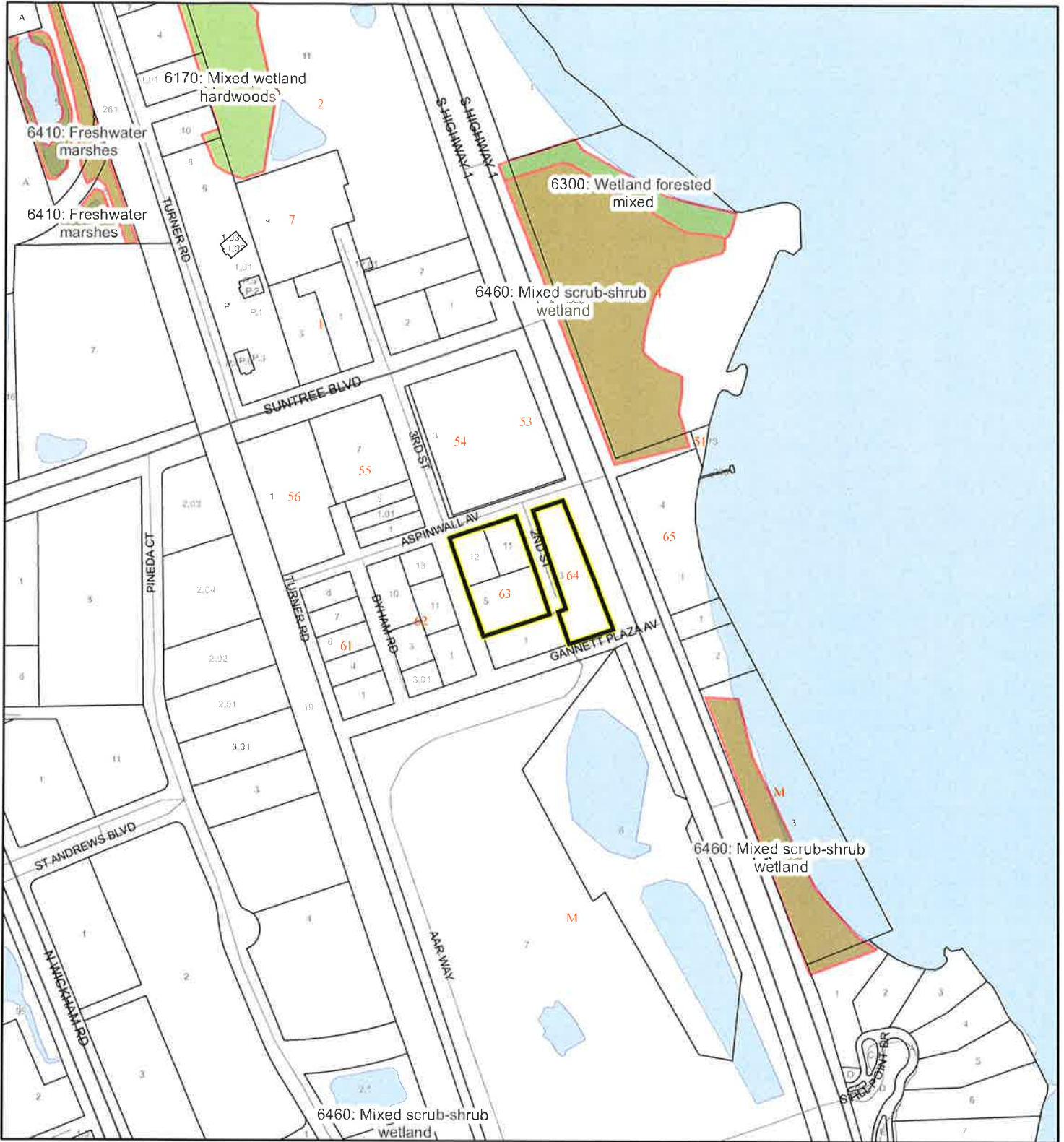
## National Wetlands Inventory (NWI)

- |   |                                   |   |                 |
|---|-----------------------------------|---|-----------------|
|   | Estuarine and Marine Deepwater    |  | Freshwater Pond |
|   | Estuarine and Marine Wetland      |  | Lake            |
|   | Freshwater Emergent Wetland       |  | Other           |
|   | Freshwater Forested/Shrub Wetland |  | Riverine        |
|  | Subject Property                  |  | Parcels         |

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Cirrus Properties LLC & Herndon, Donald & Julie

23SS00004



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: 6/27/2023

## SJRWMD FLUCCS WETLANDS

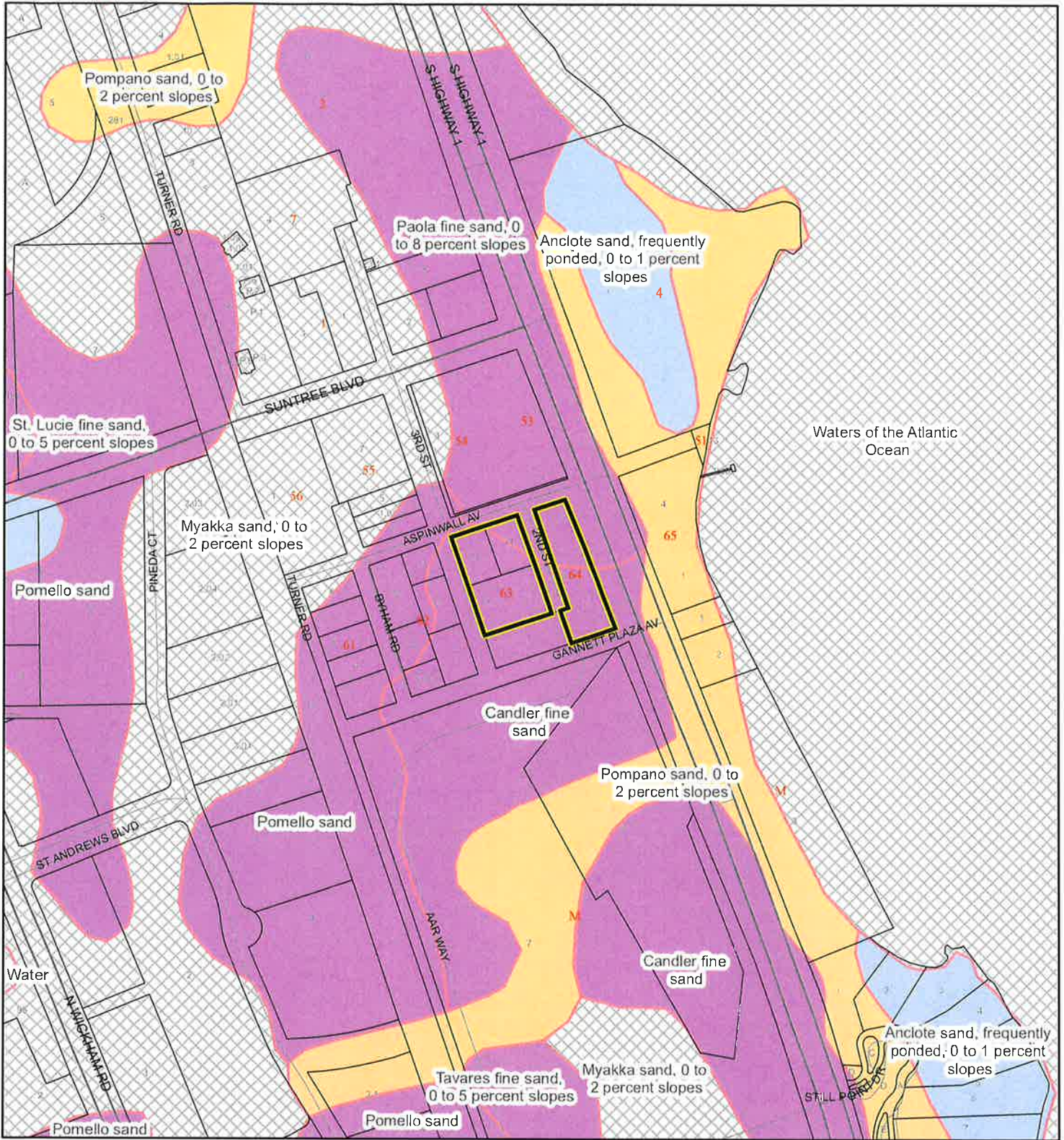
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property     Parcels

# USDA SCSSS SOILS MAP

Cirrus Properties LLC & Herndon, Donald & Julie

23SS00004



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/27/2023

## USDA SCSSS Soils

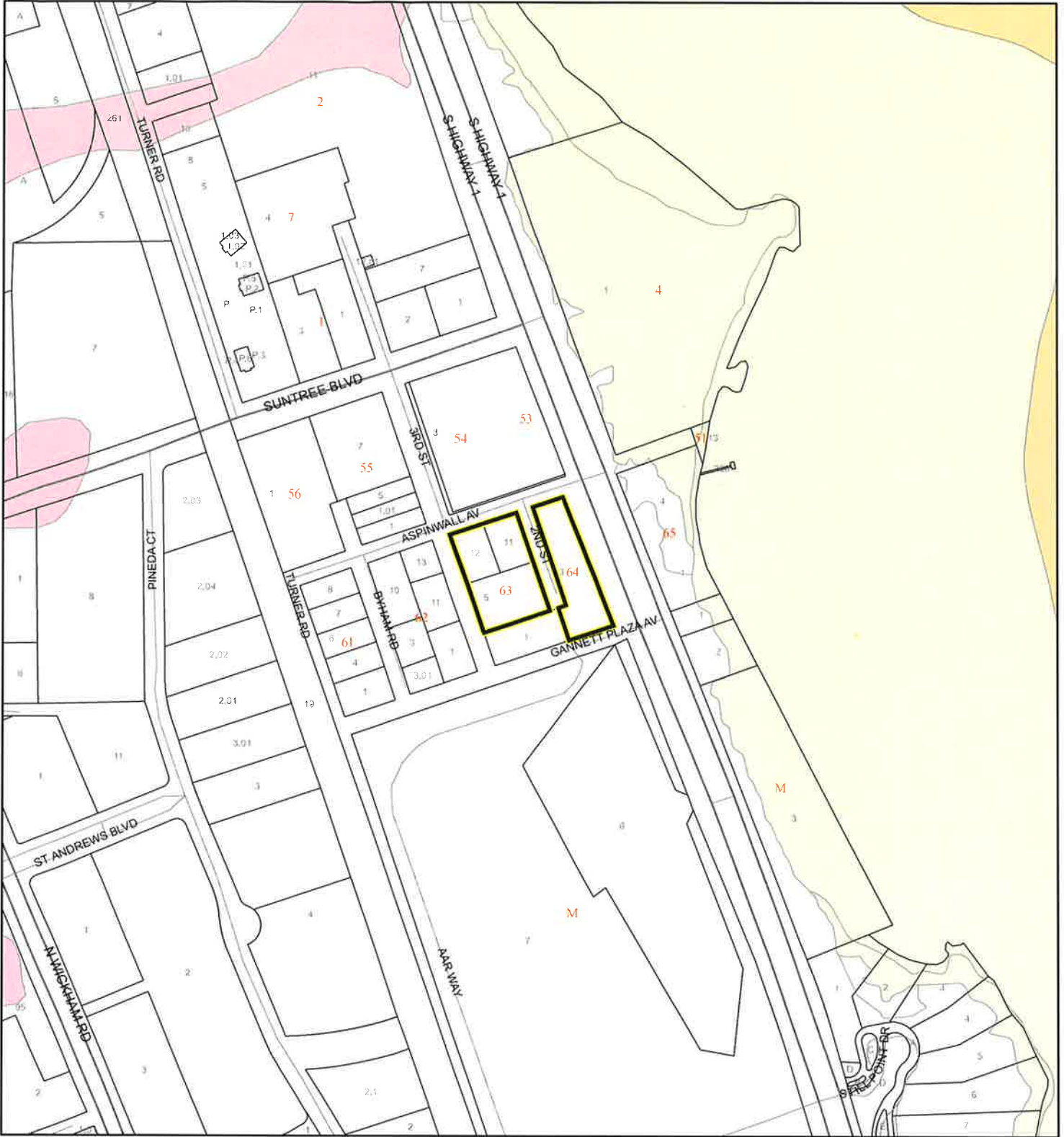
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



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.

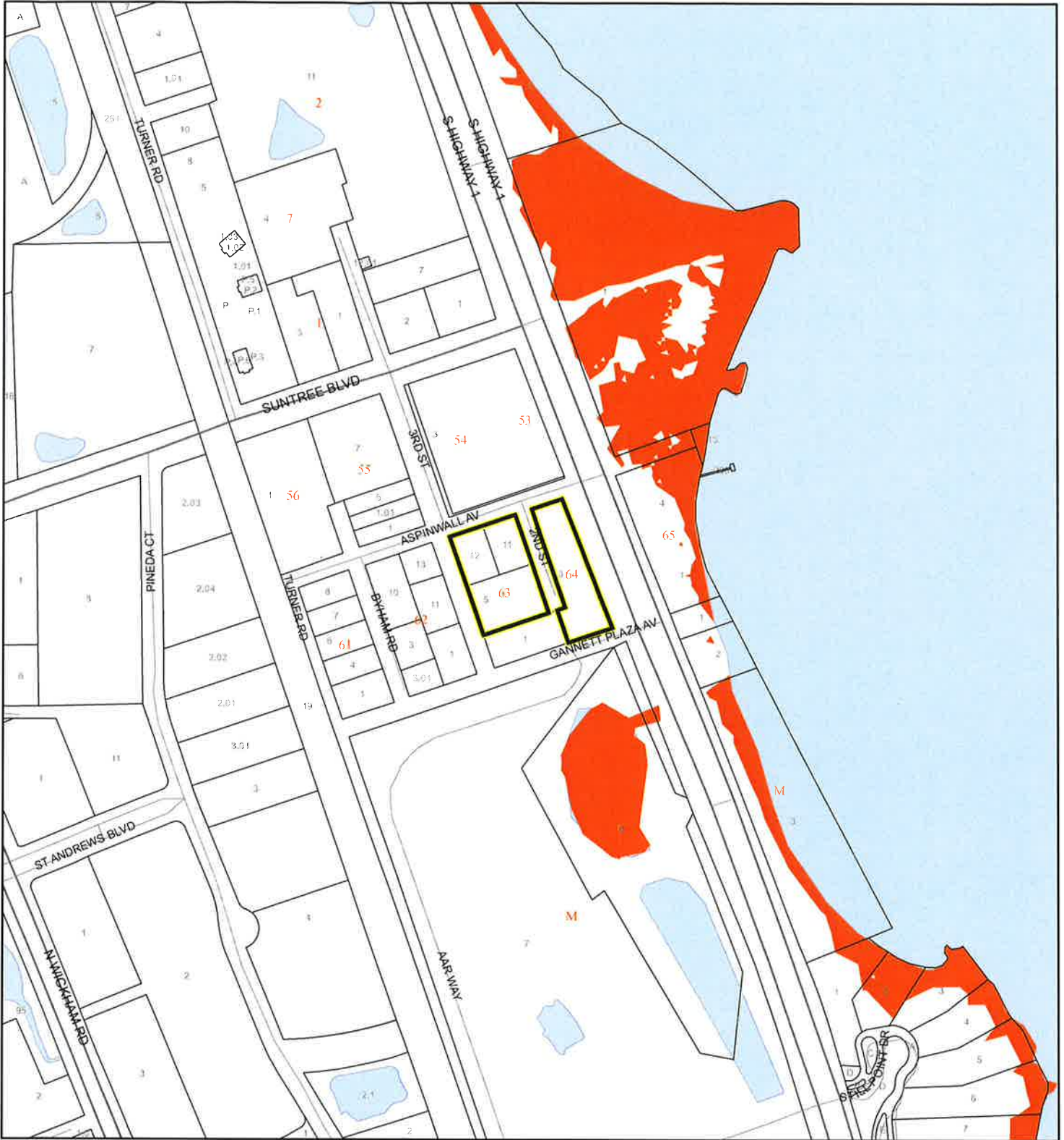
Produced by BoCC - GIS Date: 6/27/2023

### FEMA Flood Zones

- |                  |            |   |
|------------------|------------|---|
| A                | AO         | X |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |

# COASTAL HIGH HAZARD AREA MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



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.

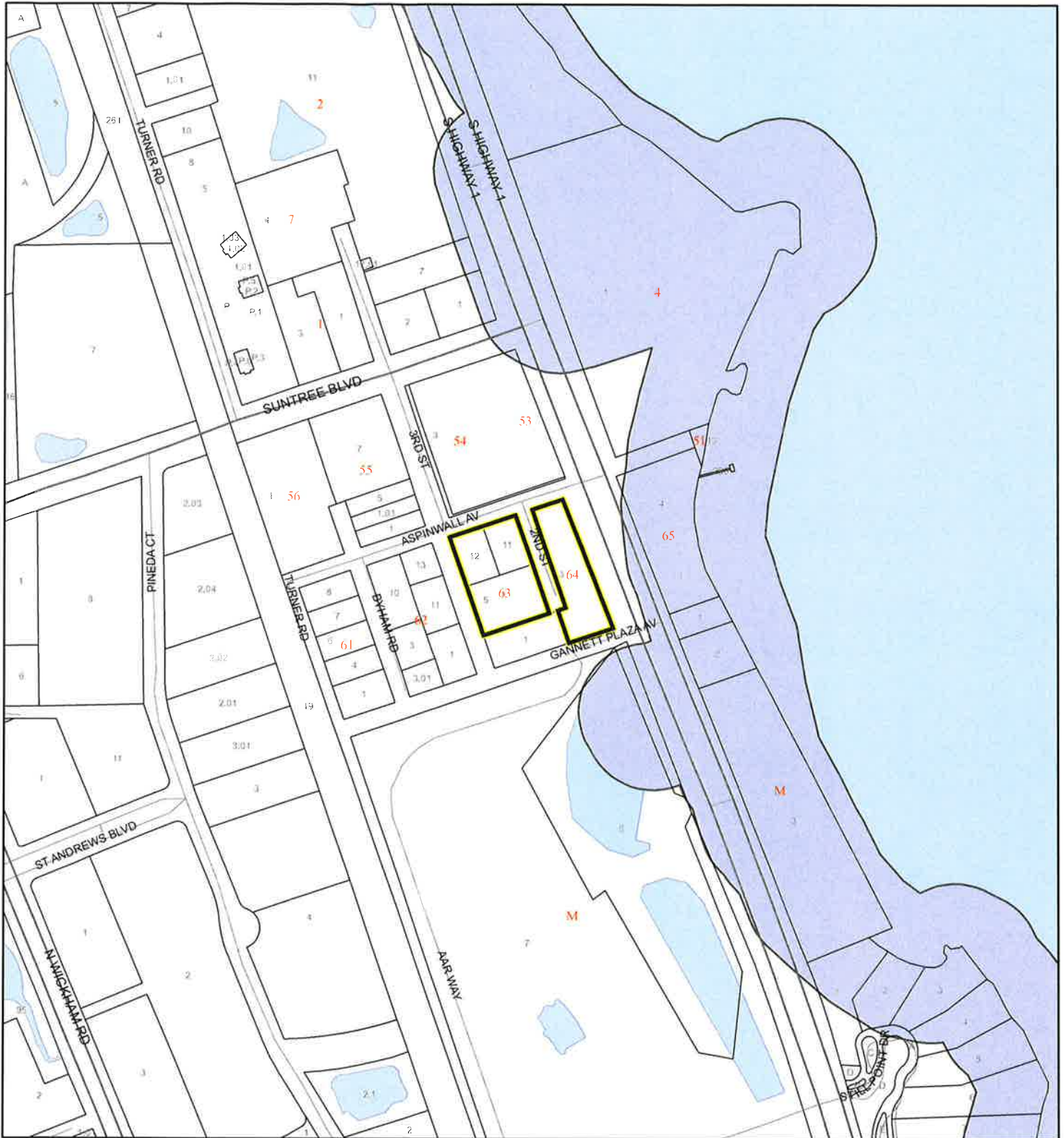
Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
- Coastal High Hazard Area**
-  SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Cirrus Properties LLC & Herndon, Donald & Julie

23SS00004



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: 6/27/2023

 Subject Property

 Parcels

**Septic Overlay**

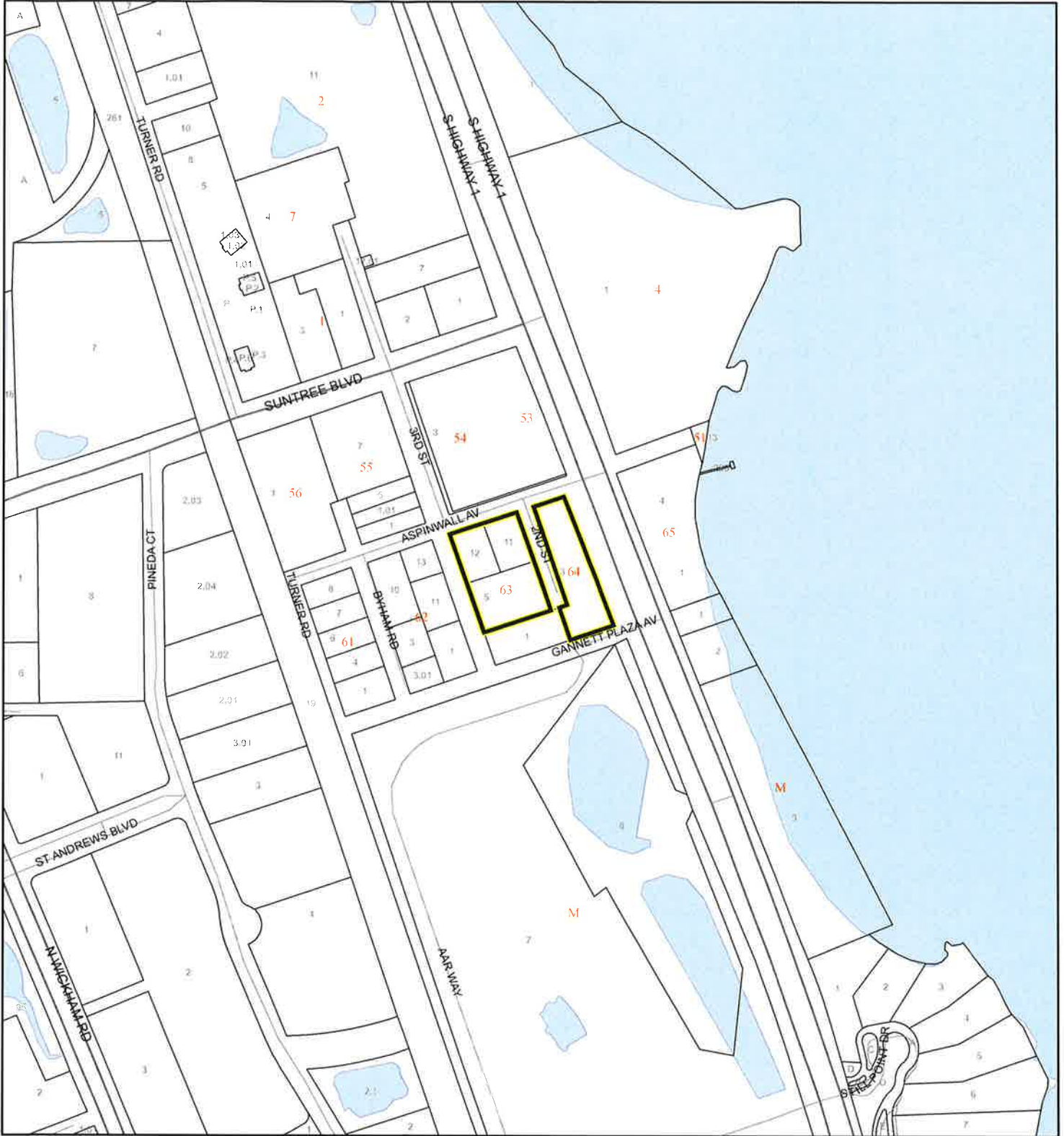
 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

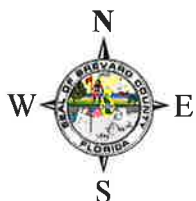
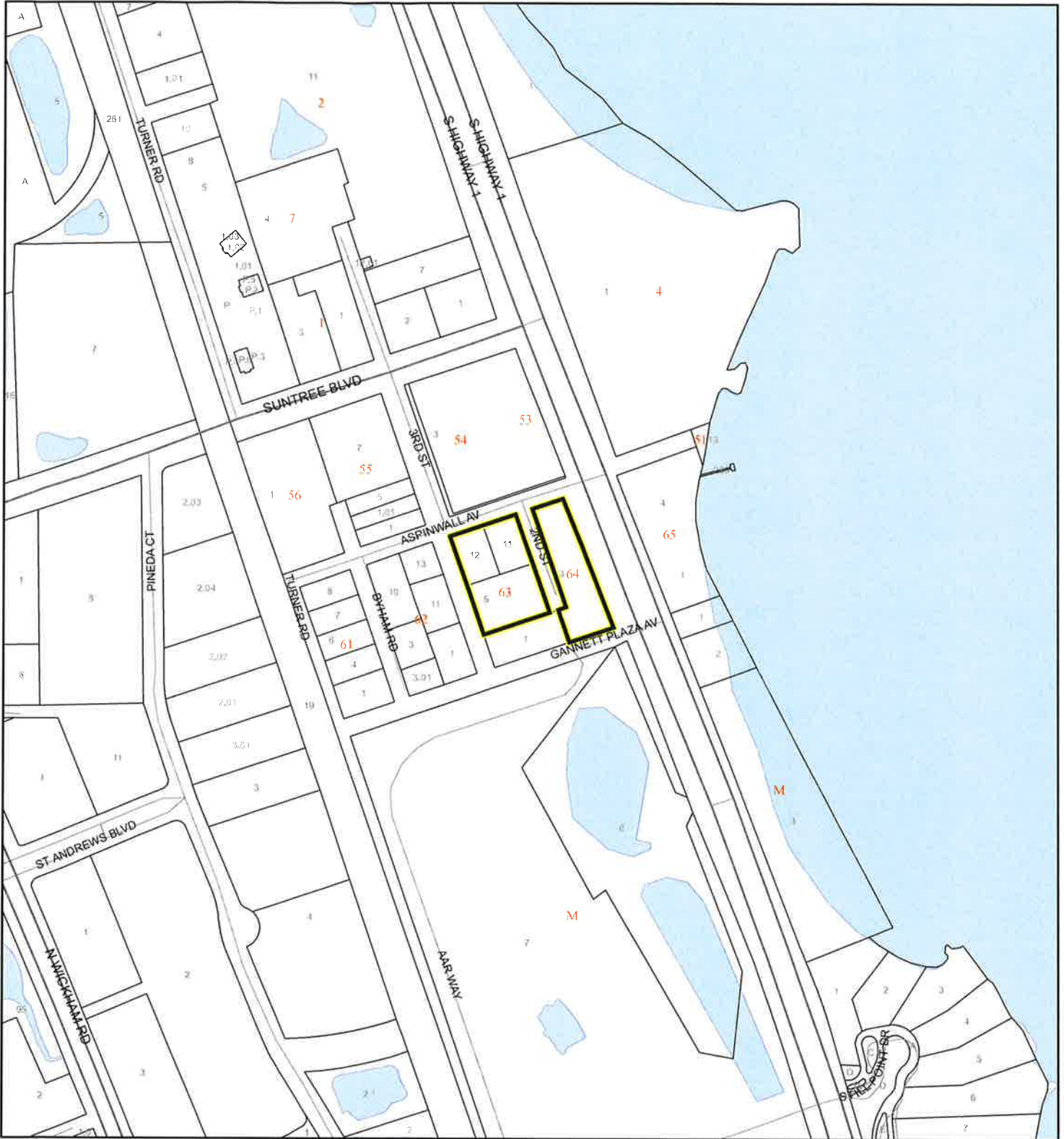
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
-  Eagle Nests FWS

# SCRUB JAY OCCUPANCY MAP




Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



1:4,800 or 1 inch = 400 feet

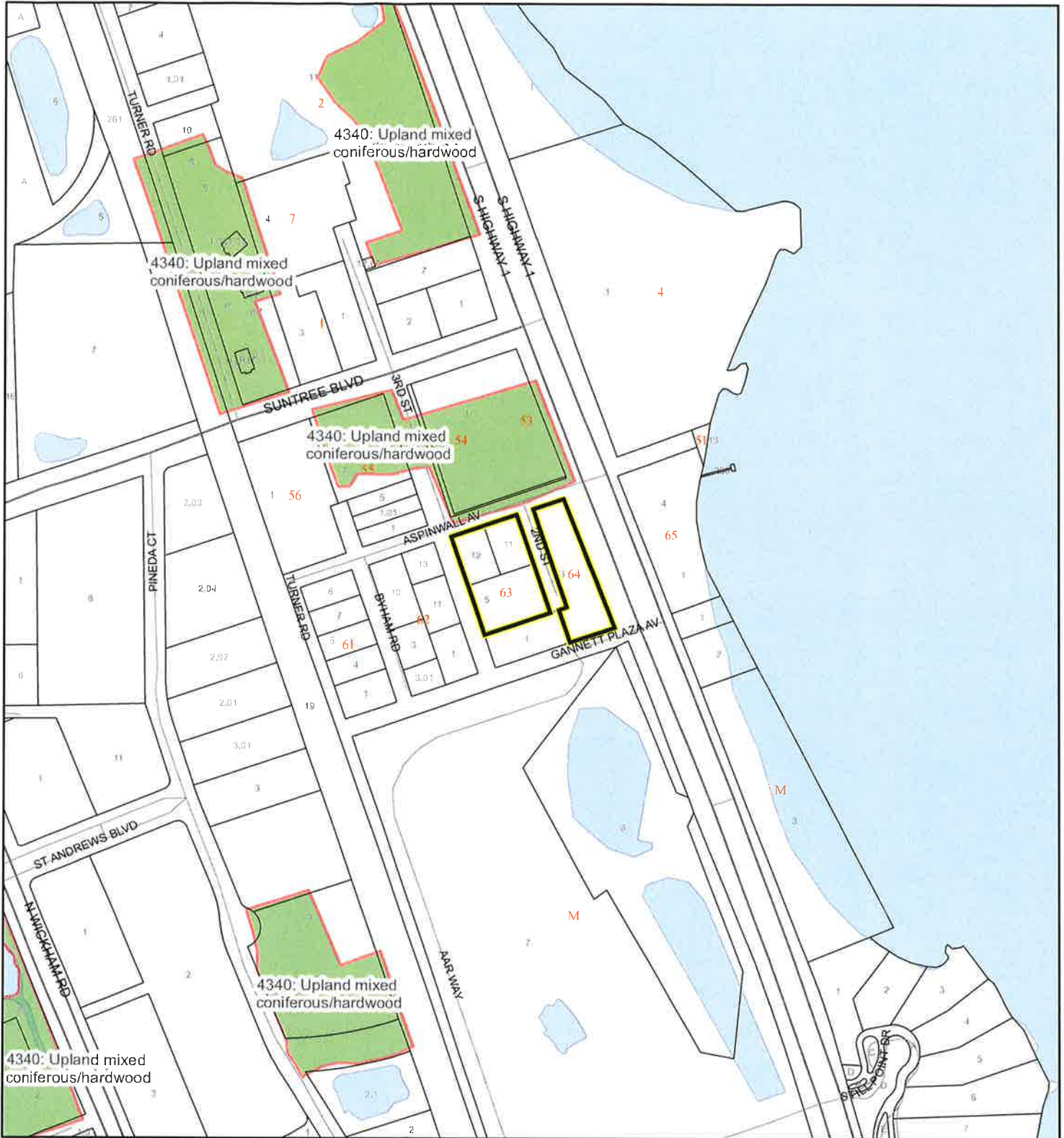
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/27/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Cirrus Properties LLC & Herndon, Donald & Julie  
23SS00004



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: 6/27/2023

## 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

**From:** [Wendy Rector](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** ID23SS00004&23Z00034  
**Date:** Thursday, July 6, 2023 6:50:40 PM

---

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

Dear Ms. Jones,

I reside @6585 Byham Rd, Rockledge Fl. Im writing today to file my dissatisfaction on the public notice filed by Don and Julie Herndon to expand the commercial site they use to own. The wood flooring business was just to be retail, it has become much more and has created issues with cars parking and much more traffic back here, along with other issues. This is a small quiet little neighborhood that has resided for generations. It wouldnt be fair to any of us back here, with traffic, noise, road congestion, crime, just a whole host of grievances. Traffic since the commercial building off Aspinwall and 3rd has created so many accidents from Suntree Blvd., just not good. There are so many vacant properties with buildings sitting and falling down. Why arent folks considering cleaning them up and utilizing, Im sure the county would prefer vacant buildings being used for a host of reasons. I will also be attending the meeting. The property wanting this should incorporate and clean up what he already owns. Thank you for taking the time to read and file this.

Cordially,

Wendy Rector Dimond  
Sent from my iPad

**From:** [Dave Bier](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [rich3m@gmail.com](mailto:rich3m@gmail.com)  
**Subject:** small scale amendment id# 23SS00004,23Z00034,23SS00017&23Z00057  
**Date:** Thursday, July 13, 2023 3:45:39 PM

---

Objection  
23SS00004, 23Z00034 &  
23SS00017 & 23Z00057  
Cirrus - Herndon

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

HELLO JENNIFER,  
MY NAME IS DAVE BIER RESIDING AT 6595 BYHAM RD AND I AM AGAINST REZONING THE AFORE MENTIONED PROPERTY ABOVE, BECAUSE I DO NOT WISH FOR COMMERCIAL PROPERTY ENCROACHING ON ALREADY ESTABLISHED RESIDENTIAL PROPERTY.

THANK YOU  
DAVID BIER  
208\_509\_1969

[Sent from Yahoo Mail on Android](#)



**From:** [Melissa Munson](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** RE: Rezoning Notice # 23Z00057\_23SS00017\_23SS00004 & 23Z00034\_  
**Date:** Friday, July 14, 2023 4:47:21 PM

---

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

Good afternoon Jennifer,

My name is Melissa Munson and I am a homeowner directly next door to one of the properties we have been notified is being considered for a change of zoning classification from residential to retail / warehousing and wholesale commercial-based properties.

I am strongly against this consideration of re-zoning to accommodate a nearby business owner who wants to take over residential neighborhood land. This is our community of families and re-zoning for commercial use would have a negative impact not only in regards to traffic and additional pollution, but also to our unique established environment known in part as the Town of Pineda. We are a quiet and peaceful community not in agreement with this request for Small Scale Plan Amendment / change of zoning so close to our residential properties / within our residential community. The zoning classifications should not be changed.

Thank you for your consideration in this matter.

Sincerely,

*Melissa Munson*

Melissa Munson | Office Manager | **The Goldfield Corporation** | t 321.724.1700 | f 321.308.1164 | d 321.308.1165 | [mmunson@goldfieldcorp.com](mailto:mmunson@goldfieldcorp.com) | 1688 W. Hibiscus Blvd., Melbourne, FL 32901

NOTICE: This e-mail message remains the property of The Goldfield Corporation. The contents of this email and any attachments are confidential and protected by law as confidential. If you are not the intended recipient of this message, please forward a copy to the sender and delete the message and any attachments from your computer. This message has also been transmitted over an open public network and as such The Goldfield Corporation cannot accept any responsibility for the accuracy or completeness of this message or any attached files.

**From:** [Rich Munson](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** ID# 23SS00017 & 23Z00057 ID#23SS00004 & 23Z00034  
**Date:** Monday, July 17, 2023 9:47:03 AM

---

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

Good morning Jennifer,

My name is Richard Munson, my wife Melissa and I live at 3165 Aspinwall Ave, next door to one of the properties in the notice 3145 Aspinwall we also own the home directly behind 3145.

3155 Aspinwall Ave and we own the home directly across the street from 3145. Which is 3150 Aspinwall.

So we have a very big concern with any idea of this single family home at 3145 Aspinwall Ave changing zoning to CC and BU-1

This seems to be Spot zoning from what I understand.

The history of The Town of Pineda with this small quiet neighborhood should not be taken over by a few looking to expand their business interest.

So any change that will just add more retail or who knows what with Warehousing and Wholesale Commercial is not a move in the right direction.

Thank you for your time

Regards,

Richard Munson

From: Rdi  
To: Jones, Jennifer  
Subject: 23Z00034 & 23SS00017 & 23Z00057  
Date: Monday, July 17, 2023 9:51:09 AM

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

Mr. Lance doesn't email and asked me to forward

**Brevard County Planning and Zoning  
Jennifer Jones  
2725 Judge Fran Jameson Way  
Viera, FL 32940**

**RE: Rezoning Notice # 23Z00057\_23SS00017\_23SS00004 & 23Z00034**

**Dear Ms. Jones,**

**My name is William Lance and I would like to share my concerns regarding the above-mentioned zoning notices that are being proposed in my community.**

**I object and do not agree with the change of zoning classification from what it is now, to a retail / warehousing commercial-based zone. We live on a NO OUTLET road near the railroad tracks. This kind of zoning change will cause traffic issues and confusion in our small close-knit community that does have children in the area as well. It is not an area that should be commercialized.**

Sincerely,

*William E. Lance*

**William Lance  
6550 Byham Rd.  
Rockledge, FL 32955**

Objection  
23SS00004, 23Z00034 &  
23SS00017 & 23Z00057  
Cirrus - Herndon

From: Bob  
To: Joyce\_Jacobs  
Subject: ID# 23SS00004 & 23Z00034 ID# 23SS00017 & 23Z00057  
Date: Monday, July 17, 2023 9:54:28 AM

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

Mr. Fuqua isn't able to email and asked me to send this.

**July 14, 2023**


**Ms. Jennifer Jones,**

**We are writing concerning the rezoning notices  
ID# 23SS00004 & 23Z00034  
ID# 23SS00017 & 23Z00057**

**We are NOT in favor of any rezoning to Retail, Warehousing, Wholesale  
Commercial, Community Commercial and General Retail Commercial.  
Any and all these changes will only effect our neighborhood negatively.**

**Thank you,**

**William Fuqua**

  
**William & Gail Fuqua  
6560 Byham Rd  
Rockledge FL 32955**

From: Rich Munson  
To: Jones, Jennifer  
Subject: Re: ID# 23SS00004 & 23Z00034 ID# 23SS00017 & 23Z00057  
Date: Monday, July 17, 2023 10:50:33 AM

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

Thank you Jennifer

Wasn't completely sure what and how much detail you wanted in my concern with the zoning. I don't know the normal procedures but here are few things I do know. I know Mr. Herndon and I have communicated with him about his plans to sell his properties. He sold his Flooring store 3115 Aspinwall Ave to Cirrus Properties and the house at 6550 2nd St. Mr. Herndon is looking to sell both 3125 & 3145 Aspinwall Ave to the new owner of the flooring store and it certainly looks like a rezoning was a part to make the deal happen.

I just looked at a text I got from Mr. Herndon May 1st this year and he said " I'm just over being a landlord. Never again" so this is sounding like a man ready to unload things. With the lack of affordable housing available in the area and the plan to sell everything to a guy that lives in Wildwood FL ( Cirrus Properties ) so he can put who knows what up on this hill side doesn't sound like a wise community plan.

My wife and I will be at the meeting

Thanks again,  
Richard

On Mon, Jul 17, 2023 at 10:10 AM Jones, Jennifer <jennifer.jones@brevardfl.gov> wrote:

Thank you. I will take copies of all public comment to the meeting this afternoon.

Jennifer

From: Rich <rich3m@gmail.com>  
Sent: Monday, July 17, 2023 9:54 AM  
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>  
Subject: ID# 23SS00004 & 23Z00034 ID# 23SS00017 & 23Z00057

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

Mr. Fuqua isn't able to email and asked me to send this.



## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 17, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Agenda

#### **Cirrus Properties, LLC; and Donald C. and Julie M. Herndon (Bruce Moia)**

A Small Scale Comprehensive Plan Amendment (23S.06 ), to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC. The property is 2.4 acres, located on the southwest corner of U.S. Highway 1 and Aspinwall Ave., and the southwest corner of Aspinwall Ave. and 2<sup>nd</sup> St. (3115 & 3125 Aspinwall Ave.; and 6550 & 6580 2<sup>nd</sup> St., Rockledge) (23SS00004) (Tax Accounts 2602468, 2602464, 2602466, & 2602467) (District 4)

#### **Cirrus Properties, LLC; and Donald C. and Julie M. Herndon (Bruce Moia)**

A change of zoning classification from GU (General Use) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is , located on the southwest corner of U.S. Highway 1 and Aspinwall Ave., and the southwest corner of Aspinwall Ave. and 2<sup>nd</sup> St. (3115 & 3125 Aspinwall Ave.; and 6550 & 6580 2<sup>nd</sup> St., Rockledge) (23Z00034) (Tax Accounts 2602468, 2602464, 2602466, & 2602467) (District 4)

Bruce Moia, MBV Engineering, Melbourne, stated the proposed project is planned to be an expansion of a successful flooring business that has been in existence for 20 years. The property and business owner, Donald Herndon, is selling his business to one of his employees who wants to take it to the next level to allow the business to flourish in the future. He said in the area is surrounded with CC (Community Commercial) land use, and it is almost 100% commercial around the property, with some residential homes that are zoned GU (General Use), which requires 5 acres today. He stated the request for CC is to make it compatible with the surrounding land use, and the second request is to rezone to BU-2 so the owner can go through site planning and bring the property up to code.

Public comment.

Richard Munson, 3165 Aspinwall Ave., Rockledge, stated he lives directly next door to 3145 Aspinwall Avenue and he owns several other lots in the area, and they are all residential lots of which he has no intention of making commercial. He said he's spoken to almost every neighbor and no one wants more commercial. He stated no one in the neighborhood has been told what is planned for the property, or if it is for another flooring store. He said the buyer is not an employee of Mr. Herndon's, it is an outsider from Wildwood, Florida. He said the neighborhood is primarily residential; there is some commercial, which he realized when he built his house. He stated Mr. Herndon has a right to sell his property, but the residents also have a right to be able to keep it as a residential neighborhood. He noted that with the lack of housing in the area, Mr. Herndon can sell the lots to someone who wants a home.

Henry Minneboo asked if Mr. Munson protested when the Riverview Tower was built. Mr. Munson replied he did not, because he was told it was already commercial property.

William Wojahn, 3120 Gannett Plaza Ave., Rockledge, stated he built 2<sup>nd</sup> Street in 1981 with a backhoe and a front loader, all the way to Gannett Plaza Avenue in order to build a house, which he built in 1995. He said he did not receive a notice for this request, he was told about it by Mr. Munson.

Wendy Diamond, 6585 Byham Rd., Rockledge, stated since Riverview Tower has been built there has been vandalism, and she had an intruder on her property two weeks ago. She said the property owner should utilize what he already has, which is a fair piece of property. She stated there are 13 homes in the neighborhood and they don't want more commercial.

Tiffany Sciarrino, 6597 Byham Rd., Rockledge, stated she has lived there since 1998, directly behind the subject property, and the owner is using the area behind her fence as storage; she's had to remove items herself because they had been there for more than five years. She said she doesn't want more traffic in the neighborhood, nor more eyesores against her fence.

Jeffrey Ball noted Mr. Wojahn was on the mailing list to receive a courtesy notice.

Bruce Moia stated the current request before the board for Items G.6. and G.7. only abuts Mr. Wojahn. [Mr. Moia distributed an aerial map to the board and to staff. The aerial map can be found in files 23SS00004, 23Z00034, 23SS00017, & 23Z00057, located in the Planning and Development Department] He said the Future Land Use is commercial, and the fact that it is residential was not part of the plan; the plan was to make the area commercial; it is completely surrounded by CC. It is a nice residential area, but he doesn't see how his client is encroaching on that because there is no reason for his client's traffic to go that way. He said it is a compatible request.

Mr. Minneboo stated it's difficult to say what the site plan will be in the future, but this is an opportunity to clean up the neighborhood.

Mr. Moia stated the owner of Cirrus Properties owns all of the properties except one to the west, which Mr. Herndon owns and is the next two items on the agenda. He said the plan is to expand and build a warehouse where most of the work can be done inside, which would protect the neighborhood even more because there would be more buildings that will allow work to be done indoors.

Ron Bartcher stated a flooring business sounds like a BU-1 use, and asked why the request is for BU-2. Mr. Moia replied there is a need for warehousing on the property. Mr. Bartcher asked if that means there will be outdoor storage. Mr. Moia replied there might be some, but it wouldn't be the primary use. Mr. Bartcher asked if there will be truck traffic in and out of the property. Mr. Moia replied he doesn't know if that will increase, but there will be a better traffic plan. He said currently, the right-of-way for 2<sup>nd</sup> Street was abandoned, so there is no right-of-way that goes to Gannett Plaza Ave. He added, the plan is to have some BU-2 uses, but for the most part it will be a continuance of what is already there. Mr. Bartcher asked if 2<sup>nd</sup> Street has been abandoned. Mr. Moia replied only a portion of 2<sup>nd</sup> Street has been abandoned, and the plan would be to go to the Board and get it all abandoned to make one big property.

Robert Sullivan asked if Mr. Moia's client would be willing to enter into a BDP (Binding Development Plan) that would be compatible to the neighbors who are opposed. Mr. Moia replied yes, they could eliminate some of the BU-2 uses that may be incompatible.



Mr. Sullivan asked if Mr. Moia would consider tabling the request until he can get a BDP that the neighbors would agree to. Mr. Moia replied no, they filed this application last year. He said he can draft a BDP to take to the Board of County Commissioners, but he didn't hear anything specific enough to put in a BDP.

Ben Glover stated the property is 100% surrounded by commercial, and he doesn't know how it could be limited.

Mr. Sullivan stated it is currently adjacent to residential. Mr. Glover replied yes, but they are 13 houses surrounded by acres of commercial land, and unfortunately, the neighborhood is continuing to get smaller and become more commercial.

Motion by Robert Sullivan to table the request to allow the applicant time to meet with the neighbors and draft a binding development plan that would be agreeable to everyone involved.

Mr. Moia stated he would like to finish the public hearing portion and allow Mr. Herndon to speak before a vote is taken.

Donald Herndon, 4291 Careywood Dr., Melbourne, stated he purchased the property on U.S. 1 in 2001 and worked with the County to build the commercial building for a flooring business. As houses became available around the property he purchased four of them. He said the only property that is adjacent to the subject property is Mr. Wojahn's property, and he is on the southwest side. He stated he has never stored anything behind Ms. Sciarrino's property, as it is a right-of-way. He said Mr. Wojahn had people staying with him who had several boats stored, and Code Enforcement came out and made him remove them. He stated deliveries currently come in through Gannett Plaza Avenue, as it is the designated loading area. On the south side of Byham is a dirt road that will not fit a truck, and there is no reason for anyone to access the property from the rear. He said customers come in through Aspinwall. He stated the only neighbor who would be affected is Mr. Wojahn and they will build some kind of division to protect him.

Mark Wadsworth stated there will be requirements during site planning that will protect the residential neighborhood.

Mr. Herndon stated when he first started making the plans, he had to provide a turnaround for the trucks, and himself and Mr. Wojahn got together to abandon the right-of-way in order to make a turnaround, and they each obtained 25 feet of right-of-way.

Mr. Minneboo asked the hours of operation. Mr. Herndon replied the store hours are 9:00 a.m. to 5:00 p.m., Monday through Friday; 10:00 a.m. to 3:00 p.m. on Saturday; and closed on Sunday.

Mr. Hopengarten asked if Mr. Herndon is selling the property. Mr. Herndon replied he has sold the property along U.S. 1 and two of the houses to Darren Hearn, who is a very successful businessman who has beautiful properties in the center of the State, and he knows he has to be part of the community to get along.

Mr. Hopengarten asked if the buyer is going to operate a flooring business. Mr. Herndon replied yes, he is operating now; the business was sold to him last year. Mr. Hopengarten asked if there will be any fabrication on the property. Mr. Herndon replied no, everything is manufactured elsewhere, purchased by distribution, sold to retail customers, and installed. He noted the installers have their trucks parked in the pack.

Robert Brothers stated based on the photo, it looks like there is a hard time with deliveries and having places to park trucks, but it looks like Mr. Herndon is trying to mitigate that and create a place that is easier to conduct business from.

Mr. Herndon stated 3<sup>rd</sup> Street is an unmaintained right-of-way owned by the County. Mr. Hearn's wants to make it easier for small trucks to get in and out, but the semi's that come in do so through Gannett Plaza Avenue.

Mr. Brothers stated Mr. Herndon owns the houses he is trying to rezone, and he can do whatever he wants with them. He said he's been on the West Melbourne Planning & Zoning Board for about 8 years, and he sees a lot of people who come in that want something, but they don't know what they want or what they are going to get, and it's hard to tell them that what is proposed is better than what they want. He said Mr. Herndon can do what he wants with his land, just as the neighbors can do what they want with their land. He stated the applicants are professionals who are trying to improve the area by expanding the existing flooring business.

Mr. Sullivan asked if Mr. Herndon would agree to a BDP that would limit the transportation, the turnaround, and other elements to the satisfaction of the neighbors who want to maintain the Neighborhood Commercial. Mr. Herndon replied the new owner is working on that with Mr. Moia, but he doesn't know what kind of building he can put on the property, and that's the problem.

Mr. Hopengarten stated on the Future Land Use Map, the residents are surrounded by CC. When a developer buys more properties in the surrounding area they will be forced out, and that's a concern.

Mr. Moia stated the land use has never been residential, and the reason for the BU-2 zoning is to give his client the ability to have wholesale and storage rooms, which are not allowed in BU-1.

Mr. Bartcher asked why Item G.8. on the agenda is for BU-1. Mr. Moia replied it is because the person who owns the flooring store has no interest in buying that property, so Mr. Herndon would like to rezone to BU-1 for commercial, but it wouldn't be as heavy as the uses along U.S. 1.

Mr. Bartcher stated he feels sorry for the residents because they are in a transitional area surrounded by commercial property that has commercial land use.

Mr. Glover stated the board has to ask if it is compatible, and if looking at the Future Land Use Map, it is compatible; it's almost as if the neighborhood isn't compatible with the area.

Mr. Minneboo stated of all the commercial that the site could be, having a 9:00 a.m. to 5:00 p.m. business that is closed on Sundays is lesser than other evils.

Mr. Sullivan asked if 1988 is when the Future Land Use was put in place on the property. Mr. Ball replied yes. Mr. Sullivan stated that wasn't arbitrary, that was the future land use for a 20-year plan, and now it is 40 years later, and single-family homes are prime real estate, and asked if a land use change could bring it back to residential. Mr. Ball explained a single-family residence is allowed in the Neighborhood Commercial land use, and the board needs to determine if the land use change is consistent and compatible.

Mr. Moia stated in order to build a single-family home on any of those lots that are vacant, a property owner would have to come to the board for a rezoning because the current zoning is incompatible with the sizes of the property.

Mr. Ball stated there are other remedies they could apply for, such as an administrative approval for a nonconforming lot of record; however, the most appropriate way to remedy a nonconformity is to rezone the property.

Ben Glover stated he sympathizes with the residents, but the use is there and it's hard to say no.

Motion by Ben Glover, seconded by Debbie Thomas, to approve a Small Scale Comprehensive Plan Amendment (23S.06), to change the Future Land Use designation from NC and CC, to all CC. The motion passed 7:1, with Robert Sullivan voting nay.

Motion by Ben Glover, seconded by Debbie Thomas, to recommend approval of the change of zoning classification from GU and BU-1 to BU-2. The motion passed 7:1, with Robert Sullivan voting nay.



**Commissioner Rob Feltner, District 4**

2725 Judge Fran Jamieson Way  
Suite: C-214  
Viera, FL 32940  
Phone: (321) 633-2044  
[D4.Commissioner@Brevardfl.gov](mailto:D4.Commissioner@Brevardfl.gov)

July 26, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Disclosure – 23SS00004; 23Z00034: Tax Accounts: 2602468; 2602464; 2602466; 2602467  
23SS00017; 23Z00057: Tax Account: 2616074

Concerning **23SS00004, 23Z00034, 23SS00017, 23Z00057** on the August 3, 2023, Brevard County Zoning meeting agenda; on July 26, 2023, Commissioner Feltner met with Ms. Wendy Dimond in the District 4 Commission Office. The meeting lasted approximately twenty-five minutes. Ms. Dimond expressed her concerns of increased noise, the removal of mature oak trees, negative impact on the existing wildlife, increased traffic and the owner not disclosing what the actual plans are for the properties. Ms. Dimond also feels this project will impact her property value negatively. Commissioner Feltner listened to Ms. Dimond's concerns as well as disclosed to her that he had driven through the area to look at the properties.

Thank you.

Rob Feltner  
Brevard County Commissioner  
District 4



**Commissioner Rob Feltner, District 4**

2725 Judge Fran Jamieson Way  
Suite: C-214  
Viera, FL 32940  
Phone: (321) 633-2044  
[D4.Commissioner@Brevardfl.gov](mailto:D4.Commissioner@Brevardfl.gov)

August 2, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Disclosure – 23SS00004; 23Z00034: Tax Accounts: 2602468; 2602464; 2602466; 2602467  
23SS00017; 23Z00057: Tax Account: 2616074

Concerning **23SS00004, 23Z00034, 23SS00017, 23Z00057** on the August 3, 2023, Brevard County Zoning meeting agenda; on August 2, 2023, Commissioner Feltner met with Mr. Richard Munson in the District 4 Commission Office. The meeting lasted approximately thirty minutes. Discussion entailed the project and the concerns of the surrounding neighbors. Commissioner Feltner also disclosed that he had driven through the area to look at the properties.

Thank you.

Rob Feltner  
Brevard County Commissioner  
District 4



**Commissioner Rob Feltner, District 4**

2725 Judge Fran Jamieson Way  
Suite: C-214  
Viera, FL 32940  
Phone: (321) 633-2044  
[D4.Commissioner@Brevardfl.gov](mailto:D4.Commissioner@Brevardfl.gov)

August 2, 2023

To: Jennifer Jones  
From: Rob Feltner, Brevard County Commissioner, District 4  
Re: Disclosure – 23SS00004; 23Z00034: Tax Accounts: 2602468; 2602464; 2602466; 2602467  
23SS00017; 23Z00057: Tax Account: 2616074

Concerning **23SS00004, 23Z00034, 23SS00017, 23Z00057** on the August 3, 2023, Brevard County Zoning meeting agenda; on July 28, 2023, Commissioner Feltner met with Mr. Bruce Moia and Mr. Don Herndon in the District 4 Commission Office. The meeting lasted approximately twenty minutes. Discussion entailed the project and the concerns of the surrounding neighbors. Commissioner Feltner also disclosed that he had driven through the area to look at the properties.

Thank you.

Rob Feltner  
Brevard County Commissioner  
District 4