



**Planning & Development Department**  
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**BOARD OF COUNTY COMMISSIONERS**

TO: Planning & Zoning Board Members  
FROM: Cindy Fox, Planning & Zoning Manager  
SUBJ: Planning and Zoning Staff Comments  
January 5, 2015  
DATE: November 19, 2014

The following comments are compiled by the Planning and Zoning staff and are reflections of a combination of technical reviews. These are presented to the Planning and Zoning Board and the Board of County Commissioners as a collection of known facts surrounding each proposal and their relationship to the policies of the Comprehensive Plan. It is hoped that these known facts and policy statements will assist each member in their individual decision-making efforts as additional information is received through the public hearing process. The material contained in these comments will be provided to the Commissioners in staff briefings. Any matter discussed in staff briefings not contained in this review will be disclosed at the Board of County Commissioners meeting.

**STAFF COMMENTS PREPARED BY:**

Planning & Zoning Office  
NATURAL RESOURCES MANAGEMENT DEPARTMENT

**Legend of Terms:**

FLU Map - Future Land Use Map of Comprehensive Plan  
FLUE - Future Land Use Element

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

Upon Board request, members of the Brevard County planning and 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 appeals, vested rights or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;
  - 2. actual development over the immediately preceding three years; and
  - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

**CONDITIONAL USE PERMITS (CUPs)**

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

- (b) *Approval procedure.* An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use...

...In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odor, glare and noise, particulates, smoke, fumes and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) *General standards of review.*

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.
  - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by section 62-2271.
  - d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
  - e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
  - f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

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

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

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

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

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

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

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

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

#### DEFINITIONS OF CONCURRENCY TERMS

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

**Current Volume:** Building permit related trips added to the latest MPO traffic counts.

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

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

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

**Acceptable Level of Service (ALOS):** Acceptable Level of Service currently adopted by the County.

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

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

**III.B.1.**

**Commission District # 1 (14PZ-00111)**  
**Initial Hearing Dates: P&Z 01/05/15 BCC 02/05/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: DEE SMITH**

**Request: AU to RU-2-4**

**Subject Property:**

**Parcel ID#: 21-35-28-00-534**  
**Tax Acct#: 2105417**  
**Location: South side of LaGrange Rd., approx. 260 ft. west of U.S. 1.**  
**Address: 2425 LaGrange Rd., Titusville**  
**Acreage: 1.73 acres +/-**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU	RU-2-4
<b>Potential*</b>	1 SFR d.u.	3 SFR d.u.
<b>Can be Considered under FLU MAP</b>	YES NEIGHBORHOOD COMMERCIAL	YES**

\*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.  
 \*\*Classification may be considered, if permitted by Policy 2.13 of the Future Land Use Element.

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	9.57	1.01	Segment Number	None Assigned
Trips from Proposed Zoning	28.71	3.03	Segment Name	N/A
Maximum Acceptable Volume (MAV)	None Assigned	None Assigned	Acceptable LOS	None assigned
Current Volume	Unknown	Unknown	Directional Split	
Volume With Proposed Development	9.57	1.01	ITE CODE 210 Increase from 1 SFR dwelling unit to 3 dwelling units	
Current Volume / MAV	Unknown	Unknown		
Volume / MAV with Proposal	Unknown	Unknown		
Current LOS	N/A	N/A		
LOS With Proposal	N/A	N/A		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

This request is for the RU-2-4 zoning classification. The RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots. The surrounding properties are zoned AU and RU-2-4 to the north across La Grange Road and AU to the west. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. The abutting properties to the east and south are within the City of Titusville and are zoned GU, General Use, similar to the County's GU zoning classification. The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. This area of Titusville is characterized by a mixture of vacant agricultural and property zoned for multi-family and single-family use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

\* Does the project appear to meet county use or density restrictions based upon:  
 \* Refer to NRM's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Not Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	NA
Floodplains	Not Mapped	Habitat for Protected Species	Potential

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Department (NRMD) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRM's comments follow these staff comments.

**Other Considerations:** The applicant seeks to legitimize the existing single-family home and duplex on the property. The existing structures were constructed in 1971, The subject property is a non-conforming lot of record pursuant to section 62-1188 and was established prior to March 6, 1975 when the AU zoning classification was amended and increased to a minimum lot size of 2.5 acres. Therefore the subject property, in its original configuration, is a non-conforming lot of record.

This request should be evaluated in the context of **Policy 2.13** of the Future Land Use Element, which encourages residential development in areas designated Neighborhood Commercial and Community commercial.

"Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street (Residential 4). Increases in density beyond this allowance may be considered through a public hearing...."

This area of Titusville is characterized by single-family home development with a minimum land holdings of one acre or more in the area. The next closest multi-family zoning classification is to the north across LaGrange Road and contains two single-family dwellings.

**Summary:** This request represents the applicant's desire to legitimize the existing structures on the property. The existing duplex and single-family home are non-conforming uses and the lot is a nonconforming lot of record established in 1971. Rezoning to RU-2-4 would allow the applicant to keep the existing structures and make both the lot and the structures conforming to the zoning classification, however the structures in their present location, may still be non-conforming to the setbacks.

This area of Titusville is characterized by single-family home development with a minimum land holdings of one acre or more in the area. The next closest multi-family zoning classification is to the north across LaGrange Road and contains two single-family dwellings.

Once the property is rezoned to RU-2-4 and multi-family zoning is established, the property if redeveloped could yield up to 6 units. The Board may wish to limit the property to its existing structures and to no more than 3 units maximum on the subject property.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00111</b>	<b>Owner: Dee Smith</b>
<b>Zoning Request: AU to RU-2-4</b>	
<b>P &amp; Z Hearing Date: 01/05/15</b>	<b>BCC Hearing Date: 02/05/15</b>

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

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

**Comments:**

**This review relates to a portion of the following property: Twp. 21, Rng. 35, Sec. 28; Tax ID No. 2105417**

The subject parcel contains mapped aquifer recharge soils (Candler-Urbanland complex). The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Information available to NRM indicates that gopher tortoises may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission.

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

**III.B.2.**

**Commission District # 1 (14PZ-00112)**  
**Initial Hearing Dates: P&Z 01/05/15 BCC 02/05/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: SHANTI GOTAMI AND XEM THI NGUYEN**

**Request: GU to IN(L)**

**Subject Property:**

**Parcel ID#: 24-35-23-00-511**  
**Tax Acct#: 2407129**  
**Location: North side of S.R. 524, approx. 390 ft. northeast of Friday Rd.**  
**Address: 4840 S.R. 524, Cocoa**  
**Acreage: 3.48 acres**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU	IN(L)
<b>Potential*</b>	1 Existing SFR Substandard Lot	Monastery & Place of Worship 2,124 sq. ft
<b>Can be Considered under FLU MAP</b>	YES NEIGHBORHOOD COMMERCIAL	YES**

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

\*\*Classification may be considered, if permitted by Policy 2.17 of the Future Land Use Element.

Trips from Existing Zoning	9.57	1.01	Segment Number	76
Trips from Proposed Zoning	19	1	Segment Name	I95 to Cox Rd.
Maximum Acceptable Volume (MAV)	16,900	1,537.9	Acceptable LOS	E
Current Volume	9,780	889.9	Directional Split	
Volume With Proposed Development	9,789.43	890.83	ITE CODE 210 (Existing) 560 (Proposed) 2,124 sq. ft. SFR converted to Place of Worship	
Current Volume / MAV	57.86%	57.8%		
Volume / MAV with Proposal	57.92%	57.9%		
Current LOS	D	D		
LOS With Proposal	D	D		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

This request is for the IN(L) zoning classification. IN(L) is an institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. The minimum lot size shall be at least 7,500 square feet, with a minimum width and depth of at least 75 feet. The surrounding properties are zoned RR-1 to the north, GU to the east, to the west the property abuts the City of Cocoa which is zoned URB a mixed use zoning classification and to the south the property abuts SR 524. This area of west Cocoa is characterized by SR 524, an arterial highway, with a mixture of single-family, agricultural, institutional and commercial uses. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

\_\_\_\_\_ \* Does the project appear to meet county use or density restrictions based upon:

\* Refer to NRM's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Not Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Not Mapped	Surface Water Protection	NA
Floodplains	Mapped	Habitat for Protected Species	Not Mapped

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Office (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRM's comments follow these staff comments.

**Other Considerations:** The applicants are requesting rezoning to IN(L), an institutional zoning classification, for the purposes of developing the property as a monastery and place of worship. The property is developed with a 2,124 s.f. single-family residence constructed in 1965.

A place of worship as defined by the zoning regulations, is "a building that by design and construction is primarily intended for conducting organized religious services, including associated accessory uses, such as schools, day care facilities, recreational facilities, meeting halls and counseling."

A monastery is a permitted use in the IN(L) zoning classification. Section 62-1573 which governs the institutional zoning classification lists a place of worship as a permitted use with conditions. Pursuant to section 62-1831.5, a day care center is an accessory use to a place of worship and the setbacks for places of worship have to meet the requirements of section 62-2121(d) pertaining to buildings of public assemblage. Each building that is defined as a "building for public assemblage" which provides for 25 or more persons located in the IN(L), must be setback 50 feet from "any property line abutting a lot under different ownership than that on which the structure is to be placed". It appears that both the existing structure and the proposed structures shown on the exhibits provided by the applicant will meet the 50 foot setback. Additionally, any use that is permitted with condition in the low intensity designation must be at least one acre in size. The subject property is approximately 3.48 acres.

Both monasteries and places of worship are permitted or permitted with conditions and fall in the "low intensity" institutional classification. These uses are regulated by using expected traffic generation as a proxy for intensity. Traffic generation is limited to that which would otherwise be expected by a representative use permitted at the density or intensity available in the neighborhood commercial land use designation in which the parcel is located.

The project size will be limited at the site plan or building permit stage of development based upon projected traffic generation. Projected traffic generation will be calculated so that it is not projected to exceed the amount that would otherwise be generated by representative uses on the same lots or parcels if they were to be developed according to the neighborhood commercial Future Land Use Designation. Under the neighborhood commercial Future Land Use Designation, the projected trip generation will not be permitted to exceed 482.6 trips per acre.

The subject property with the existing GU zoning is substandard in size, currently the GU zoning classification requires five acres. The request for IN(L) would make the size of the property conforming with the zoning classification.

Location standards for low intensity uses are established pursuant to **Policy 2.17** of the Future Land Use Element of the Comprehensive Plan and regulated by the Zoning code pursuant to Section **62-1573(8)(a)** which provides the following standards:

*Location standards.* The location of low intensity (IN(L)) institutional zoning classifications shall be subject to the following standards.

- a. *Low intensity.* Where the proposed use requires a low intensity institutional designation, the parcel shall be subject to the following location standards.
  1. Permitted in all residential land use designations and in the neighborhood commercial land use designation.  
*The subject property is located in the neighborhood commercial land use designation.*
  2. Access to a roadway classified as a local street or higher.  
*The subject property has approximately 244 feet of frontage on SR 524.*
  3. Pedestrian access required.  
*This will be reviewed during the site plan stage.*
  4. Building scale and design compatible with the surrounding neighborhood.  
*The applicants have submitted a plan that depicts the existing single-family residence will remain. A 2,555 s.f. meditation hall overlooking a new pond area and two gazebos with parking are proposed. Each building that is defined as a "building for public assemblage" which provides for 25 or more persons located in the IN(L), must be setback 50 feet from "any property line abutting a lot under different ownership than that on which the structure is to be placed". It appears that both the existing structure and the proposed structures shown on the exhibits provided by the applicant will meet the 50 foot setback.*

Intrusion into residential areas shall be limited. High intensity institutional uses shall be located in areas where commercial development is planned or established.

*The request is not for a high intensity institutional use.*

**Summary:** This request represents the applicants' desire to establish the property as a monastery and place of worship. Both monasteries and places of worship are permitted or permitted with conditions and fall in the "low intensity" institutional classification. The project size will be limited at the site plan or building permit stage of development based upon projected traffic generation. Projected traffic generation will be calculated so that it is not projected to exceed the amount that would otherwise be generated by representative uses on the same lots or parcels if they were to be developed according to the neighborhood commercial Future Land Use Designation. Under the neighborhood commercial Future Land Use Designation, the projected trip generation will not be permitted to exceed 482.6 trips per acre.

P&Z Staff Comments  
January 5, 2015  
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The property is undersized for the minimum five acre lot size requirement for the GU zoning classification. Rezoning the property to IN(L) would make the zoning consistent with the proposed use and the minimum lot size required.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00112</b>	<b>Owner: Shanti Gotami &amp; Xem Thi Nguyen</b>
<b>Zoning Request: GU to IN(L)</b>	
<b>P &amp; Z Hearing Date: 01/05/15</b>	<b>BCC Hearing Date: 02/05/15</b>

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

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

**Comments:**

**This review relates to a portion of the following property: Twp. 24, Rng. 35, Sec. 23; Tax ID No. 2407129**

A portion of the property is mapped as being within floodplain as identified by the Federal Emergency Management Agency; and is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain Ordinance.

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

**III.B.4.**

**Commission District # 4 (14PZ-00106)**  
**Initial Hearing Dates: P&Z 01/05/15 BCC 02/05/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: JOHN D. HALEY**

**Request: RU-1-9 to RU-1-7 with a BDP limited to three (3) lots**

**Subject Property:**

**Parcel ID#: 26-37-32-52-00-30**  
**Tax Acct#: 2611674**  
**Location: East side of U.S. Hwy 1, approx. 700 ft. north of Post Rd.**  
**Address: 4131 N. Hwy 1, Melbourne**  
**Acreage: 1.45 acres.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-9	RU-1-7
<b>Potential*</b>	6 SFR Dwelling Units	3 SFR Dwelling Units per BDP
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 6	YES

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

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	57.42	6.06	Segment Number	415
Trips from Proposed Zoning	28.71	3.03	Segment Name	Post to Pineda
Maximum Acceptable Volume (MAV)	53,500	4,868.5	Acceptable LOS	E
Current Volume	36,145	3,289.1	Directional Split	
Volume With Proposed Development	36,117	3,286.07	ITE CODE 210 Reduction from 6 SFR dwelling units to 3 SFR dwelling units	
Current Volume / MAV	67.56%	67.55%		
Volume / MAV with Proposal	67.50%	67.49%		
Current LOS	D	D		
LOS With Proposal	D	D		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for the RU-1-7 zoning classification. The RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet. The surrounding property is zoned RU-1-9 with RU-1-7 to the west across Highway US 1. The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. This area of Melbourne is developed with single-family homes and some commercial uses along the Highway US 1 frontage. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

\_\_\_\_\_ \* Does the project appear to meet county use or density restrictions based upon:

\* Refer to NRM's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Not Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	Class III
Floodplains	Mapped	Habitat for Protected Species	Potential

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRM's comments follow these staff comments.

**Other Considerations:** The applicant is requesting the RU-1-7, a single-family zoning classification, for the purposes of subdividing the subject property into three lots and constructing one single family residence on each lot. Currently there are four existing single-family structures on one lot which is a violation of the existing single-family RU-1-9 zoning classification. Three were constructed in 1965 and one was constructed in 1982.

The applicant wishes to redevelop the property and is requesting the RU-1-7 zoning classification which permits a minimum lot frontage of 50 feet. The existing RU-1-9 zoning classification requires 66 feet of lot frontage. The subject property has approximately 150 feet of road frontage which under the RU-1-7 zoning classification would yield three lots with a minimum of 50 feet of road frontage each. A Binding Development Plan has been offered voluntarily by the applicant to limit the subject property to three lots/residences since the RU-1-7 zoning classification and Residential 6 Future Land Use Designation could yield as many as six units.

As part of this request, a School Facility Planning & Concurrency Application for the subject property has been made to the Brevard County School Board, however the School Board's Public School Facility Planning School concurrency interlocal agreement (ILA) states that is exempt from the School Concurrency process. Correspondence with the School Board's Facilities Planner is part of this application.

A request to rezone the property from residential to BU-1, a general retail commercial zoning classification was denied in 1964 (DNZ-1597). This area of Melbourne is developed by a mixture of single-family and commercial along the Highway US 1 corridor.

**Summary:** This request for rezoning is for the purposes of subdividing the subject property into three lots. The existing structures will be removed and the property will be redeveloped with a single-family home on each

newly created lot. Currently the existing development, with four single-family homes is nonconforming and is not consistent with RU-1-9 zoning classification. The request for RU-1-7 will allow the newly created lots to be a minimum of 50 feet wide with a 100 foot depth and a minimum are of 5,000 square feet.

The applicant has voluntarily agreed to execute a Binding Development Plan on the subject property limiting the overall development to three single-family lots. This area of Melbourne is developed with single-family homes and some commercial uses along the Highway US 1 frontage. The surrounding property is zoned RU-1-9 with RU-1-7 to the west across Highway US 1.



**III.B.5.**

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**FINDINGS OF FACT (EXHIBIT B)**  
*Small Scale Plan Amendment 14S.08*  
**Township 28, Range 36, Section 01**

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**Property Information**

Owner / Applicant: **Charles F. Possess**

Adopted Future Land Use Map Designation: CC, NC & Residential 4

Requested Future Land Use Map Designation: CC

Acreage: 3.01 +/- acres Tax Account #: 2800467

Site Location: South side of New Haven Avenue, approximately 315 east of Commodore St.

Current Zoning: RU 1-7

Requested Zoning: BU-1

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**Surrounding Land Use Analysis**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Nursery w/Residence (across W. New Haven)	AU	NC
<b>South</b>	Vacant Property (owned by applicant)	RU 1-7	RES-4
<b>East</b>	Retail Stores	BU-1	CC
<b>West</b>	Retail Store	BU-1 & RU 1-7	CC & RES 4

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**General Analysis**

The subject property is vacant with a Neighborhood Commercial (NC) Future Land Use designation on 1.74 acres and a Residential 4 (RES-4) Future Land Use designation on 1.27 acres. The northeast corner of the property is already designated CC. The proposed amendment will amend both the NC and RES-4 Future Land Use designations and provide for a Community Commercial (CC) designation. The proposed CC Future Land Use along with a companion rezoning request to BU-1 will increase the range of permitted uses and intensity of commercial development. The subject property is located on the south side of W. New Haven Avenue (US 192), east of Wickham Road.

The subject property has commercial property on each side along W. New Haven, both having CC future land use designations to the east and west. The CC designation to the west, however, only extends to a depth of 260'. The remaining 200' is designated Residential 4.

### Environmental Resources

*Note: The Natural Resources Management Office will provide a detailed analysis at the time of a the future request for rezoning for of the following environmental factors: Wetlands, Floodplains, Aquifer Recharge, and Endangered or Threatened Species. Applicants are encouraged to contact the Brevard County Natural Resources Management Office concerning environmental considerations prior to planning and development. Any future development will be subject to Brevard County's land development regulations.*

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### Historic Resources

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

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### Comprehensive Plan Policies/Comprehensive Plan Analysis

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

**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.

## **Role of the Comprehensive Plan in the Designation of Commercial Lands**

### **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 parcel has direct access to W. New Haven Avenue (US 192), an urban major arterial roadway.*

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

*The subject parcel is adjacent to other Community Commercial land uses. The development of the subject parcel will increase the intensity of development from CC, NC, and Residential 4 to CC for a vacant commercial lot.*

C. Existing commercial development trend in the area;

*W. New Haven Avenue is an established commercial corridor east of I-95. The remaining single family residential dwellings and vacant parcels are being converted or developed for commercial uses.*

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

*There are no fundamental changes in the character of the area as a result of infrastructure improvements.*

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

*W. New Haven Avenue in this segment has been assigned a level of service of E. The roadway is currently operating at 72.26% capacity for a LOS of E. The proposed amendment will maintain the E LOS with an estimated 76.7% of the roadway capacity utilized. Any future site development will require an application for a certificate of concurrency.*

F. Spacing from other commercial activities;

*The subject parcel is adjacent to other developed commercial lands.*

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

*The subject parcel has a designation of Community Commercial, Neighborhood Commercial, and Residential 4. The requested change in land use would increase the FAR from 0.75 to 1.00.*

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

*An environmental analysis will be required by NRMD at the time of a request for rezoning.*

I. Integration of open space; and

*Open space requirements are addressed during the site plan review stage.*

J. Impacts upon strip commercial development.

*The subject parcel currently has Community Commercial, Neighborhood Commercial, and Residential 4 Future Land Uses assigned. Community Commercial would also allow infill development on a roadway with a majority of Community Commercial road frontage.*

### **Strip Commercial Development Policy 2.15**

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area.

*Of this 931' long block face, it is all currently designated for Community Commercial Future Land Use except the 216' of this request. The request, which would intensify types of commercial uses, would constitute infill, not extension of strip development.*

### **Activities Permitted in Community Commercial (CC) Future Land Use Designations 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 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

*The applicant has not stated a proposed use for the subject property. Therefore, the retail sales land use was utilized for traffic generation which would be typical of the land uses along W. New Haven Avenue under the Community Commercial FLU designation. There is an associated application for rezoning from RU 1-7 to BU-1.*

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

### **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 parcel has an existing Community Commercial, Neighborhood Commercial, and Residential 4 Future Land Use and is requesting an increase in intensity to Community Commercial. The subject parcel is 3.44 acres in total and is located on an urban major arterial roadway.*

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

*The Future Land Use amendment request is 3.01 acres of the total 3.44 acres of the subject parcel.*

- 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.

*The subject parcel is 3.41 acres with an existing CC, NC, and RES-4 Future Land Use designations.*

- 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.

*The gross floor area is regulated through the land development regulations at the time of site plan review.*

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

*The FAR is regulated through the land development regulations at the time of site plan review.*

### **Summary**

The proposed change in Future Land Use on 3.01 acres of the subject parcel of 3.41 acres from NC (1.74 acres) and RES-4 (1.27 acres) to CC. The subject parcel is a vacant commercial parcel and abuts other developed CC parcels. The area to the south not abutting W. New Haven Avenue is designated Residential 4 and is zoned for single family residential use.

**III.B.5.**

**Commission District # 5 (14PZ-00107)**  
**Initial Hearing Dates: P&Z 01/05/15 BCC 02/05/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: CHARLES F. POSESS**

**Request: Small Scale Plan Amendment (14S.08) from CC, NC & Residential 4 to CC, and RU-1-7 & BU-1 to all BU-1.**

**Subject Property:**

**Parcel ID#: 28-36-01-51-00-241 (north 455 ft.)**  
**Tax Acct#: 2800467**  
**Location: South side of New Haven Ave., approx. 315 ft. east of Commodore St.**  
**Address: 3535 W. New Haven Ave., Melbourne**  
**Acreage: 3.44 acres.**

**Consistency with Land Use Regulations**

YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255  
NO\*\* Proposal can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-7 BU-1	BU-1
<b>Potential*</b>	12 SFR dwelling units	30,000 sq. ft. Retail Sales
<b>Can be Considered under FLU MAP</b>	COMMUNITY COMMERCIAL, NEIGHBORHOOD COMMERCIAL & RESIDENTIAL 4	NO**

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

\*\* Requires a Small Scale Comprehensive Plan Amendment from Neighborhood Commercial and Residential 4 to Community Commercial.

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	114.84	12.12	Segment Number	422
Trips from Proposed Zoning	1,717	149	Segment Name	John Rodes to Wickham
Maximum Acceptable Volume (MAV)	36,000	3,276	Acceptable LOS	E
Current Volume	26,015	2,367.3	Directional Split	
Volume With Proposed Development	27,617.16	2,504.18	ITE CODE 210 (Existing) 815 (Proposed) 30,000 sq. ft. discount retail	
Current Volume / MAV	72.26%	72.26%		
Volume / MAV with Proposal	76.7%	76.44%		
Current LOS	E	E		
LOS With Proposal	E	E		

**Land Use Compatibility**

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for the BU-1 zoning classification. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. The surrounding properties are zoned BU-2 to the north across US 192, RU-1-7 to the south, BU-1 to the east and BU-1 and RU-1-7 to the west. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. The RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet. This area of Melbourne is characterized by commercial development along the US highway 192 corridor and surrounding residential uses. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

**Environmental Constraints**

\* Does the project appear to meet county use or density restrictions based upon:  
 \* Refer to NRMO's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Hydric Soils Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Not Mapped	Surface Water Protection	NA
Floodplains	Not Mapped	Habitat for Protected Species	Potential

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Office (NRMO) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRMO's comments follow these staff comments.

**Other Considerations:** This request represents the applicant's desire to rezone the entire subject property to BU-1, a general retail zoning classification, for unspecified commercial uses. The subject property is a 3.4 acres and is undeveloped. The property has approximately 330 feet of road frontage on W. New Haven Avenue (Highway US 192). Approximately .23 acres of the subject property was rezoned from RU-1-7 to BU-1 for a billboard in 1996 (Z-9788). The remaining portion of the subject property is zoned RU-1-7. A Small Scale Comprehensive Plan Amendment from Neighborhood Commercial (NC) and Residential 4 (Res 4) to Community Commercial (CC) accompanies this rezoning request to BU-1.

In 2000 the abutting property to the west was approved for BU-1 zoning on the north 330 feet with a Binding Development Plan (BDP) that prohibited an adult entertainment use and provided for other restrictions such as a buffer zone, and a 75 foot setback for the driveway on Commodore Boulevard (Z-10043). In 2006, the BDP was amended to add language to include that Commodore Boulevard be improved to County roadway standards to the southern limits of the driveway access to Commodore Boulevard and to install a waterline to the southern limits of the driveway access from Commodore Boulevard. The BDP amendment in 2006 also limited the uses to retail and professional uses with prohibition against adult entertainment establishments, billiard rooms, bowling alleys, day-care centers, muffler shops and gasoline sales (Z-11179).

The request for BU-1 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;  
Transient commercial uses;  
Tourist commercial uses;  
Professional offices;  
Personal service establishments;  
Retail establishments;  
Non-retail commercial uses;  
Residential uses;  
Institutional uses;  
Recreational uses;  
Public facilities;  
Transitional uses pursuant to Policy 2.17; and  
Planned Industrial Park development (as permitted by PIP zoning).

The request for BU-1 zoning should be evaluated within the context of **Policy 2.8** of the Future Land Use Element, which sets forth locational criteria for community commercial land use activities, as follows:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at 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 intersections.
- B. Community Commercial complexes should not exceed 40 acres at an intersection.
- 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.
- 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.
- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

*Floor Area Ratios are evaluated during site plan review.*

**Summary:** This request represents the applicant's desire to rezone the property to BU-1, a general retail commercial zoning classification to a depth of 330 feet, similar to the commercial properties on the east side of the subject property, south of Highway US 192.

A Small Scale Comprehensive Plan Amendment from Neighborhood Commercial (NC) and Residential 4 (Res 4) to Community Commercial (CC) accompanies this rezoning request to BU-1.

Given that the applicant has not specified the commercial uses of the property and the zoning history of the area, the Board may wish to prohibit the same uses as the Binding Development Plan approved for the property to the west. Those uses that were prohibited were adult entertainment establishments, billiard rooms, bowling alleys, day-care centers, muffler shops and gasoline sales. The Board should also evaluate the need for additional buffering between the BU-1 property and the single-family RU-1-7 zoned property to the south.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00107</b>	<b>Owner: Charles F. Posess</b>
<b>Zoning Request: CC, NC, &amp; Res-4 to CC and RU-1-7 &amp; BU-1 to BU-1 North 455'</b>	
<b>P &amp; Z Hearing Date: 01/05/15</b>	<b>BCC Hearing Date: 02/05/15</b>

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

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

**Comments:**

**This review relates to a portion of the following property: 'Twp. 28, Rng. 36, Sec. 01; Tax ID No. 2800467**

The southern portion of subject parcel contains mapped hydric soils (Malabar), an indicator that wetlands may be present on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). New Haven Avenue is an MQR. The applicant would be required to complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696.

Information available to NRM indicates that federally and/or state protected species may be present on the properties. The applicant should obtain any necessary permits from the U.S. Fish and Wildlife Service (904-232-2580) and the Florida Fish and Wildlife Conservation Commission (352-732-1225).

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

**III.B.6.**

**Commission District # 5 (14PZ-00108)**  
**Initial Hearing Dates: P&Z 01/05/15 BCC 02/05/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: MOHAMMAD H. MALIK**

**Request: CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant in a TU-2 zoning classification**

**Subject Property:**

**Parcel ID#: 28-36-02-00-551 (north 180 ft.)**  
**Tax Acct#: 2800731**  
**Location: South side of W. New Haven Ave., approx. .13 mile east of Coastal Ln.**  
**Address: 4455 W. New Haven Ave., Melbourne**  
**Acreage: 1.1 acres.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	TU-2	TU-2 with CUP for alcohol (beer and wine)
<b>Potential*</b>	Existing Restaurant 150 seats	Existing Restaurant 150 seats
<b>Can be Considered under FLU MAP</b>	YES COMMUNITY COMMERCIAL	YES

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

**ADT PM Peak**

Trips from Existing Zoning	725	62	Segment Number	421
Trips from Proposed Zoning	No change	No change	Segment Name	195 to John Rodes
Maximum Acceptable Volume (MAV)	36,000	3,276	Acceptable LOS	E
Current Volume	24,803	2,257	Directional Split	
Volume With Proposed Development	No Change	No Change	ITE CODE 932 High Turnover Restaurant No change in traffic generation due to requested action	
Current Volume / MAV	68.9%	68.9%		
Volume / MAV with Proposal	No Change	No Change		
Current LOS	E	E		
LOS With Proposal	E	E		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for a Conditional Use Permit for the on-premises consumption of alcohol in a TU-2 zoning classification. TU-2 is a transient tourist commercial classification, intended to accommodate tourist needs adjacent to interstate and expressway interchanges. The surrounding properties are zoned BU-2 and TU-2 to the north, across W. New Haven Avenue (Highway US 192). TU-2 to the south and TU-2 to the west. The City of West Melbourne abuts the subject property on the east side and is zoned for commercial uses. This area of West Melbourne is characterized by the Highway US 192 corridor with surrounding single-family uses. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

NA

**Other Considerations:** The request is for a Conditional Use Permit (CUP) for the on-premises consumption of alcohol (beer and wine) accessory to a restaurant with 150 seats. The existing restaurant is approximately 4,986 square feet and was constructed in 1971 (Tres Amigos). The subject property has approximately 300 feet of road frontage on W. New Haven Avenue (Highway US 192).

The applicant indicates that there are 150 seats inside the existing restaurant building. The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. Therefore, the existing restaurant square footage requires 50 parking spaces. Consistency with this requirement is attainable since the existing restaurant has 62 parking spaces. There are no churches or schools within 300 feet of the restaurant.

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6-9 of these comments. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

### Section 62-1901(c)(1)(a) Impact upon adjacent and nearby properties from the proposed use:

Number of persons using property;  
Noise, odor, particulates, smoke, fumes and other emissions; and  
Increase in traffic within the vicinity.

#### **Agreed**

*The applicant indicates that there are 150 seats inside the existing restaurant building. The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. Therefore, the existing restaurant square footage requires 50 parking spaces. Consistency with this requirement is attainable since the existing restaurant has 62 parking spaces.  
There are no churches or schools within 400 feet of the subject property.*

### Section 62-1901(c)(1)(b) Compatibility with the character of adjacent and nearby properties with regard to use:

Adjacent properties;  
Operating hours;  
Amount of traffic generated;

Building size and setbacks; and  
Parking availability.

**Agreed**

*The applicant indicates that the hours of operation for the existing restaurant are 11 a.m. to 10 p.m. The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. Therefore, the existing restaurant square footage requires 50 parking spaces. Consistency with this requirement is attainable since the existing restaurant has 62 parking spaces.*

Section 62-1901(c)(1)(c) Impact upon property values of abutting residential properties:

**Agreed**

*This area of West Melbourne is characterized by the Highway US 192 corridor with surrounding single-family uses.*

Section 62-1901(c)(2)(a) Adequacy of ingress and egress to serve the use without burdening adjacent and nearby uses:

**Agreed**

*The subject property has an existing driveway off of Highway US 192, with approximately 300 feet of road frontage.*

Section 62-1901(c)(2)(b) Noise, glare, odor, particulates, smoke, fumes, etc.:

**Agreed**

*The property is subject to the performance standards found in sections 62-2251 through 2271 of the Zoning regulations.*

Section 62-1901(c)(2)(c) Actual Noise Levels:

**We agree to all time periods.**

Section 62-1901(c)(2)(d) Impact upon solid waste disposal level of service:

**Agreed**

Section 62-1901(c)(2)(e) Impact upon potable water and waste water levels of service:

**Agreed**

Section 62-1901(c)(2)(f) Screening and buffering:

**Agreed**

Section 62-1901(c)(2)(g) Signage and glare from lighting:

**Agreed**

*The property is subject to the performance standards found in sections 62-2251 through 2271 of the Zoning regulations.*

Section 62-1901(c)(2)(h) Hours of operation:

**Agreed 11-10 p.m.**

Section 62-1901(c)(2)(i) Height of proposed use:

**Agreed**

*The existing building is one story.*

Section 62-1901(c)(2)(J) Impact of off-street parking and loading areas upon adjacent properties:

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for the on-premise consumption of alcohol which states in, specifically 62-1906 (3) and (5)

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or

church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

*A radius drawing prepared by a surveyor has been provided by the applicant and demonstrates there are no schools, churches or daycares within 400' of the establishment.*

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for on-premises consumption of alcoholic beverages. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

**Summary:** The request is for a Conditional Use Permit (CUP) for the on-premises consumption of alcohol (beer and wine) accessory to a restaurant with 150 seats. The existing restaurant was constructed in 1974 and consists of 4,986 square feet. The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. Therefore, the existing restaurant square footage requires 50 parking spaces. Consistency with this requirement is attainable since the existing restaurant has 62 parking spaces. There are no churches or schools within 300 feet of the restaurant.

THIS ITEM WAS TABLED FROM THE 11/10/2014 P&Z MEETING AND THE 12/4/2014 BCC MEETING

**III.B.7.**

Commission District # **3 (14PZ-00092)**  
 Initial Hearing Dates: **P&Z 1/5/15 BCC 2/5/15**

**REZONING REVIEW WORKSHEET  
 (REVISED 12/11/2014)**

**Applicant Name: JASON A. AND STACI S. WALDEN**

**Request: GU to AU**

**Subject Property:**

**Parcel ID#: 28-37-17-00-761**  
**Tax Acct#: 2828600**  
**Location: South side of Eber Blvd., approx. 0.23 mile west of Dairy Rd.**  
**Address: No assigned address. In the W. Melbourne area**  
**Acreage: 8.48 acres.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	GU	AU
<b>Potential*</b>	1 SFR Dwelling Unit  (Potential)	2 SFR Dwelling Units (2 lots created per applicant)
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 4	YES

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

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	9.57	1.02	Segment Number	485
Trips from Proposed Zoning	19.14	2.04	Segment Name	Hollywood to Dairy
Maximum Acceptable Volume (MAV)	16,000	1,456	Acceptable LOS	E
Current Volume	9,280	844.48	Directional Split	
Volume With Proposed Development	9,299.14	846.22	ITE CODE 210 Zoning action allows 1 SFR additional dwelling unit De Minimus Exempt	
Current Volume / MAV	58%	58%		
Volume / MAV with Proposal	58.11%	58.11%		
Current LOS	D	D		
LOS With Proposal	D	D		

**Land Use Compatibility**

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

This request is for the AU zoning classification. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. The surrounding properties are zoned RU-1-13 across Eber Road, RU-1-11 and AU to the east. The property abuts the City of West Melbourne on the west and the City of Melbourne to the south. This area of West Melbourne is characterized by single-family home development. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

**Environmental Constraints**

\* Does the project appear to meet county use or density restrictions based upon:  
 \* Refer to NRMO's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	NA
Floodplains	Not Mapped	Habitat for Protected Species	Potential

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Office (NRMO) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRMO's comments follow these staff comments.

**Other Considerations:** The applicants are seeking the AU zoning classification for the purposes of subdividing the property for one additional unit and to maintain agricultural pursuits on the property. The subject property is currently undeveloped.

This unincorporated area between the cities of West Melbourne and Melbourne is characterized by single-family home development. To the north across Eber Road is a single-family subdivision with lots that are consistent with the Residential 4 Future Land Use designation. Abutting the subject property to the west and south are undeveloped parcels of land, to the east is undeveloped RU-1-11 zoned land and AU zoned land.

Given the residential character of the area, the Board may wish to consider the potential compatibility issues associated with agricultural uses.

**Summary:** This request for AU zoning represents the applicants desire to subdivide the subject property for one additional unit and to maintain agricultural pursuits on the property. This area of west Melbourne is developed with single-family homes with some adjacent undeveloped agriculturally zoned property. The Board should evaluate the potential incompatibility between the residential and agricultural uses. Given that the acreage would allow up to three units, if the Board finds it appropriate to approve this request, it may wish to limit the property to one additional unit in a Binding Development Plan.

The subject property is located within the City of Melbourne Joint Planning and Review Area. The City of Melbourne offers the following comments:

- The proposed rezoning from General Use (GU) to Agricultural Residential (AU) is located in an urbanizing area. While the rezoning appears to be consistent with the area to the southeast of the subject property (these properties are zoned AU), the rest of the surrounding area appears to be trending towards single-family subdivision type development.
- A request for new water service or a request to increase the amount of water provided to the subject site will require the property owner to sign a pre-annexation agreement with the City or participate in an annexation referendum.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-000092</b>	<b>Applicant: Jason &amp; Staci Walden</b>
<b>Zoning Request: GU to AU</b>	
<b>P &amp; Z Hearing Date: 11/10/14</b>	<b>BCC Hearing Date: 12/04/14</b>

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

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

**Comments:**

**This review relates to the following property: Twp. 28, Rng. 37, Sec. 17; Tax ID No. 2828600**

The subject site contains wetlands. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Section 62-3694(a)(1) states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The applicant is encouraged to contact NRM prior to any plan or permit submittal.

The subject site contains mapped aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service.

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is permitted without prior authorization by NRM if the activity is a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute.

A review of historical aerials indicates that unpermitted land clearing and/or wetland impacts may have occurred at the site between 1999 and the present. However, staff will conduct additional research.

THIS ITEM WAS TABLED FROM THE 11/10/2014; 11/24/2014 P&Z & LPA MEETINGS AND THE 12/4/2014 BCC MEETING

**III.B.8.**

Commission District # **3 (14PZ-00082)**  
 Initial Hearing Dates: **P&Z 1/5/15 BCC 2/5/15**

**REZONING REVIEW WORKSHEET  
 (REVISED 12/11/2014)**

**Applicant Name: EAGLE PROPERTIES OF VIERA, LLC**

**Request: PIP to PUD with removal of BDP Z-10962(1 & 3)**

**Subject Property:**

**Parcel ID#: 25-36-35-TG-1; 26-36-02-TG-2**  
**Tax Acct#: 2534780; 2626179**  
**Location: South side of Viera Blvd., approx. 0.15 mile west of U.S. Hwy 1**  
**Address: No assigned address. (In the Viera area.)**  
**Acreage: 45.37 acres.**

**Consistency with Land Use Regulations**

YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255  
NO\*\* Proposal can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	PIP	PUD
<b>Potential*</b>	705,985 square feet Planned Industrial	98 SFR dwelling units
<b>Can be Considered under FLU MAP</b>	YES PLANNED INDUSTRIAL PARK	RES 2**

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

\*\* Subject to Large Scale Comprehensive Plan Change from PLNIP to Res 2 included in 2014-2.1 amendment package.

**ADT PM Peak**

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	0	0	Segment Number	537
Trips from Proposed Zoning	937.86	99.96	Segment Name	Holiday springs to US 1
Maximum Acceptable Volume (MAV)	15,600	1,419.6	Acceptable LOS	E
Current Volume	12,130	1,103.3	Directional Split	
Volume With Proposed Development	13,067.86	1,189.17	ITE CODE 210 98 SFR dwelling unit subdivision The proposed rezoning would reduce the trip generation potential from the existing zoning	
Current Volume / MAV	77.75%	77.7%		
Volume / MAV with Proposal	83.76	83.7%		
Current LOS	E	E		
LOS With Proposal	E	E		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for the PUD zoning classification. The Planned Unit Development (PUD) is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

\* Does the project appear to meet county use or density restrictions based upon:  
 \* Refer to NRMD's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	NA
Floodplains	Mapped	Habitat for Protected Species	Mapped

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Department (NRMD) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRMD's comments follow these staff comments.

**Other Considerations:** This request is for the PUD zoning classification for the purposes of developing the subject property as a gated single-family subdivision. The density of the proposed development utilizing the open space subdivision design will be 2.2 units per acre with a total of 98 homes.

The Planned Unit Development (PUD) is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses.

The proposed plan provides a large buffer for a preserved eagle's nest, preserved land for wetland and upland buffers, perimeter buffering and by-pass piping/swales for adjacent properties' drainage. The proposed plan provides 13 acres of open space. 10.92 acres of passive space and 2.08 acres of active open space in the form of jogging trails and exercise stations. Only 37 percent of the total acreage will be used for single-family development.

The Preliminary Development Plan should be evaluated in the context of Section **62-1448(5)** of the Zoning code. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1448(5). The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

*Review criteria.* The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:

- a. Degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.

**There is no degree of departure with our application with respect to surrounding residential areas. The site is currently an industrial property and is not in conformance with the surrounding residential to the south or residential zonings and land uses to the west on undeveloped land. This project creates conformance where none exists.**

- b. Compatibility within the planned unit development and relationship with surrounding neighborhoods.

**The site is currently an industrial property and is not in conformance with the surrounding residential to the south or residential zonings and land uses to the west on undeveloped land. This project creates conformance where none exists.**

- c. Prevention of erosion and degrading of surrounding area.

**A detailed stormwater pollution prevention plan has already been designed and is in the process of being permitted by both the county staff and St. Johns River Water Management District. It includes but is not limited weekly monitoring of all erosion protection, inspections after every rain event, perimeter silt fence, inlet protection, and maintaining a daily log. We anticipate zero impacts to not only the single family to the south but also all other adjacent properties because of the buffering and preservation along our perimeter. The only close monitoring will be for dirt into the public Viera Boulevard right-of-way past the soil tracking prevention device that will be installed at the time of ground breaking. All best management practices will be implemented.**

- d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

**We are proposing sidewalks throughout the project, and walking/exercise trails in different locations on-site for use by the residents and their guests. We provided a traffic study to identify the minimal traffic impacts by this project. This plan is a substantial reduction in traffic generation with the proposed use versus the potential industrial use per the current zoning. In fact, the local residences recently protested to an interchange at I-95 specifically concerned with industrial traffic. We are gating the subdivision and providing a left turn lane where none exists. In addition, all on-site roadway will be built per county public right-of-way standards but are not the maintenance responsibility of the county. The site was master planned for both water and wastewater systems and both are stubbed out to the property. The water mains will provide fire protection and potable water and the gravity collection for wastewater eliminates the need for an on-site lift station. The surface drainage system is proposed to be collected in the roadway gutters and then piped into the on-site stormwater treatment ponds. Some areas have direct surface drainage into the stormwater treatment ponds. The collection and conveyance system and the stormwater treatment system exceed county and SJRWMD minimum standards. Flood control design is part of the surface drainage and stormwater treatment facilities. We are outside the 100 year flood plain and we do not anticipate any impacts to surrounding properties from stormwater runoff. The soils have very high percolation rates so consequently the ponds are dry retention allowing for recharge of the aquifer with our stormwater management system. Minimal fill is needed for this project.**

- e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.

**This project proposes more open and conservation space than most projects. We not only have natural buffers maintained around the perimeter for the site, we have an eagle's nest and surround areas being preserved in addition to large expanses of wetlands and upland buffer preservation. Finally, we proposed a series of walking/exercise trails for the use of the residents and their guests. As identified previously, the dry retention ponds and high percolating soils recharge the aquifer too. All maintenance will be the responsibility of the homeowner's association (HOA).**

f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

**The proposed subdivision project would be an independent development operated and maintained by the HOA. The HOA would maintain the roadways, sidewalks, stormwater conveyance and treatment ponds, and the open space/recreation amenities. The county would only be responsible for the gravity sewer collection system and the City of Cocoa for the water system.**

g. The availability and adequacy of water and sewer service to support the proposed planned unit development.

**Both utilities are not only available stubbed out to the site but they were previously designed and intended to be expanded for this future development. There is adequate water and wastewater capacity available adjacent to the site and at the treatment plants.**

h. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

**We have provided a traffic study specific to our project and identified previously the planned right-of-way improvements and the fact that all on-site roadways will be built to county standards but not their maintenance responsibility. All traffic is proposed to Viera Boulevard which has adequate capacity.**

i. The benefits within the proposed development and to the general public to justify the requested departure from the standard land use requirements inherent in a planned unit development classification.

**There are substantial public benefits from this project. The departure from the existing land use requirements creates compatibility where none exists today with respect to the existing homes to the south and the existing residential zonings/land use to the west on undeveloped land. Just some of the public benefits are as follows:**

- **Many local residents protested the interchange at I-95 and Viera Boulevard due to concerns with industrial traffic. This eliminates the potential development of 45 acres of industrial land and creates compatibility where none exists to the existing single family homes to the south.**
- **The increased tax base, construction jobs, construction materials needed, landscaping, trucking, local hardware stores and restaurants, home buying, furniture, grocery and appliance stores, engineering, and many other sectors of the economy are positively impacted with a project such as this one.**

**The eagle's nest and surrounding buffer and wetlands plus upland buffers will be maintained in conservations easements in perpetuity.**

j. The conformity and compatibility of the planned unit development with any adopted development plan of the county.

**This is a reduction in intensity and development potential as compared to the current zoning and land use conforming and being more compatible with the surrounding properties and any adopted development plan of the county.**

k. The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses with the proposed planned unit development.

**We propose substantial open space, conservation space, and recreation areas including exercise and walking trails as previously detailed. All will be maintained by the HOA so we not only are compatible with the development and neighboring properties, but we conform with all PUD code requirements.**

The Preliminary Development Plan (PDP) is part of the zoning application for a PUD and therefore is conceptual in nature. It is not intended to be specific with respect to engineering details that are normally reviewed at the Final Development Plan (site plan) stage of review. Additional details on the Preliminary Development Plan that are normally required at the Final Development Plan stage have not been reviewed by staff. Accordingly, PUD

zoning approved by the Board of County Commissioners will not be viewed as a waiver of land development regulations that are applied at the Final Development Plan stage of review.

Specific waivers to land development regulations must be stated on the preliminary development plan and must be verbally requested by the applicant at the public hearing. Unless a waiver is specifically requested by the applicant and specifically approved by the Board, it will not be assumed to have been approved.

Historically a 71 foot buffer was established for the south property line adjacent to Holiday Springs at Suntree to offset any incompatibility of residential uses adjacent to industrial uses, and was retained through a Binding Development Plan [Z-10962(3)] approved in 2005 when the property was rezoned from IU to PIP. This application will not retain the 71 foot buffer since the uses are both residential. Additionally, a buffer on the western portion of the property was established in 1982 however, the property lines have changed and the Binding Concept Plan (AKA Binding Development Plan) approved as part of the application to rezone the property from GU to IU in 1982 (Z-6037), is no longer consistent with the ownership pattern of the subject property.

As part of this request, a School Facility Planning and Concurrency Application for the subject property has been made to the Brevard County School Board. Their full report is attached however, in summary, their report indicates that there is projected to be sufficient capacity at every school level serving the proposed subdivision.

**Summary:** This request is for the purposes of rezoning 45 acres of planned industrial zoning PIP to PUD for the purposes of developing the subject property as a gated single-family home subdivision with 98 homes.

The proposed plan provides a large buffer for a preserved eagle's nest, preserved land for wetland and upland buffers, perimeter buffering and by-pass piping/swales for adjacent properties' drainage. According to the proposed plan, approximately 13 acres of open space is planned, with 10.92 acres of passive space and 2.08 acres of active open space in the form of jogging trails and exercise stations.

If this application is approved, the applicant wishes to remove the BDP that establishes a 71 foot buffer along the south property line since it was established due to potential incompatibilities between industrial uses and residential uses. Additionally, a buffer established in 1982 on the western portion of the property won't be retained since the property lines have changed and the Binding Concept Plan (AKA Binding Development Plan) approved as part of the application to rezone the property to IU is no longer consistent with the ownership pattern of the subject property. The Board may wish to stipulate a minimum buffer along the east (Silicon Avenue) property line in that PIP zoning is across the street. Similarly, PIP zoned properties abut to the northwest and northeast.

A School Facility Planning & Concurrency Application for the subject property was made to the Brevard County School Board. Their report indicates that there is projected to be sufficient capacity at every school level serving the proposed subdivision.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00082</b>	<b>Applicant: Eagle Properties of Viera</b>
<b>Zoning Request: PLNIP to RES-2 and PIP w/BDP to PUD w/removal of BDP</b>	<b>BCC Hearing Date: 12/04/14</b>
<b>P &amp; Z Hearing Date: 11/10/14</b>	

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

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Wetlands Potential/Hydric Soils	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Mapped

**Comments:**

**This review relates to the following properties: Twp. 25/26, Rng. 36, Sec. 35/02; Tax ID Nos. 2534780 & 2626179**

The subject site contains wetlands. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Sec. 65-3694(c)(6). The applicant is encouraged to contact NRM prior to any plan or permit submittal.

The subject site contains mapped aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

The western portion of the site is mapped as floodplain as identified by the Federal Emergency Management Agency, and is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain Ordinance

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, there is an area of mapped scrub jay occupancy; a mapped bald eagle nest; and gopher tortoises may utilize areas of sandy soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service.

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