



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

8/24/2021

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### **Subject:**

Code Revision to allow a maximum 1.75 FAR in conjunction with PUD zoning.

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider revisions to Chapter 62, Article VI, Division I, Section 62-2110, to allow a maximum FAR of 1.75 in conjunction with a PUD zoned property and Community Commercial Future Land Use designation.

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

On March 4, 2021, the Board approved a text amendment to the Comprehensive Plan allowing a maximum FAR (Floor Area Ratio) up to 1.75 within a CC (Community Commercial) FLU (Future Land Use) designation and PUD (Planned Unit Development) zoning classification. The proposed code change would affect properties countywide. The proposed code amendment aligns the Zoning Regulation with the Comprehensive Plan by changing current FAR limitations of 1.0 to 1.75 within a PUD zoning classification.

The Board of County Commissioners, in regular session on May 18, 2021, approved legislative intent to grant permission to advertise revisions to Chapter 62, Article VI, Zoning Regulations, and directed staff to revise the Code to allow for a maximum of 1.75 FAR in conjunction with PUD zoning and CC FLU.

This code revision proposes to create Section 62-2110(3) which states:

A maximum FAR of 1.75 in PUD zoned areas designated as Community Commercial FLU.

On July 14, 2021, the Building Construction Advisory Committee heard the proposed ordinance and unanimously recommended approval.

On July 26, 2021, the Local Planning Agency heard the proposed ordinance and unanimously recommended approval.

### **Clerk to the Board Instructions:**

Please execute and file with the State. Once filed with the State, please return a copy to Planning and

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H.4.

8/24/2021

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Development.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**

Governor

**LAUREL M. LEE**

Secretary of State

August 26, 2021

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

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2021-21, which was filed in this office on August 26, 2021.

Sincerely,

Anya Grosenbaugh  
Program Administrator

AG/lb



August 25, 2021

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director


**RE:** Item H.4., Code Revision to Allow a Maximum 1.75 Floor Area Ratio (FAR) in Conjunction with Planned Unit Development (PUD) Zoning

The Board of County Commissioners, in regular session on August 24, 2021, conducted a public hearing and adopted Ordinance 21-21, revisions to Chapter 62, Article VI, Division I, Section 62-2110, to allow a maximum FAR of 1.75 in conjunction with a PUD zoned property and Community Commercial Future Land Use designation. Enclosed is a copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK**

  
Kimberly Powell, Clerk to the Board

/sm

Encls. (1)

cc: County Attorney  
County Manager

**ORDINANCE NO. 2021- 21**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 6, SUBDIVISION I, "GENERAL PROVISIONS"; SPECIFICALLY AMENDING 62-2110 FLOOR AREA RATIOS, TO ADD INCREASED FAR RATIO UP TO 1.75 FOR PROPERTIES ZONED PUD WHEN LOCATED WITHIN THE COMMUNITY COMMERCIAL FUTURE LAND USE DESIGNATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, On March 4, 2021, the Board adopted the 2020-2 Fall Cycle Comprehensive Plan Amendment, a text amendment to Chapter XI - Future Land Use Element which increased the Floor Area Ratio of maximum development in a PUD when located within the Community Commercial FLU designation from 1 to 1.75; and

WHEREAS, the Board of County Commissioners, on May 18, 2021 directed the preparation of an amendment to the Zoning Regulations as it relates to FAR; and

WHEREAS, the Building Construction Advisory Committee, on July 14, 2021 reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on July 26, 2021 reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

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

SECTION 1. Section 62-2110, Code of Ordinances of Brevard County, Florida, is hereby amended as follows: To add a maximum FAR of 1.75 in PUD zoned areas designated as community commercial.

**Sec. 62-2110. Floor area ratios.**

*Floor area ratio (FAR) allowances shall be based upon the future land use designation of the property. FAR allowances are as follows:*

- (1) *A maximum FAR of 0.75 in areas designated as neighborhood commercial.*

- (2) *A maximum FAR of 1.00 in areas designated as community commercial.*
- (3) *A maximum FAR of 1.75 in PUD zoned areas designated as community commercial.*

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this 24th day of August, 2021.

Attest:



Rachel Sadoff, Clerk

( S E A L )

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Rita Pritchett, Chair

(as approved by the Board on August 24, 2021)

Reviewed for legal form and content by: \_\_\_\_\_

**ORDINANCE NO. 2021-\_\_\_\_\_**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 6, SUBDIVISION I, "GENERAL PROVISIONS"; SPECIFICALLY AMENDING 62-2110 FLOOR AREA RATIOS, TO ADD INCREASED FAR RATIO UP TO 1.75 FOR PROPERTIES ZONED PUD WHEN LOCATED WITHIN THE COMMUNITY COMMERCIAL FUTURE LAND USE DESIGNATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, ~~the Board~~ On March 4, 2021, the Board adopted the 2020-2 Fall Cycle Comprehensive Plan Amendment, a text amendment to Chapter XI - Future Land Use Element which increased the Floor Are Ratio of maximum development in a PUD when located within the Community Commercial FLU designation from 1 to 1.75; and

WHEREAS, the Board of County Commissioners, on \* May 18, 2021 directed the preparation of an amendment to the Zoning Regulations as it relates to FAR\*; and

WHEREAS, the Building Construction Advisory Committee, on \*, July 14, 2021 reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on \*, July 26, 2021 reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

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

Underline indicates additions.

~~Strike-through indicates deletions.~~

SECTION 1. Section 62-2110, Code of Ordinances of Brevard County, Florida, is hereby amended as follows: To add a maximum FAR of 1.75 in PUD zoned areas designated as community commercial.

**Sec. 62-2110. Floor area ratios.**

*Floor area ratio (FAR) allowances shall be based upon the future land use designation of the property. FAR allowances are as follows:*

- (1) *A maximum FAR of 0.75 in areas designated as neighborhood commercial.*
- (2) *A maximum FAR of 1.00 in areas designated as community commercial.*
- (3) *A maximum FAR of 1.75 in PUD zoned areas designated as community commercial.*

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this \* day of \*, 2021.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel Sadoff, Clerk

\_\_\_\_\_  
Rita Pritchett, Chair  
(as approved by the Board on \*, 2021)

( S E A L )



Reviewed for legal form and content by: \_\_\_\_\_



May 19, 2021

**MEMORANDUM**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item F.9., Legislative Intent and Permission to Advertise for Code Revisions to Floor Area Ratio (FAR)

The Board of County Commissioners, in regular session on May 18, 2021, granted legislative intent and permission to advertise an amendment to Article VI, Zoning Regulations, Section 62-2110, relating to the FAR.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name.

Kimberly Powell, Clerk to the Board

/ns

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Zonka, Kristine		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Brevard County Board of County Commissioners	
MAILING ADDRESS 490 Centre Lake Drive, Suite 175		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
CITY Palm Bay	COUNTY Brevard	NAME OF POLITICAL SUBDIVISION: Brevard County	
DATE ON WHICH VOTE OCCURRED 08/24/21		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Kristine Zonka, hereby disclose that on August 24th, 20 21 :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by  
whom I am retained; or
- ☐ inured to the special gain or loss of Health First, Inc., which  
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The Board of County Commissioners is considering amending an Ordinance to allow a maximum 1.75 FAR in conjunction with PUD zoning. Health First, Inc. requested the change to the Ordinance which will affect a pending project being proposed by Health First, Inc. Health First, Inc. owns the company which employs me, Health First Medical Group. Pursuant to the informal opinion provided by the Commission on Ethics on August 11, 2020, I am declaring a voting conflict and I have not and will not participate in the Board's decision regarding amending an Ordinance to allow a maximum 1.75 FAR in conjunction with PUD zoning.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

8/24/21

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.