



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.3.

8/6/2020

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### **Subject:**

Richard R. Jr., and Gina M. Wrubel, Trust, request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. (20PZ00051) (Tax Account 2000354) (District 1)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

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

The applicant is seeking to amend the FLU (Future Land Use) designation from NC (Neighborhood Commercial) to CC (Community Commercial) on a 1.32-acre parcel, located on the northwest corner of McCullough Road and U.S. Highway 1, in Mims. The subject property is currently vacant and has a FLU designation of NC which has been in place since 2001.

The subject parcel is contiguous to parcels with a CC FLU designation on the north and west, and with a NC designation to the east across U.S. Highway 1, and south across McCullough Road. Because the subject parcel had residential zoning when the FLU designations were changed in 2001, this parcel received a NC designation. The CC FLU designation provides an array of retail, personal, and professional uses intended to serve several neighborhoods, sub-regional, and regional areas. A companion rezoning application for a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial) accompanies this small scale plan amendment request.

The Board may wish to consider whether the proposed CC Future Land Use designation is consistent with the surrounding area.

On July 6, 2020, the Local Planning Agency heard the request and unanimously recommended approval.

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

Upon receipt of ordinance, please file with the State and return an executed copy to Planning and Development.

## Resolution 20Z00003

On motion by Commissioner Pritchett, seconded by Commissioner Lober, the following resolution was adopted by a unanimous vote:

**WHEREAS, Richard R. Jr., and Gina M. Wrubel** have requested a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial), on property described as Tax Parcel 506, as recorded in ORB 8656, Pages 256 – 257, of the Public Records of Brevard County, Florida. **Section 31, Township 20, Range 35.** (1.32 acres) Located on the northwest corner of McCullough Rd. and U.S. Highway 1, Mims. (No assigned address. In the Mims area.); and

**WHEREAS,** a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to BU-1 be approved as recommended. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of August 6, 2020.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

*Bryan Andrew Lober*

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on August 6, 2020.

ATTEST:

*Scott Ellis*  
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 6, 2020

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



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

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

October 9, 2020

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Cheryl Campbell

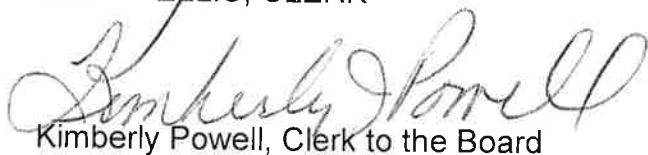
RE: Item H.3., 20S.04 Small Scale Comprehensive Plan Amendment

**This is to correct the Memorandum dated August 7, 2020.** The Board of County Commissioners, in regular session on August 6, 2020, conducted the public hearing and adopted Ordinance No. 20-11, setting forth Plan Amendment 20S.04 of the Small Scale Comprehensive Plan to change the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) for **Richard R. Jr., and Gina M. Wrubel, Trust.** Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

  
Kimberly Powell, Clerk to the Board

Encl. (1)



August 7, 2020

MEMORANDUM

TO: Tad Calkins, Planning and Development Director      Attn: Cheryl Campbell

RE: Item H.3., 20S.04 Small Scale Comprehensive Plan Amendment

The Board of County Commissioners, in regular session on August 6, 2020, conducted the public hearing and adopted Ordinance No. 20-11, setting forth Plan Amendment 20S.04 of the Small Scale Comprehensive Plan to change the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) for Theodore Goodenow. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

August 10, 2020

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 20-11, which was filed in this office on August 10, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

ORDINANCE NO. 20- 11

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2020, 20S.04, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.04; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.04; and

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

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

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON AUGUST 10, 2020

WHEREAS, on July 6, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.04, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 6, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.04; and

WHEREAS, Plan Amendment 20S.04 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.04 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.04 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.04, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

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

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

DONE AND ADOPTED in regular session, this 6 day of August, 2020.

ATTEST:

  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
Bryan Lober, Chair

As approved by the Board on August 6, 2020.



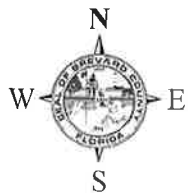
**EXHIBIT A**  
**20S.04 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**



**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

 Subject Property  
 Parcels

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

Produced by BoCC - GIS Date: 4/30/2020

## **EXHIBIT B**

### **Contents**

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

Ad#4245406

06/22/2020

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, JULY 6, 2020, and THURSDAY, AUGUST 6, 2020. DISTRICT 1. (20P200051) RICHARD R. JR., AND GINA M. WRUBEL request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Tax Parcel 506, as recorded in ORB 8656, Pages 256 - 257, of the Public Records of Brevard County, Florida, Section 31, Township 20, Range 35, (1.32 acres) Located on the northwest corner of McCullough Rd. and U.S. Highway 1, Mims. (No assigned address in the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 20S.04: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 2. (20Z000003) RICHARD R. JR., AND GINA M. WRUBEL request a

change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial) on property described as Tax Parcel 506, as recorded in ORB 8656, Pages 256 - 257, of the Public Records of Brevard County, Florida, Section 31, Township 20, Range 35, (1.32 acres) Located on the northwest corner of McCullough Rd. and U.S. Highway 1, Mims. (No assigned address in the Mims area.) 3. (20Z000004) MCD FAMILY TRUST, LLC (Rodney Honeycutt) requests an amendment to an existing BDP (Binding Development Plan) to allow a 1,200 square-foot office building in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Tax Parcel 281.3, as recorded in ORB 7763, Pages 2420 - 2421, of the Public Records of Brevard County, Florida, Section 06, Township 23, Range 35, (2.14 acres) Located on the easterly side of Plantation Drive, approximately 50 feet north of Hospitality Way, Titusville. (885 Plantation Dr. Unit W-HRV, Titusville) 4. (20Z000006) CANAVERAL LANDING, LLC (Kim Rezanka) requests a change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) and a CUP (Conditional Use Permit) for Cluster Development of Mobile Homes, with a BDP (Binding Development Plan) limited to 100 units, on property described as Tax Parcel 501, as recorded in ORB 8617, Pages 637 - 639, of the Public Records of Brevard County, Florida, Section 36, Township 23, Range 35, (33.80 acres) Located on the north side of Canaveral Groves Boulevard, approximately 675 feet east of Grissom Parkway. (No assigned address in the Cocoa area) DISTRICT 4 5. (20Z000007) 3101 GANNETT PLAZA, LLC (Kevin Saltman) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with an Indoor Family Entertainment Center, in the BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classifications, on property described as Lots 6 & 7, Block M, Subdivision DE, as recorded in ORB 8136, Pages 419 - 422, of the Public Records of Brevard County, Florida, Section 13, Township 26, Range 36, (28.23 acres) Located on the southwest corner of Gannett Plaza Avenue and U.S. Highway 1, (1 Aar Way, Rockledge) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JULY 6, 2020, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, AUGUST 6, 2020, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator. 4245406

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

**Criteria:**

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

#### **Administrative Policy 5**

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

**Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

#### **(c) General Standards of Review.**

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



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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

## **FUTURE LAND USE MAP SERIES PLAN AMENDMENT**

*Small Scale Plan Amendment 20S.04 (20PZ00051)*  
**Township 20, Range 35, Sections 31**

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### **Property Information**

Owner / Applicant: **Richard R. Wrubel Jr. and Gina M. Wrubel Trust**

Adopted Future Land Use Map Designation: NC

Requested Future Land Use Map Designation: CC

Acreage: 1.32 acres Tax Account #: 2000354

Site Location: Northwest corner of McCullough Road and U.S. Highway 1

Current Zoning: AU

Requested Zoning: BU-1

### **Background & Purpose**

The applicant is seeking to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.32 acre parcel of land. The subject property is currently vacant and has a Future Land Use (FLU) designation of Neighborhood Commercial (NC) which has been in place since 2001 when Brevard County combined the Future Land Use Map with the Density Map during an Evaluation and Appraisal Review (EAR).

Prior to 2001, the subject parcel had a density designation of Mixed Use (MU) which provided for a variety of residential and commercial uses since Brevard County adopted the Comprehensive Plan in September of 1988. In 2001, the County combined the Density and Future Land Use Map into the current Future Land Use Map thus changing the designations from MU to NC and CC along this section of U.S. Highway 1. Properties with a residential zoning received a FLU designation change from MU to NC and properties with a commercial zoning received a FLU designation change of MU to CC.

The subject parcel is contiguous to parcels with a CC Future Land Use designation on the north and west and with a NC designation to the east across U.S. Highway 1 and south across McCullough Road. Because the subject parcel had residential zoning when the FLU designations were changed in 2001, this parcel received a NC designation.

The CC Future Land Use designation provides an array of retail, personal and professional uses intended to serve several neighborhoods, sub-regional and regional areas.

A companion rezoning application was submitted accompanying this request for a change of zoning classification from Agricultural Use (AU) to General Retail Commercial (BU-1).

### **Surrounding Land Use Analysis**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant Commercial	BU-1-A	CC
<b>South</b>	Vacant Commercial	AU	NC
<b>East</b>	Vacant Single-Family, Two Single-Family Residences	AU & RR-1	NC
<b>West</b>	Vacant Commercial	BU-1-A	CC

### **Environmental Resources**

*Based on the summary provided by the Natural Resource Management Department, it has been determined that the following are present on the subject property:*

- Protected Species
- Heritage Specimen Trees

*Please refer to all comments provided by the Natural Resource Management Department at the end of this report.*

### **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.*

### **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.

### **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:**

- 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;

*There is a historical land use pattern of single-family residences on the east side of U.S. Highway 1. There is one professional office approximately 597' north of the subject property. The majority of parcels along this section of U.S. Highway 1 are undeveloped commercial properties.*

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

*There has not been any actual development within the preceding three (3) years however, there have been 3 zoning actions in 2017, 2018 and 2020.*

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

*There have been no development approvals within the past three (3) years that have not yet been constructed.*

### **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.

*Based upon a traffic analysis, this segment of U.S. Highway 1 from Lionel Road to Burkholm Road will not be negatively impacted by a CC land use. Currently, this segment is operating at a level of service (LOS) of C. With a CC FLU designation, the LOS will remain the same.*

## **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 does have frontage on U.S. Highway 1, an Urban Principal Arterial roadway.*

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

*The subject parcel is adjacent to parcels with a Future Land Use designation of CC on the north and west sides. These parcels are currently undeveloped and have the potential to provide inter-connectivity at the time of development.*

- C. Existing commercial development trend in the area;

*This segment of U.S. Highway 1 remains largely as undeveloped commercial properties with a FLU designation of NC and CC. On the east side of the subject site, across U.S. Highway 1, are single-family residences the majority of which were built in the 1980's with a FLU designation of NC.*

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

*There are no fundamental changes in character within this area prompted by County infrastructure improvements.*

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

*The subject parcel is not served by Brevard County Utilities' potable water supply. Currently, there is a Brevard County water line approximately 1,570' south of McCullough Road. There is no sanitary sewer available for this parcel nor the surrounding parcels.*

- F. Spacing from other commercial activities;

*The subject parcel is adjacent to vacant commercial land to the north, west and south and developed residential uses across U.S. Highway 1 to the east. This section of U.S. Highway 1 has predominantly commercial land uses to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.*

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

*The FLU designation change from NC to CC is proposed on a 1.32 acre parcel of land. Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan, community commercial development is intended to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.*

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

*The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).*

- I. Integration of open space; and

*Open space will be evaluated during the site plan review process.*

- J. Impacts upon strip commercial development.

*The subject parcel does not extend strip commercial development. This section of U.S. Highway 1 between Lionel Road and Burkholm Road, has adjacent commercial land uses.*

### **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).

## **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.

*This section of U.S. Highway 1 had a FLU designation of MU until the EAR in 2001, which changed the FLU designations from MU to NC and CC.*

*The subject site is located at the intersection of U.S. Highway 1, an Urban Arterial roadway and McCollough Road, a Local road. This section of U.S. Highway 1 was not intended to meet the Commercial Cluster criteria of commercial properties located at a Collector/Arterial intersection.*

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

*This 1.32 acre site would not exceed community commercial complexes of greater than forty (40) acres at an intersection.*

- B. 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.

*Because this segment of U.S. Highway 1 was not intended to be a commercial cluster but rather part of an overall commercial corridor, this criterion does not apply.*

- 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.

*This parcel has the potential for a 5,755 square foot building. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.*

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

*This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate interchange from U.S. Highway 1.*

#### **Policy 2.15**

Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

##### **Criteria:**

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross-access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.

*The subject parcel does have frontage on U.S. Highway 1, a Principal Arterial roadway to the east. In addition, there is potential for access onto McCulloch Road to the south. If this parcel were to be developed, cross-access can be achieved with the parcel directly adjacent to the west.*

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.

*When developed with a CC land use, the site plan associated with it will be reviewed for setbacks, landscape and buffering as part of that review to meet the current Land Development Regulations at the time of development.*

- C. A sidewalk or bicycle path shall be required where appropriate, as encouraged by Tables 2.1 and 2.2 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

*At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and non-vehicular access into the site. Currently there is no sidewalk along this portion of U.S. Highway 1 to the east nor on McCulloch Road to the south.*

### **For Board Consideration**

This request is seeking a change in Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on 1.32 acre parcel. This section of the U.S. Highway 1 corridor, from Lionel to Burkholm Road, is intended to serve the nearby residential neighborhoods and sub-regional regional areas with an array of retail, personal and professional uses.

The subject 1.32 acre parcel currently has an existing FLU designation of NC with a CC designation on both the north and west sides. At the time of the Evaluation and Appraisal Report (EAR) in 2001, the FLU designations along this corridor were changed from Mixed Use (MU) to NC and CC. Properties with a residential zoning designation were given a NC FLU designation and parcels with a commercial zoning designation were given a CC FLU designation.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation from NC to CC would not generate traffic that would cause deficiency of the adopted roadway level of service (LOS). Today, the traffic counts indicate that this section of U.S. Highway 1 is operating at a LOS of C and with the proposed change of use it would remain the same.

This request is accompanied by a companion proposal for a change of Zoning classification from Agricultural Residential (AU) to General Retail Commercial (BU-1).

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use Review & Summary**  
**Item # 20PZ00051**

**Applicant:** Richard & Gina Wrubel

**Future Land Use Request:** NC to CC

**Note:** Applicant wants to rezone to be consistent with surrounding area and adjacent parcel also owned by applicant.

**P&Z Hearing Date:** 07/06/20; **BCC Hearing Date:** 08/06/20

**Tax ID No:** 2000354

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**
- If the owner/applicant has any questions regarding any potential limitations, s/he is encouraged to contact Natural Resources Management (NRM) at 321-633-2016 prior to any land clearing activities, plan, or permit submittal.

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

- Protected Species
- Heritage Specimen Trees

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

**Land Use Comments:**

**Protected Species**

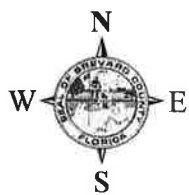
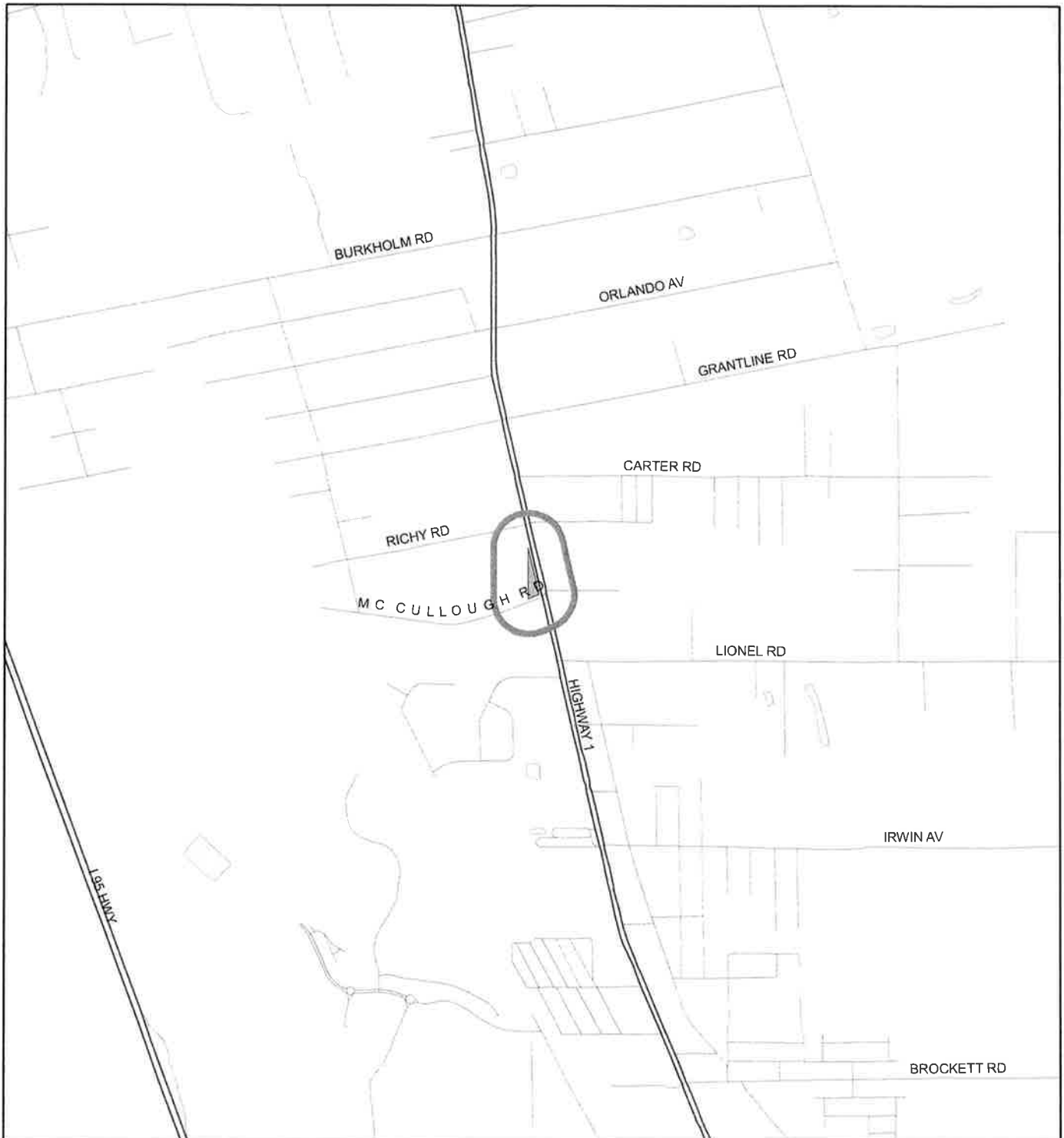
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

**Heritage Specimen Trees**

The entire parcel is mapped with SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4110 – Pine Flatwoods. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal.

# LOCATION MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

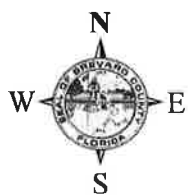
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/30/2020

— Buffer  
■ Subject Property

# ZONING MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

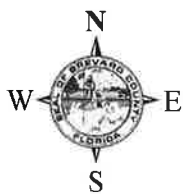
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Produced by BoCC - GIS Date: 4/30/2020

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

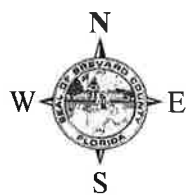
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Produced by BoCC - GIS Date: 4/30/2020

**Subject Property**  
**Parcels**

# PROPOSED FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

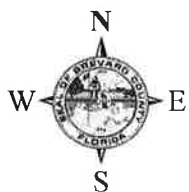
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Produced by BoCC - GIS Date: 4/30/2020



# AERIAL MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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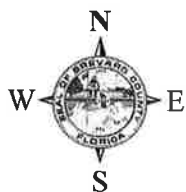
Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels

# NWI WETLANDS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

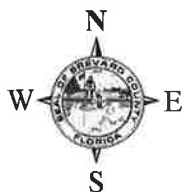
## National Wetlands Inventory (NWI)

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

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

## SJRWMD FLUCCS WETLANDS

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

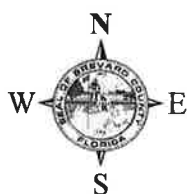
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

## FEMA Flood Zones

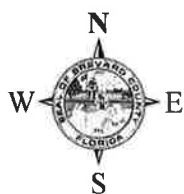
- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  |            |                      |
|   | Parcels    |                      |



# COASTAL HIGH HAZARD AREA MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

Subject Property

Parcels

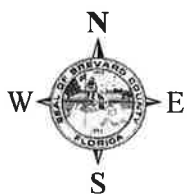
**Coastal High Hazard Area**

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

— Subject Property

□ Parcels

**Septic Overlay**

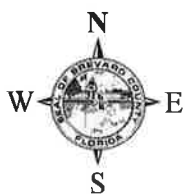
■ 40 Meters

■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES  
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels



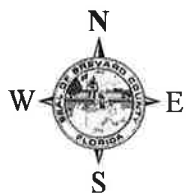
Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES




20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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

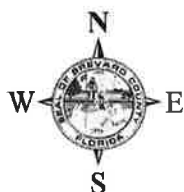
Produced by BoCC - GIS Date: 4/30/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

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## SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

ORDINANCE NO. 20- \_\_\_\_

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2020, 20S.04, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.04; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.04; and

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

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

WHEREAS, on July 6, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.04, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 6, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.04; and

WHEREAS, Plan Amendment 20S.04 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.04 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.04 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.04, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

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

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

DONE AND ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

By: \_\_\_\_\_  
Bryan Lober, Chair

As approved by the Board on \_\_\_\_\_, 2020.

**EXHIBIT A**  
**20S.04 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



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Produced by BoCC - GIS Date: 4/30/2020

**Subject Property**  
**Parcels**

## **EXHIBIT B**

### **Contents**

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



Ad#4245406

06/22/2020

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, JULY 6, 2020, and THURSDAY, AUGUST 6, 2020. DISTRICT 1 1. (20PZ00051) RICHARD R. JR., AND GINA M. WRUBEL request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Tax Parcel 506, as recorded in ORB 8656, Pages 256 - 257, of the Public Records of Brevard County, Florida, Section 31, Township 20, Range 35, (1.32 acres) Located on the northwest corner of McCullough Rd. and U.S. Highway 1, Mims. (No assigned address, in the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 20S.04: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments, providing legal status; providing a severability clause; and providing an effective date. 2. (20Z00003) RICHARD R. JR., AND GINA M. WRUBEL request a

change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial) on property described as Tax Parcel 506, as recorded in ORB 8656, Pages 256 - 257, of the Public Records of Brevard County, Florida, Section 31, Township 20, Range 35, (1.32 acres) Located on the northwest corner of McCullough Rd. and U.S. Highway 1, Mims. (No assigned address, in the Mims area.) 3. (20Z00004) MCD FAMILY TRUST, LLC (Rodney Honeycutt) requests an amendment to an existing BDP (Binding Development Plan) to allow a 1,200 square-foot office building in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Tax Parcel 2813, as recorded in ORB 7763, Pages 2420 - 2421, of the Public Records of Brevard County Florida, Section 06, Township 23, Range 35, (2.14 acres) Located on the easterly side of Plantation Drive, approximately 50 feet north of Hospitality Way, Titusville, 1885 Plantation Dr. Unit W, HRV, Titusville) 4. (20Z00006) CANAVERAL LANDING, LLC (Kim Rezanka) requests a change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) and a CUP (Conditional Use Permit) for Cluster Development of Mobile Homes, with a BDP (Binding Development Plan) limited to 100 units, on property described as Tax Parcel 501, as recorded in ORB 8617, Pages 637 - 639, of the Public Records of Brevard County, Florida, Section 36, Township 23, Range 35, (53.80 acres) Located on the north side of Canaveral Groves Boulevard, approximately 675 feet east of Grissom Parkway. (No assigned address, in the Cocoa area) DISTRICT 4 5. (20Z00007) 3101 GANNETT PLAZA, LLC (Kevin Saltman) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with an indoor Family Entertainment Center, in the BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classifications, on property described as Lots 6 & 7, Block M, Subdivision DE, as recorded in ORB 8136, Pages 419 - 422, of the Public Records of Brevard County, Florida, Section 13, Township 26, Range 36, (28.23 acres) Located on the southwest corner of Gannett Plaza Avenue and U.S. Highway 1, (1 Aar Way, Rockledge) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JULY 6, 2020, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, AUGUST 6, 2020, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator. 4245406

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 7, 2020**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Brian Woltz; Ron Bartcher; Ian Golden; Brian Hodgers; Joe Buchanan; Peter Filiberto, Vice Chair; and Bruce Moia.

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

### **Excerpt of Complete Minutes**

Vice Chair Filiberto appointed Brian Hodgers as Chair Pro Tem. Mr. Filiberto excused himself from the meeting.

#### **Richard R. Jr., and Gina M. Wrubel**

A Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.32 acres, located on the northwest corner of McCullough Road and U.S. Highway 1. (No assigned address. In the Mims area) (20PZ00051) (Tax Account 2000354) (District 1)

#### **Richard R. Jr., and Gina M. Wrubel**

A change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial). The property is 1.32 acres, located on the northwest corner of McCullough Road and U.S. Highway 1. (No assigned address. In the Mims area) (20Z00003) (Tax Account 2000354) (District 1)

Richard Wrubel, 3885 Richy Road, Mims, stated they purchased a piece of property on the corner of McCullough and U.S. 1, and they would like to rezone it to BU-1 because they own the property to the west of it and it's all BU-1.

Ron Bartcher asked if Mr. Wrubel has any plans for the property. Mr. Wrubel replied they own a water, fire, and mold restoration business, and he would like to use the building for vehicle storage.

Brian Hodgers called for public comment, and seeing none, he brought the item back to the board.

Motion by Bruce Moia, seconded by Joe Buchanan, to approve the requested Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The motion passed unanimously.

Motion by Bruce Moia, seconded by Ron Bartcher, to approved the requested change of zoning classification from AU to BU-1. The passed unanimously.