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BOARD OF COUNTY COMMISSIONERS

TO: Planning & Zoning Board Members
FROM: Cindy Fox, Planning & Zoning Manager
SUBJ: Planning and Zoning Staff Comments
July 6, 2015
DATE: May 18, 2015

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

STAFF COMMENTS PREPARED BY:

Planning & Zoning Office
NATURAL RESOURCES MANAGEMENT DEPARTMENT

Legend of Terms:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

- (c) *General standards of review.*

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

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

III.B.1.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

Small Scale Plan Amendment 15S.06
Township 24, Range 35, Section 36

Property Information

Owner / Applicant: **Calvin D. & Debra D. Baldwin**

Adopted Future Land Use Map Designation: NC

Requested Future Land Use Map Designation: CC

Acreage: 4.68 +/- acres Tax Account #: 2409590

Site Location: *South side of Lake Dr., approximately 0.11 miles east of N. Burnett Rd.*

Current Zoning: GU

Requested Zoning: BU-2

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant/(Across Lake Drive)	RU-2-8	NC
South	Wetland/Pond	GU	NC
East	Vacant	GU	NC
West	Garage/Auto Body/ Auto Paint	BU-2	CC

General Analysis

The subject property has an existing residential related amenities structure, with a Neighborhood Commercial (NC) future land use designation. The proposed amendment will amend the NC future land use designation and provide for a Community Commercial (CC) designation. The proposed CC

future land use will increase the range of permitted uses and intensity of commercial development, including allowing outside storage and companion rezoning to BU-2. The subject property is located on the south side of Lake Drive, approximately 600 feet of North Burnett Road.

The property has NC future land use designation to the North, South and East, and CC future land use designation to the West. Adjacent land uses include Garage/Auto Body/ Auto Paint.

Environmental Resources

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

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*

<p>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.</p>

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject parcel has direct access to Lake Drive and is approximately 1 mile west of Clearlake Road and ½ mile north of State Road 520.

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

The subject parcel is adjacent to other Neighborhood Commercial and Community Commercial land uses. The development of the subject parcel will increase the intensity of development from NC to CC for a vacant commercial lot. There is a mixture of uses along Lake Drive.

- C. Existing commercial development trend in the area;

There is existing commercial use on the abutting property to the west, which is comprised of a garage and auto body shop.

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

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

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

Lake Drive is a collector road, which intersects Range Road to the east and Cox Road to the west. Clearlake Road and State Road 520 are both arterial roadways, and are located approximately 1 mile and ½ mile from subject property respectively.

- F. Spacing from other commercial activities;

The subject parcel is adjacent to other developed commercial land uses. The existing commercial activity in the immediate area consists of a garage and warehousing.

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

The subject parcel has a future land use designation of Neighborhood Commercial. The requested change to CC would allow the subject parcel to become developable for higher intensity commercial uses.

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

An environmental analysis was required by NRMD in connection with the request for rezoning. Please see associated rezoning staff report.

I. Integration of open space; and

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

J. Impacts upon strip commercial development.

The development of the subject parcel as Neighborhood Commercial or Community Commercial would not be considered strip commercial development.

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

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

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

The applicant states that the proposed use is for boat storage and future mini-warehousing. There is an associated application for rezoning from GU to BU-2.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

The subject parcel has an existing Neighborhood Commercial land use and is requesting an increase in intensity to Community Commercial. The subject parcel is 4.68 acres and is located on a collector roadway.

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

The subject parcel is 4.68 acres.

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

The subject parcel is 4.68 acres with an existing NC future land use designation.

D The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

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

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

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

This request should be evaluated within the context of **Policy 2.14A** of the Future Land Use Element, which establishes locational criteria for non-retail commercial uses, as follows:

A. Non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristics are established or planned so as to protect residential areas from their influence. Non-retail uses, including wholesaling, contracting, heavy repair services, paint and body shops, storage and warehousing uses, may serve as a transitional use between the following higher intensity and lower intensity uses, in the following listed Future Land Use designations:

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

Lower Intensity Uses: Community Commercial, Planned Industrial Park or Planned Business Park uses.

Future Land Use Designations: Community Commercial, Heavy/Light Industrial or Planned Industrial (Planned Industrial permits PIP zone uses only).

Roadway Access Requirements: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors.

The subject parcel is adjacent to other developed community commercial land uses. The existing commercial activity in the immediate area consists of a garage and warehousing.

Summary

The proposed change in Future Land Use on 4.68 acres of undeveloped land from NC to CC is located on Lake Drive, which is a collector roadway. The subject parcel has an existing residential related amenities structure. This area between SR520 and Lake Drive has a mixture of NC and CC designated properties. All of the CC designated properties are zoned BU-2. There is a developed commercial property abutting the subject parcel to west. The property located across Lake Drive to the north has a NC future land use designation and a multifamily zoning classification that would permit 8 residential units per acre. There are no existing residential dwellings abutting the subject property.

The proposed amendment is needed to allow for companion rezoning from GU to BU-2.

III.B.1.

Commission District # 1 (15PZ00024)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: CALVIN D. & DEBRA D. BALDWIN

Request: Small Scale Plan Amendment (15S.06) from NC to CC; and GU to BU-2

Subject Property:

Parcel ID#: 24-35-36-00-52
Tax Acct#: 2409590
Location: South side of Lake Dr., approx. 0.11 mile east of N. Burnett Rd.
Address: 3255 Lake Dr., Cocoa
Acreage: 4.68 acres

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU	BU-2
Potential*	0 units	40,772 sq. ft. Mini-Warehouse/Storage
Can be Considered under FLU MAP	YES NEIGHBORHOOD COMMERCIAL	NO**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.** Requires a Small Scale Comprehensive Plan Amendment from Neighborhood Commercial to Community Commercial.

	ADT	PM Peak		
Trips from Existing Zoning	0	0	Segment Number	85
Trips from Proposed Zoning	102	11	Segment Name	Cox – Range Rd
Maximum Acceptable Volume (MAV)	15,600	1,419.6	Acceptable LOS	E
Current Volume	2,121	193.01	Directional Split	
Volume With Proposed Development	2,223	202.2	ITE CODE 151 Mini-Warehouse/Storage	
Current Volume / MAV	13.6%	13.6%		
Volume / MAV with Proposal	14.2%	14.24%		
Current LOS	B	B		
LOS With Proposal	B	B		

Land Use Compatibility

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

The request is for the BU-2 zoning classification. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities. The surrounding properties are zoned RU-2-8 to the north across Lake Drive, GU to the south and east, with BU-2 to the west. This area of Cocoa is characterized by a mixture of uses and zonings. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

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

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

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

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

Other Considerations: The applicant is seeking to rezone the property from GU to BU-2 for the purposed of developing the property for outdoor boat storage and future mini-warehousing development. The property is 4.68 acres undersized for the GU zoning classification which requires a minimum of five acres. The property is primarily undeveloped with only an accessory building at the southeast corner of the property. The surrounding properties to the north, east and south are undeveloped and there are no single-family residences abutting the subject property. Abutting the subject property to the west is a developed BU-2 property.

The request for BU-2 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

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

This request should be evaluated within the context of **Policy 2.14A** of the Future Land Use Element, which establishes locational criteria for non-retail commercial uses, as follows:

A. Non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristics are established or planned so as to protect residential areas from their influence. Non-retail uses, including wholesaling, contracting, heavy repair services, paint and body shops, storage and warehousing uses, may serve as a transitional use between the following higher intensity and lower intensity uses, in the following listed Future Land Use designations:

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

Lower Intensity Uses: Community Commercial, Planned Industrial Park or Planned Business Park uses.

Future Land Use Designations: Community Commercial, Heavy/Light Industrial or Planned Industrial (Planned Industrial permits PIP zone uses only).

Roadway Access Requirements: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors.

The subject parcel is adjacent to other developed commercial land uses. The change in zoning will allow outdoor storage. The existing commercial activity in the immediate area consists of a garage and warehousing.

The current Future Land Use designation on the property is Neighborhood Commercial and is not consistent with the BU-2 zoning classification. Therefore, a Small Scale Comprehensive Plan Amendment accompanies this request to change the Future Land Use designation from Neighborhood Commercial to Community Commercial.

Summary: The applicants are seeking the BU-2 zoning classification for the purposes of developing the property with outdoor boat storage and future mini-warehouse uses. The property is primarily undeveloped with only an accessory building at the southeast corner of the property. The surrounding properties to the north, east and south are undeveloped and there are no single-family residences abutting the subject property. Accompanying this request is a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Neighborhood Commercial to Community Commercial.

Policy 2.14 of the Future Land Use Element discusses locational criteria for non-retail commercial uses. It provides for the introduction of non-retail uses in areas in which non-retail uses/zoning have been established. Abutting the subject property to the west is a developed BU-2 property.

NATURAL RESOURCES MANAGEMENT OFFICE
Rezoning Review
SUMMARY

Item #: 15PZ00024	Applicant: Calvin D. Baldwin
Zoning Request: NC to CC and GU to BU-2	
P & Z Hearing Date: 07/06/15	BCC Hearing Date: 08/06/15

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

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

Comments:

This review relates to the following property: Twp. 24, Rng. 35, Sec. 36; Tax ID No. 2409590

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

The subject site also contains mapped soils that may function as aquifer recharge (Pompano sand) on the west portion of the property. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

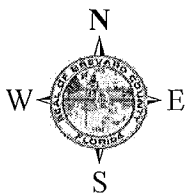
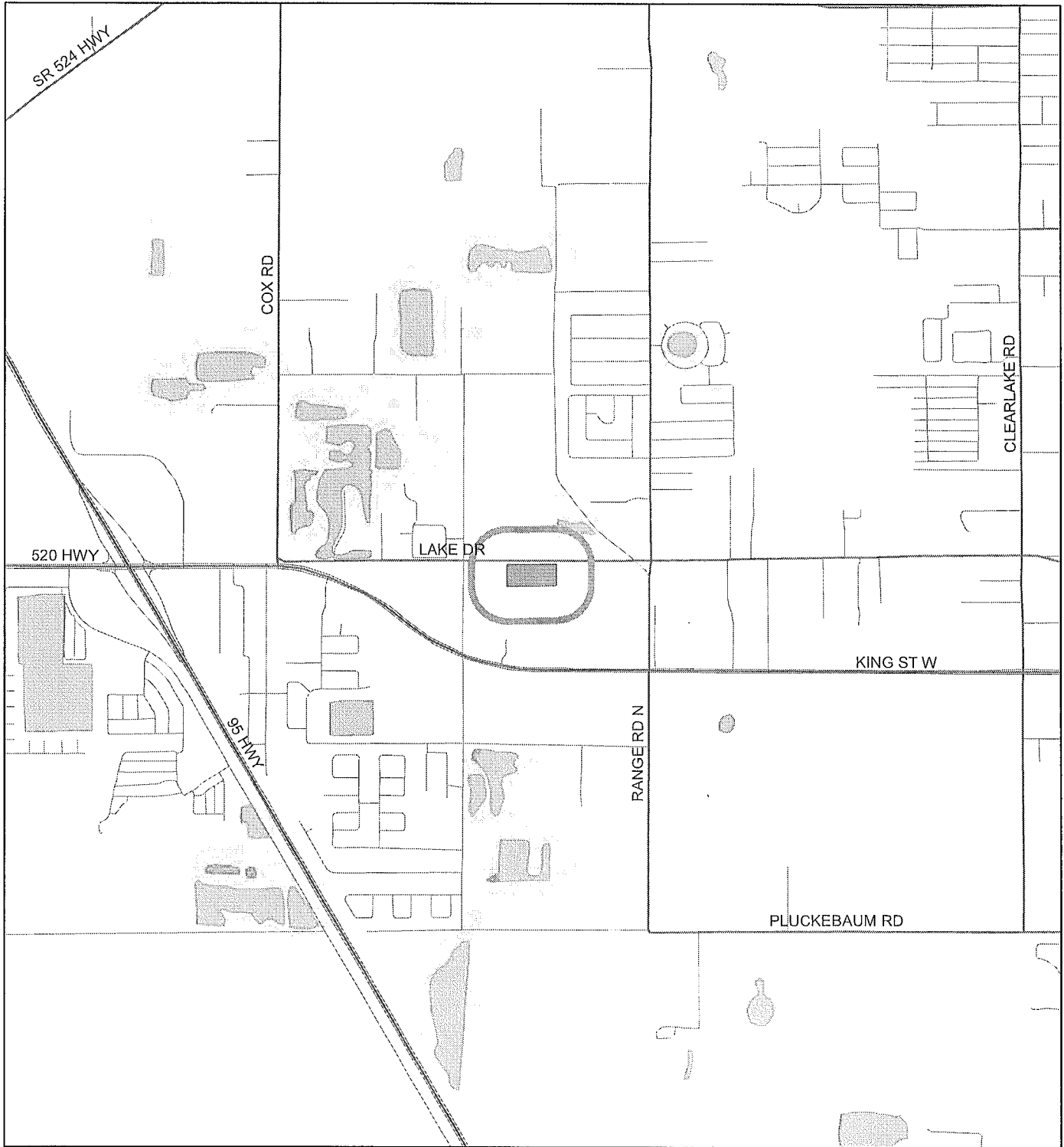
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

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

LOCATION MAP

BALDWIN, CALVIN D


15PZ00024 and Small Scale Amendment 15S.06



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

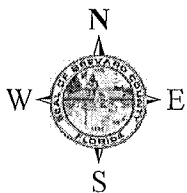
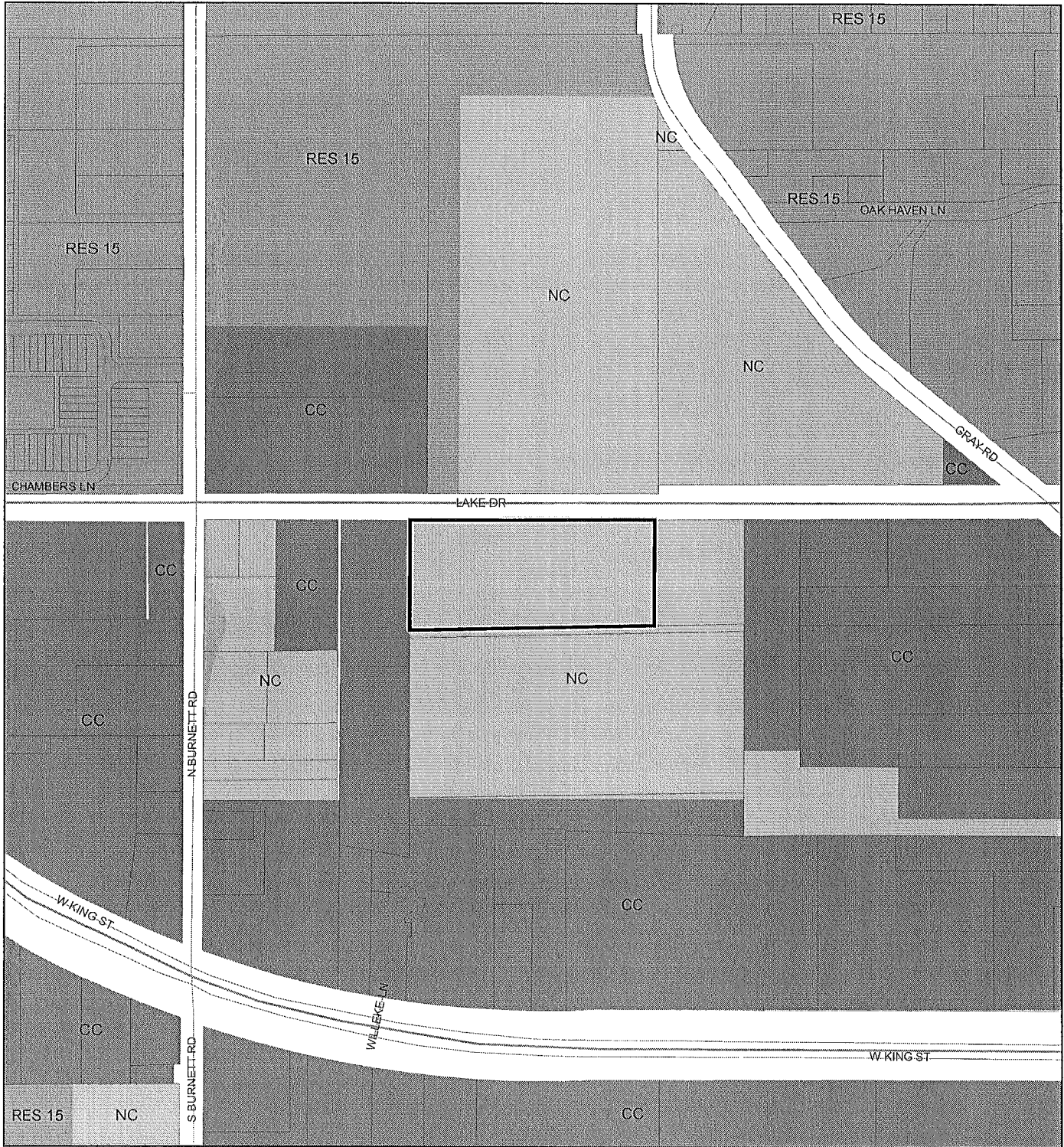
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/8/2015



FUTURE LAND USE MAP

BALDWIN, CALVIN D

15PZ00024 and Small Scale Amendment 15S.06



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

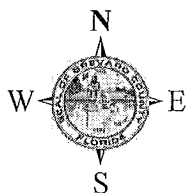
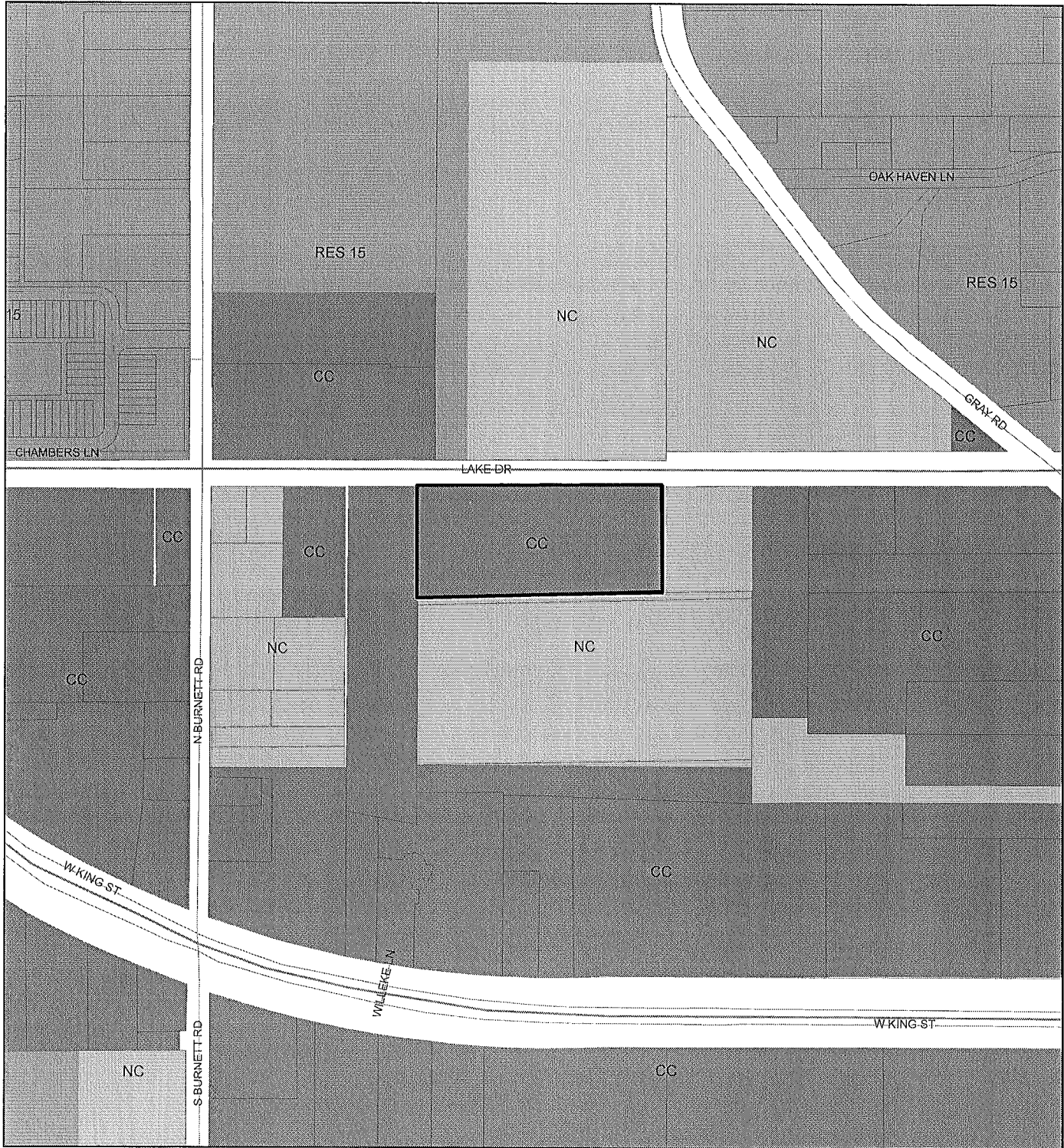
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/8/2015



PROPOSED FUTURE LAND USE MAP

BALDWIN, CALVIN D

15PZ00024 and Small Scale Amendment 15S.06



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

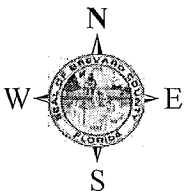
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/8/2015

AERIAL MAP



BALDWIN, CALVIN D

15PZ00024 and Small Scale Amendment 15S.06



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2015

-  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 the Brevard County Planning and Zoning Office - GIS Section Date: 5/8/2015

III.B.2.

Commission District # 1 (15PZ00026)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: DARRELL & TRACI FREEMAN, AND KATHLEEN HOLCOMB

Request: GU to AU(L)

Subject Property:

Parcel ID#: 24-35-05-01-04-02
Tax Acct#: 2402182
Location: East side of Osprey Ave., approx. 325 ft. south of Cangro St.
Address: (4755 Osprey Ave., Cocoa)
Acreage: 1.55 acres

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU	AU
Potential*	1 Dwelling Unit	1 Dwelling Unit
Can be Considered under FLU MAP	YES RESIDENTIAL 1	YES**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.
 **Section 62-1188(8) permits consideration of rezoning of non-conforming lots of record to classifications that are consistent with the density allowances of the Comprehensive Plan.

	ADT	PM Peak		
Trips from Existing Zoning	0	0	Segment Number	None Assigned
Trips from Proposed Zoning	9.52	1.00	Segment Name	N/A
Maximum Acceptable Volume (MAV)	None Assigned	None Assigned	Acceptable LOS	None assigned
Current Volume	Unknown	Unknown	Directional Split	
Volume With Proposed Development	9.58	1.00	ITE CODE 210 Zoning action allows for one Existing SFR dwelling unit De Minimus Exempt	
Current Volume / MAV	Unknown	Unknown		
Volume / MAV with Proposal	Unknown	Unknown		
Current LOS	N/A	N/A		
LOS With Proposal	N/A	N/A		

Land Use Compatibility

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

The request is for the AU(L) zoning classification. The AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities.

The surrounding properties are zoned RR-1 to the north and south with AU to the east and GU on the west side of Osprey Avenue. The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. The RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. This area of Canaveral Groves is characterized by scattered single-family development on parcels of 1.25 acres or greater. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

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

* Refer to NRMO's comments following these staff comments.

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

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

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

Other Considerations: The applicant is seeking the AU(L) zoning classification in order to have farm animals and to have an accessory structure larger than the 50% maximum size of the principal structure. The Property Appraiser's record indicates that the principal structure is 2,695 square feet, and therefore the accessory structure could not be larger than 1,347.5 square feet. The AU(L) zoning classification would allow the accessory structure to exceed the 50% maximum and would allow farm animals for the personal use of the property owners. No commercial agricultural activities would be permitted under the requested AU(L) zoning classification.

This area of Canaveral Groves is characterized by single-family home sites and agricultural activities on 1+ acre properties. Section 62-1188(8) permits consideration of rezoning of non-conforming lots of record to classifications that are consistent with the density allowances of the Comprehensive Plan. The property consists of one non-conforming lot of record and the Future Land Use Map designates this area as Residential 1.

Summary: This request represents the applicants' desire to construct an accessory structure on the property. The property is currently developed with a single-family home. Section 62-1188(8) permits consideration of rezoning of non-conforming lots of record to classifications that are consistent with the density allowances of the Comprehensive Plan. The GU and AU zoning classifications are prevalent in this area. The request for AU(L) zoning prohibits commercial agricultural related uses.

NATURAL RESOURCES MANAGEMENT OFFICE
Rezoning Review
SUMMARY

Item #: 15PZ00026	Applicant: Darrell Freeman
Zoning Request: GU to AU(L)	
P & Z Hearing Date: 07/06/15	BCC Hearing Date: 08/06/15

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

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

Comments:

This review relates to the following property: Twp. 24, Rng. 35, Sec. 05; Tax ID No. 2402182

The subject parcel contains mapped hydric soils (Terra Ceia muck, frequently flooded, & Basinger sand), an indicator that wetlands may be present on the property. Section 62-3694(a)(1) states that agricultural and forestry operations utilizing best management practices shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The applicant is encouraged to contact NRM prior to any plan or permit submittal.

Basinger sands may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

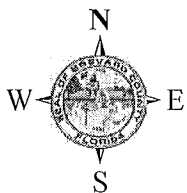
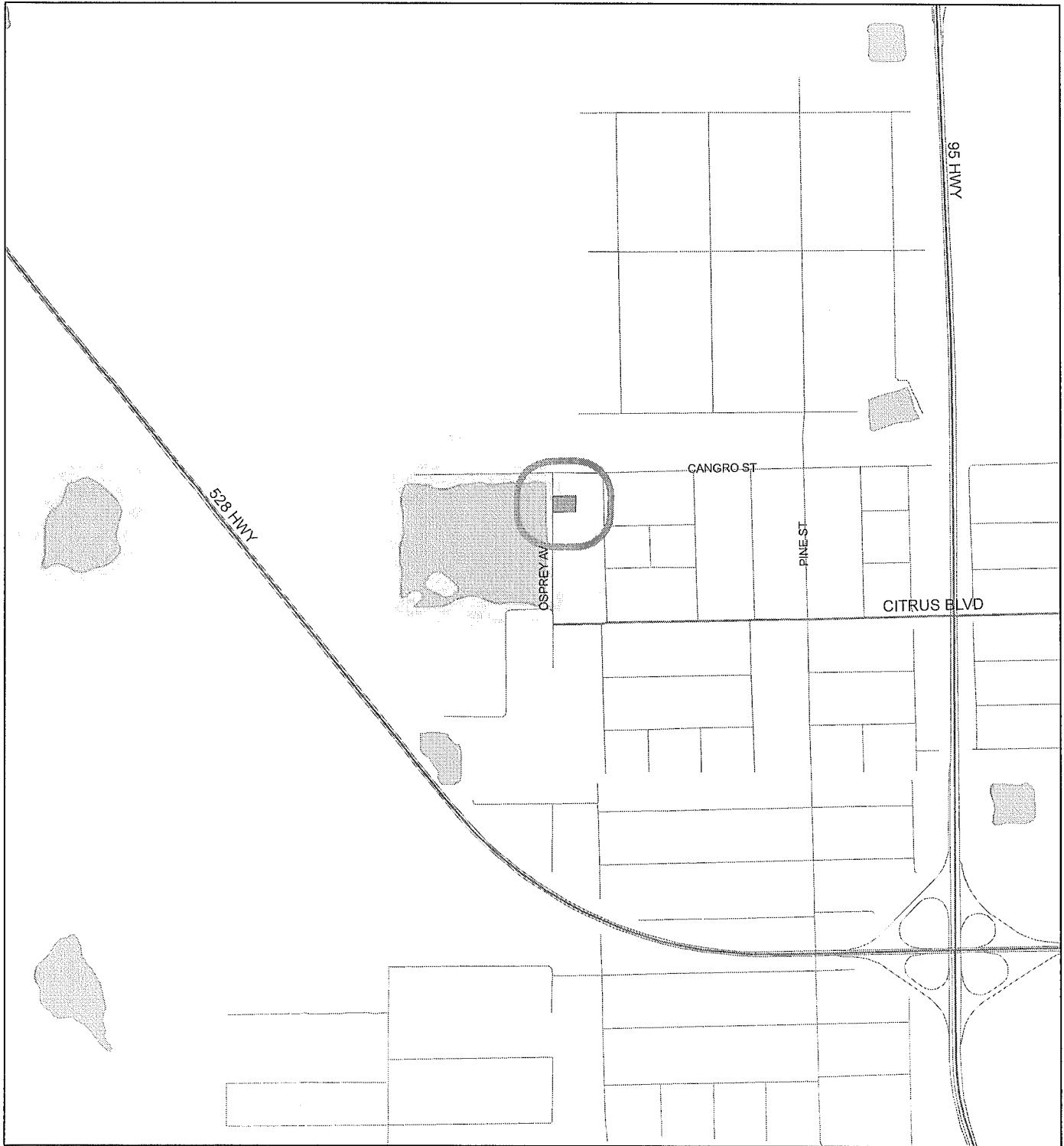
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

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

LOCATION MAP

DARRELL AND TRACI FREEMAN, and KATHLEEN HOLCOMB


15PZ00026



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

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 the Brevard County Planning and Zoning Office - GIS Section Date: 5/12/2015




ZONING MAP

DARRELL AND TRACI FREEMAN, and KATHLEEN HOLCOMB

15PZ00026



1:4,800 or 1 inch = 400 feet

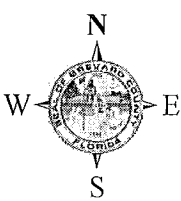
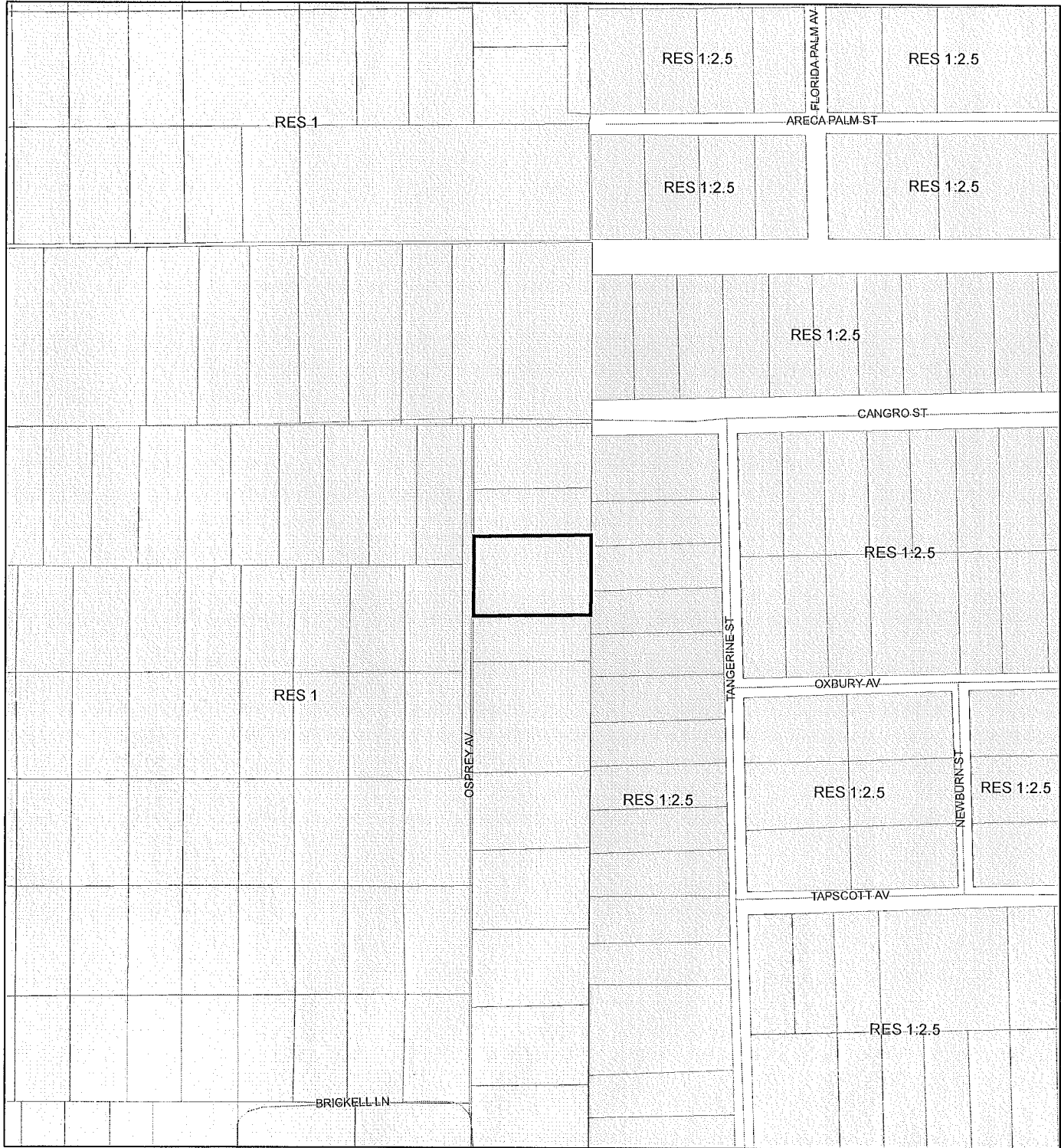
-  Subject Property
-  Parcels
-  Zoning

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



FUTURE LAND USE MAP

DARRELL AND TRACI FREEMAN, and KATHLEEN HOLCOMB

15PZ00026



1:4,800 or 1 inch = 400 feet

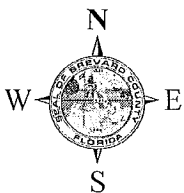
 Subject Property
 Parcels

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 the Brevard County Planning and Zoning Office - GIS Section Date: 5/11/2015


AERIAL MAP


DARRELL AND TRACI FREEMAN, and KATHLEEN HOLCOMB
15PZ00026



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2015

 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 the Brevard County Planning and Zoning Office - GIS Section Date: 6/17/2015

III.B.3.

Commission District # 1 (15PZ00030)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: SWALLOWTAIL, LLC

Request: AU to TU-1

Subject Property:

Parcel ID#: 20G-34-41-00-89-00
Tax Acct#: 2003301
Location: Approx. 0.15 mile north of the west end of Deering Pkwy.
Address: No address. In the Mims area.
Acreage: 8.03 +/- acres.

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	TU-1
Potential*	2 Units	120 hotel room – 4 acres 35,109 sq. ft. Shopping Plaza - 4.03 acres
Can be Considered under FLU MAP	YES COMMUNITY COMMERCIAL	YES

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

	ADT	PM Peak		
Trips from Existing Zoning	0	0	Segment Number	70225000
Trips from Proposed Zoning	2,479	202	Segment Name	Deering Parkway – SR46
Maximum Acceptable Volume (MAV)	47,900	4,502.6	Acceptable LOS	E
Current Volume	25,000	2,350	Directional Split	
Volume With Proposed Development	27,470	2,552	ITE CODE 310 Hotel 820 Shopping Plaza	
Current Volume / MAV	52.2%	52.1%		
Volume / MAV with Proposal	57.3%	56.6%		
Current LOS	D	D		
LOS With Proposal	D	D		

Land Use Compatibility

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

This request is for the TU-1 zoning classification. TU-1 is a general tourist commercial zoning classification which permits hotels and motels among its listed uses. It also permits BU-1-A type retail uses in conjunction with and accessory to a hotel or motel with a minimum of 25 rooms. The minimum lot size is 15,000 with a minimum width of 100' and minimum depth of 150'. The surrounding properties are zoned AU to the north, TU-2 to the south and AU to the east and west. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. TU-2 is a transient tourist commercial classification, intended to accommodate tourist needs adjacent to interstate and expressway interchanges. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

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

* Refer to NRMO's comments following these staff comments.

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

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

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

Other Considerations: This property is located at the future gateway to the Farmton Mixed use project in Mims. The applicant is seeking the TU-1 zoning classification for the purposes of developing the property with hotel, motel and retail uses. TU-1 is a general tourist commercial zoning classification which permits hotels and motels among its listed uses. It also permits BU-1-A type retail uses in conjunction with and accessory to a hotel or motel with a minimum of 25 rooms. As accessory uses, retail shops and personal service activities are permitted in conjunction with hotels.

For hotel uses, the maximum density in the TU-1 zoning classification is 30 units per gross acre, therefore the potential density for hotel use on the subject property would be 240 rooms maximum. In order to meet the criteria of 30 units, the subject property "should be located within a one-quarter mile radius of intersections of major through county transportation corridors with major arterials or roadways of a higher classification". The subject property lies within one half mile of the I-95/SR5A interchange.

Established TU-2 zoning lies to the south of the subject property but the property remains undeveloped.

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

Existing strip commercial;
 Transient commercial uses;

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

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

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

The subject property lies within the one half mile of the Highway I-95 interchange at SR 5A. Existing TU-2 and BU-1 zoning classifications are established in this area. The subject property and surrounding TU-2 and BU-1 zoned properties are also undeveloped.

- B. Community Commercial complexes should not exceed 40 acres at an intersection.
- C. Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.
- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.
- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

Floor Area Ratios are evaluated during site plan review.

Summary: The applicant is seeking the TU-1 zoning classification for the purposes of developing the property with hotel, motel and retail uses. TU-1 is a transient tourist commercial classification intended to accommodate tourist needs with one half mile of an interstate interchange. The subject property lies within one half mile of the interchange. TU-1 provides a maximum density of 30 units per gross acre. On the subject property, this would permit a maximum of 240 rooms. TU-2 and BU-1 can be found in this area.

NATURAL RESOURCES MANAGEMENT OFFICE
Rezoning Review
SUMMARY

Item #: 15PZ00030	Applicant: Swallowtail, LLC
Zoning Request: AU to TU-1	
P & Z Hearing Date: 07/06/15	BCC Hearing Date: 08/06/15

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

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

Comments:

This review relates to the following property: Twp. 20G, Rng. 34, Sec. 41; Tax ID No. 2003301

The subject parcel contains mapped hydric soils and wetlands, an indicator that wetlands may be present on the property. Aerial photographs are also indicative of wetlands. Section 62-3694(c)(3)a addresses wetland impacts for commercial development within one-half mile of I-95 Interchanges:

Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and the proposed wetland impacts are entirely located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall be measured from the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute.

The subject property has a Future Land Use Designation of Community Commercial (CC). Any permitted wetland impacts must meet the allowable impact and no-net-loss criteria of Sections 62-3694(e) and 62-3696.

A portion of the property is mapped as being within floodplain as identified by the Federal Emergency Management Agency; and is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional information and analysis is needed to assess whether the parcel will be subject to filled footprint or density limitations. Compensatory storage for filled floodplain will likely be required. The applicant is encouraged to contact NRM prior to any plan or permit submittal.

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.

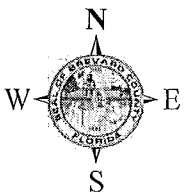
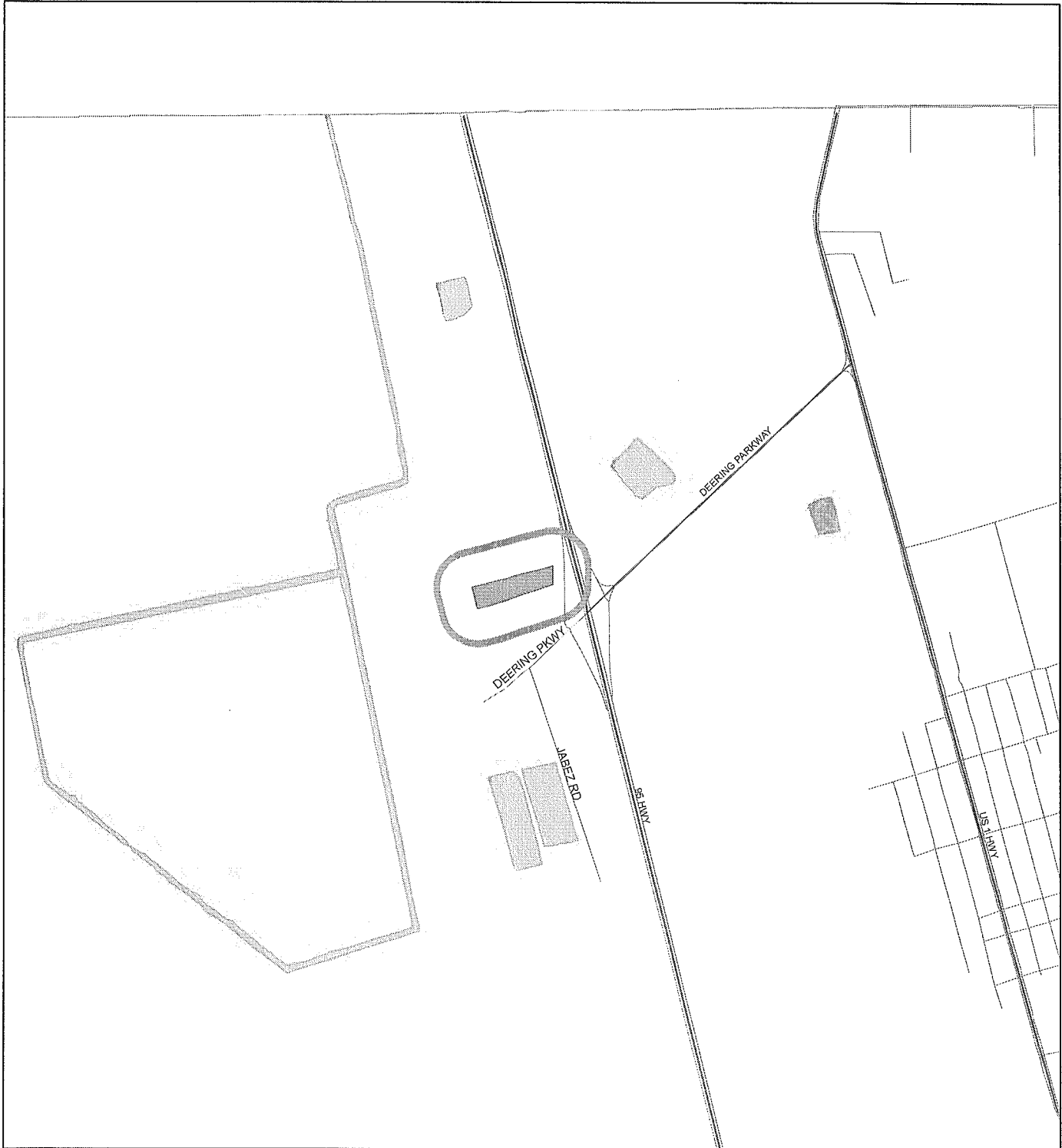
P&Z Staff Comments
July 6, 2015
Page 27

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

LOCATION MAP

SWALLOWTAIL LLC

15PZ00030



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

Buffer Distance: 500 feet

Buffer

Subject Property

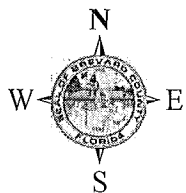
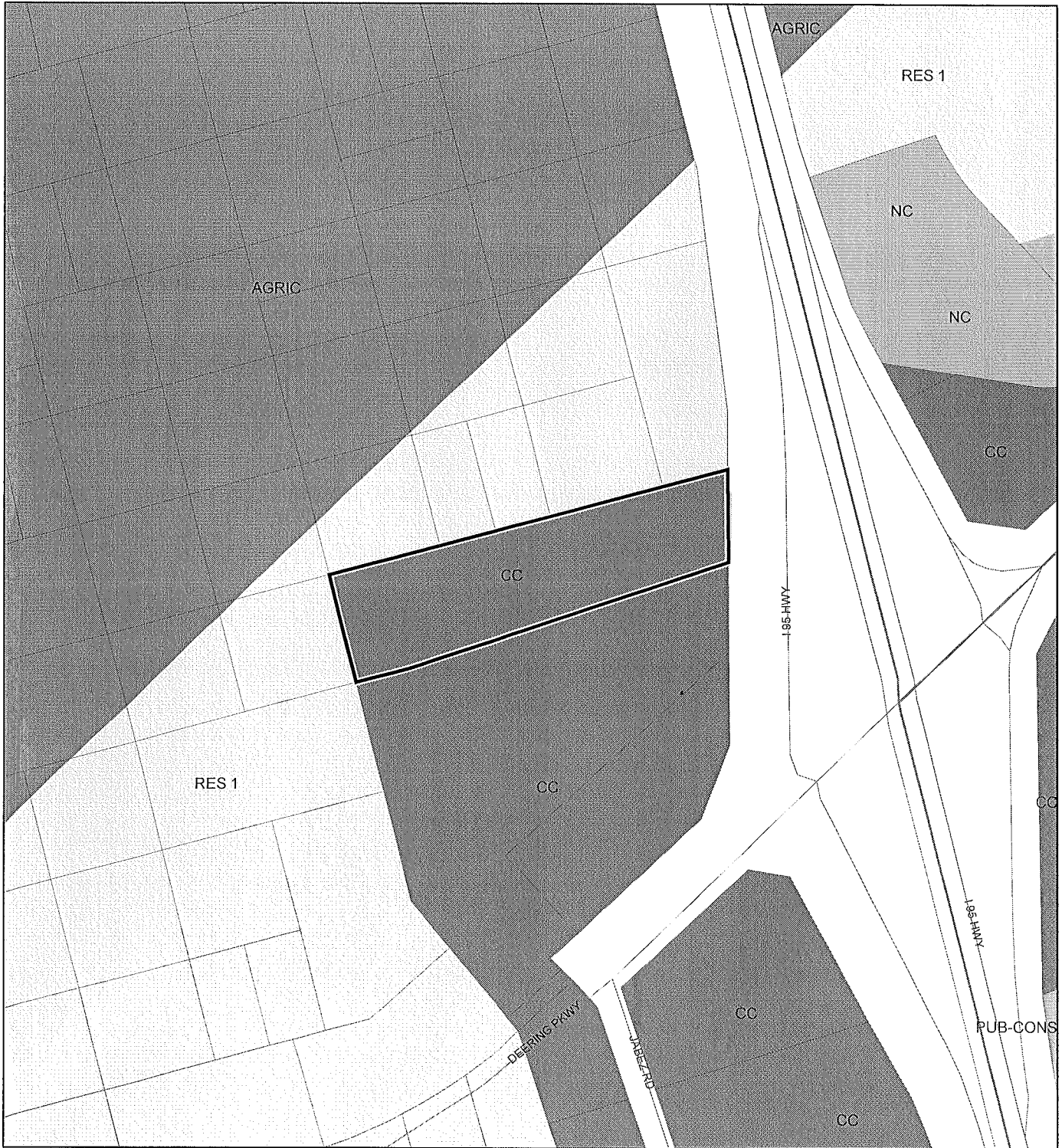
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/12/2015



FUTURE LAND USE MAP

SWALLOWTAIL LLC

15PZ00030



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

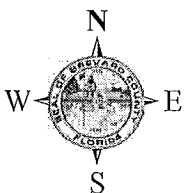
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/12/2015

AERIAL MAP

SWALLOWTAIL LLC

15PZ00030



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2015

— 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 the Brevard County Planning and Zoning Office - GIS Section Date: 6/12/2015

III.B.4.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

*Second Small Scale Plan Amendment of 2015, 15S.07
Section 41, Township 20G, Range 34*

Property Information

Owner / Applicant: Glenn Storch, Esq.

Adopted Future Land Use Map Designation: Residential 1

Requested Future Land Use Map Designation: Community Commercial

Acreage: 8.810 acre

Site Location: West side of I-95, approximately 350 feet, north of Deering Parkway

Current Zoning: AU

Requested Zoning: BU-1

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant single-family agricultural	AU	Residential 1
South	Vacant single-family agricultural	AU	Residential 1
East	Vacant transient tourist commercial	TU-2	Community Commercial
West	Vacant single-family agricultural	AU	Residential 1

General Analysis

The subject property has a Residential 1 Future Land Use designation. The applicant has requested a change of Future Land Use designation to Community Commercial, which will add depth to the existing Community Commercial parcel adjacent and to the east of the subject property. A companion rezoning from AU to BU-1, will permit future commercial development and enable consistency with comprehensive plan. As part of the Farnton Local Plan, adopted December 21, 2010, the adjacent parcel to the south will dedicate a 200' right of way to the public with no impact fee credits as specified in the Farnton policies.

The dedication of this right of way will severely constrain the future development of the adjacent parcel. Through this amendment request, depth would be added allowing for a more aesthetically pleasing design of future development such as the placement of parking facilities to the rear, buffering placement of storm water ponds, and development of an internal drive to prevent the necessity of multiple driveways onto Deering Parkway.

The Farmton Mixed Use area is approximately 10,000 feet north of the subject property and will be reached by a scenic drive along the proposed dedicated ROW through 8,500 acres of property placed under a conservation easement. At the roadway terminus with I-95, the existing commercial property will be developed to provide for a gateway to the Farmton property.

The subject property is located on the west side of I-95 approximately 350 north of Deering Parkway. The applicant owns the abutting properties between the subject parcel and Deering Parkway. The properties abutting to the north, south and east are zoned AU and have a Residential 1 Future Land Use designation. The property to the east is zoned TU-2 and have a Community Commercial Future Land Use designation.

Environmental Resources

Note: Please refer to the attached report from the Natural Resources Management Office for a detailed analysis of the following environmental factors: Wetlands, Floodplains, Aquifer Recharge, and Endangered or Threatened Species. Applicants are encouraged to contact the Brevard County Natural Resources Management Office concerning environmental considerations prior to planning and development. Any future development will be subject to Brevard County's land development regulations.

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.

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 site is located approximately ¼ mile west of I-95/Deering Parkway interchange.

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

The surrounding Future Land Use designations are Residential 1 to the north, south and west and Community Commercial to the east. This area is primarily characterized by vacant single-family agricultural lands to the north, south and west, and vacant transient tourist commercial to the east.

- C. Existing commercial development trends in the area;

In December 2010 the County adopted the Farnton Local Plan allowing for the clustering of 2306 residential units and 1,250,000 square feet of non-residential development. While the existing commercial land uses nearby are limited to the east side of I-95, the land uses on the west side of I-95 will be affected by the Farnton Local Plan.

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

The property to the south of the subject property will dedicate a 200' of right-of-way to the public, as specified in the Farnton Local Plan policies.

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

Current traffic conditions are below 10% the design capacity for a ramp of this configuration.

- F. Spacing from other commercial activities;

The majority of the properties abutting the subject property to the north, south and east are vacant single-family agricultural lands, and vacant tourist commercial to the east.

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

Most of the area surrounding the subject property is characterized by single-family agricultural lands with commercial zoning to the south and to the east across I-95. Commercially designated lands in the planning area account for less than 1% of assigned land uses.

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

Please see the companion rezoning for the Natural Resources Management Department report.

- I. Integration of open space; and

Open space will be addressed at the site plan review stage of development.

- J. Impacts upon strip commercial development.

The subject property is not extending strip commercial, but adding depth to existing commercial in order to discourage future strip commercial type development.

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

Policy 2.7

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

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;

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

The applicant has proposed the Community Commercial Future Land Use Designation in order to accommodate future commercial development as a gateway to the Farmton area.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

The site is located at the I-95 and Deering Parkway interchange. Deering Parkway is a collector roadway.

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

This property does not exceed 40 acres.

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

The land uses to the north, south and west of the subject property are largely residential or agricultural in character.

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

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

Strip Commercial Development

Policy 2.15

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area. 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 property is currently undeveloped. The adjacent parcel to the south will dedicate a 200' right of way to the public.

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

This amendment will allow the adjacent parcels to be designed utilizing increased setbacks and landscaped buffers and an internal roadway to access future 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.

The subject property is currently vacant. New development is subject to site plan review and will be addressed at that stage.

This request should not be viewed as an extension of strip commercial development in that this interchange area remains vacant. Land use patterns to support future development of the Farmton Community are in the planning phases now.

Summary

This request represents the applicant's desire to extend the existing Community Commercial land uses on the west side of I-95 in order to accommodate a gateway to the Farmton Local Plan area which was adopted in December 2010. The site is located approximately ¼ mile west of I-95/Deering Parkway(SR5A) interchange, a collector roadway. The subject parcel is vacant and abuts vacant single family agricultural land to the north, south and west, which have a Residential 1 future land use designation, and vacant transient tourist commercial to the east, which have a Community Commercial future land use designation.

The proposed amendment will allow for companion rezoning from AU to BU-1.

III.B.4.

Commission District # 1 (15PZ00031)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: SWALLOWTAIL, LLC

Request: Small Scale Plan Amendment (15S.07) from Residential 1 to CC; and AU to BU-1

Subject Property:

Parcel ID#: 20G-34-41-00-202-00; 20G-34-41-00-203-00; 20G-34-41-00-287-00; 20G-34-41-00-102
Tax Acct#: 2003411; 2003412; 2003495; 2003311
Location: Approx. 750 ft. west of the terminus of Deering Pkwy.
Address: No assigned address. In the Mims area.
Acreage: 8.810 +/- acres.

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	BU-1
Potential*	3 Units	76,753 sq. ft. Shopping Plaza
Can be Considered under FLU MAP	YES RESIDENTIAL 1	NO**

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.**Requires a Small Scale Comprehensive Plan Amendment from Residential 1 to Community Commercial.

	ADT	PM Peak		
Trips from Existing Zoning	0	0	Segment Number	70225000
Trips from Proposed Zoning	3,275	285	Segment Name	Deering Parkway – SR46
Maximum Acceptable Volume (MAV)	47,900	4,502.6	Acceptable LOS	E
Current Volume	25,000	2,350	Directional Split	
Volume With Proposed Development	28,275	2,635	ITE CODE 820 Shopping Plaza	
Current Volume / MAV	52.2%	52.2%		
Volume / MAV with Proposal	59%	58.5%		
Current LOS	D	D		
LOS With Proposal	D	D		

Land Use Compatibility

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

The request is for the BU-1 zoning classification. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. The surrounding properties are zoned AU to the north, south and west with TU-2 to the east. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. TU-2 is a transient tourist commercial classification, intended to accommodate tourist needs adjacent to interstate and expressway interchanges. This area of Mims is largely undeveloped and characterized by the I-95 interchange. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

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

The following environmental factors may affect development potential (Policies 1.1.A, 11.2.E, and 3.1.F, of the Future Land Use Element):

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

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

Other Considerations: The applicant is seeking the BU-1 zoning classification for the purposes of unspecified commercial development. This area is proposed as commercial in order to be the gateway to the Farnton Local Plan area which was adopted in December 2010. The site is located approximately ¼ mile west of I-95/Deering Parkway interchange. Although there is existing BU-1 and TU-2 zoning in the area, the surrounding property remains undeveloped.

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

- Existing strip commercial;
- Transient commercial uses;
- Tourist commercial uses;
- Professional offices;
- Personal service establishments;
- Retail establishments;
- Non-retail commercial uses;
- Residential uses;
- Institutional uses;
- Recreational uses;
- Public facilities;
- Transitional uses pursuant to Policy 2.17; and

Planned Industrial Park development (as permitted by PIP zoning).

A Small Scale Comprehensive Plan request to change the Future Land Use Designation from Residential 1 to Community Commercial accompanies this request.

Summary: This request represents the applicant's desire to establish general retail commercial zoning for this area. This area of Mims adjacent to the interchange is largely undeveloped however, it will serve as the "gateway" to the Farnton Local Plan area which was adopted by the Board in December of 2010. There is existing BU-1 and Tu-2 zoning already established in the area. A Small Scale Comprehensive Plan request to change the Future Land Use Designation from Residential 1 to Community Commercial accompanies this request.

NATURAL RESOURCES MANAGEMENT OFFICE
Rezoning Review
SUMMARY

Item #: 15PZ00031	Applicant: Swallowtail, LLC
Zoning Request: Res-1 to CC and AU to BU-1	
P & Z Hearing Date: 07/06/15	BCC Hearing Date: 08/06/15

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

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

Comments:

This review relates to the following properties: Twp. 20G, Rng. 34, Sec. 41; Tax ID Nos. 2003311, 2003411, 2003412, & 2003495

The subject parcels contain mapped hydric soils and wetlands, an indicator that wetlands may be present on the property. Aerial photographs are also indicative of wetlands. Section 62-3694(c)(3)a addresses wetland impacts for commercial development within one-half mile of I-95 Interchanges:

Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and the proposed wetland impacts are entirely located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall be measured from the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute.

The subject properties do not currently have commercial or industrial Future Land Use (FLU) Designations. If the requested FLU changes are approved, any permitted wetland impacts must meet the allowable impact and no-net-loss criteria of Sections 62-3694(e) and 62-3696.

The subject site contains mapped soils (St. Johns sand) that may also function as aquifer recharge. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

A portion of the property is mapped as being within floodplain as identified by the Federal Emergency Management Agency; and is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional information and analysis is needed to assess whether the parcel will be subject to filled footprint or density limitations. Compensatory storage for filled floodplain will likely be required. The applicant is encouraged to contact NRM prior to any plan or permit submittal.

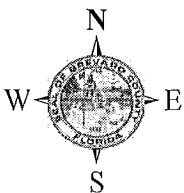
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

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

LOCATION MAP


SWALLOWTAIL LLC


15PZ00031 and Small Scale Amendment 15S.07



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

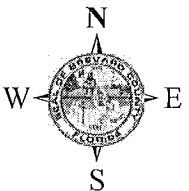
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/3/2015

ZONING MAP

SWALLOWTAIL LLC

15PZ00031 and Small Scale Amendment 15S.07



1:4,800 or 1 inch = 400 feet

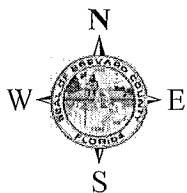
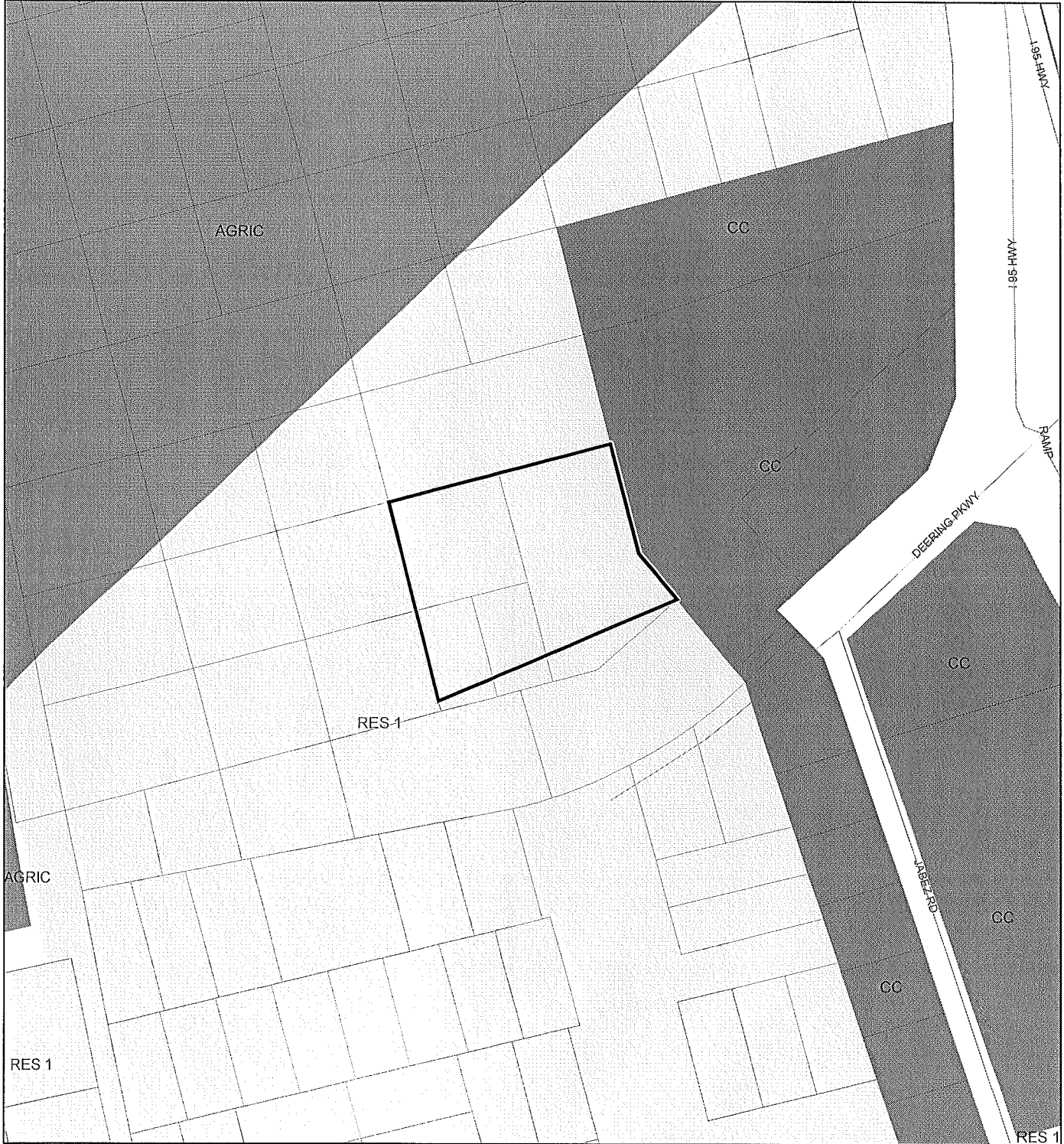
- Subject Property
- ▭ Parcels
- ▭ Zoning

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.



FUTURE LAND USE MAP

SWALLOWTAIL LLC

15PZ00031 and Small Scale Amendment 15S.07



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

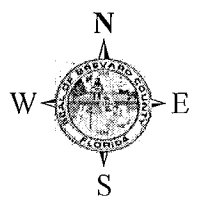
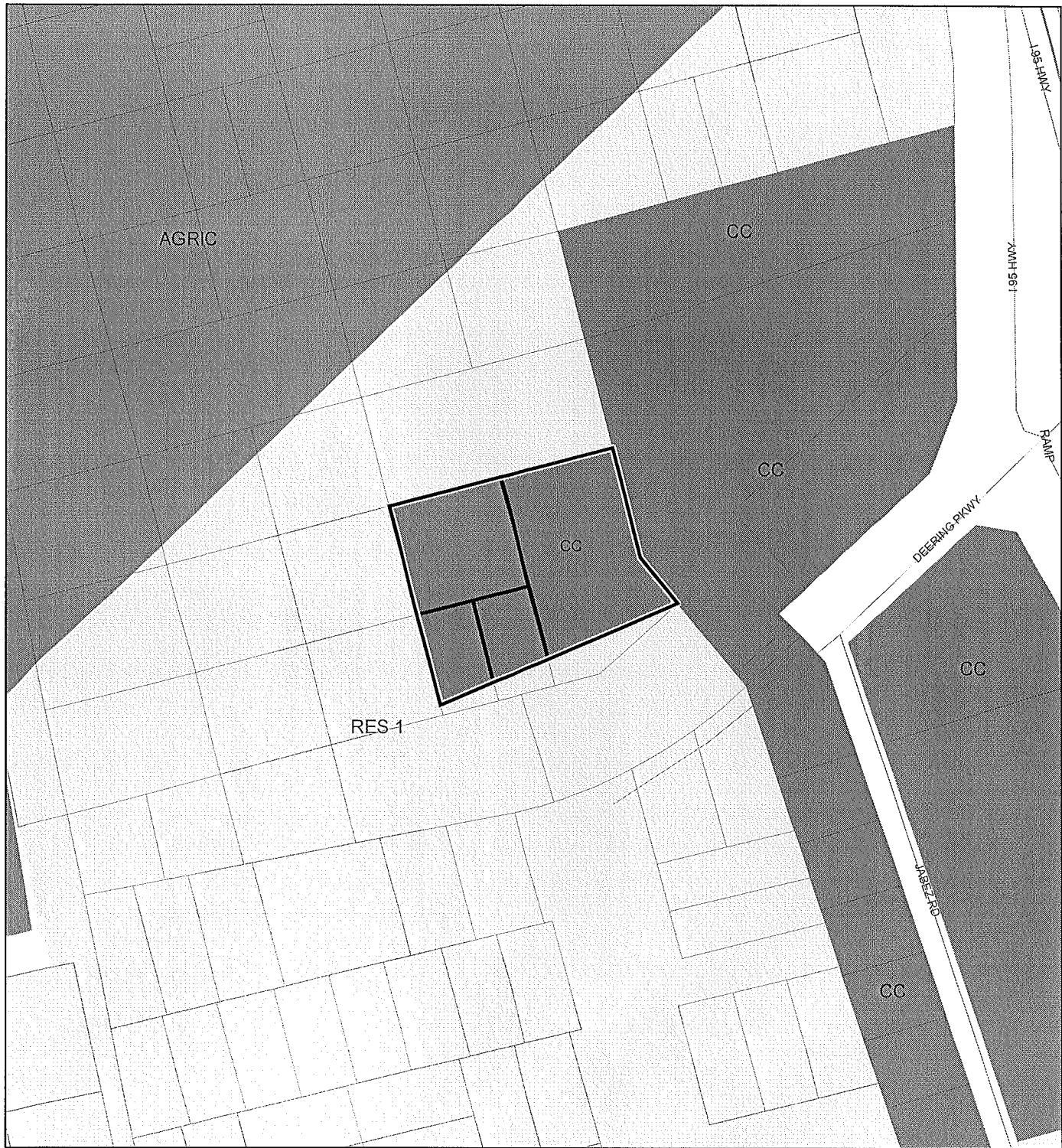
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/21/2015



PROPOSED FUTURE LAND USE MAP

SWALLOWTAIL LLC

15PZ00031 and Small Scale Amendment 15S.07



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

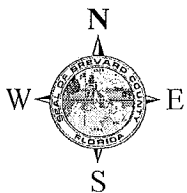
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/21/2015

AERIAL MAP

SWALLOWTAIL LLC

15PZ00031 and Small Scale Amendment 15S.07



1:7,200 or 1 inch = 600 feet

PHOTO YEAR: 2015

— 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 the Brevard County Planning and Zoning Office - GIS Section Date: 6/17/2015

III.B.5.

Commission District # 2 (15PZ00022)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: LINDA E. SPAIN, TRUSTEE

Request: SEU to AU

Subject Property:

Parcel ID#: 24-36-15-00-762
Tax Acct#: 2413249
Location: West side of N. Tropical Trail, approx. 460 ft. south of Indianola Dr.
Address: 2105 N. Tropical Trl., Merritt Island)
Acreage: 4.08 acres.

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	SEU	AU
Potential*	4 Units	1 Unit
Can be Considered under FLU MAP	YES RESIDENTIAL 1	YES

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

ADT PM Peak

Trips from Existing Zoning	38	4	Segment Number	156
Trips from Proposed Zoning	9.52	1	Segment Name	Crockett – Pioneer
Maximum Acceptable Volume (MAV)	15,600	1,419.6	Acceptable LOS	D
Current Volume	1848	168.16	Directional Split	
Volume With Proposed Development	1,819.5	165	ITE CODE 210 Reduction from potential 4 d.u. to 1 SFR d.u. De Minimus Exempt	
Current Volume / MAV	11.84%	11.8%		
Volume / MAV with Proposal	11.6%	11.6%		
Current LOS	B	B		
LOS With Proposal	B	B		

Land Use Compatibility

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

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

Environmental Constraints

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

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

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

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

Other Considerations: The applicant is seeking the AU zoning classification for the purposes of establishing agricultural pursuits on the property. The applicant desires to have a plant nursery, groves, farm animals and fowl. The subject property is developed with a single-family residence, a guest house and other accessory structures. The applicant also desires the AU zoning classification so that there is no maximum size of accessory structures to be constructed to support the agricultural uses.

The subject property is located in the South-North Tropical Trail Small Area Study approved by the Board in September of 2007. The Small Area Study recommended changes to the Future Land Use Map for the area which consisted of reducing the residential density from Residential 15 (15 units per acre) to Residential 1 (one unit per acre). This request for AU is consistent with the recommendations of the study. It should be noted however that the properties to the north and south of the subject property are also zoned SEU. AU zoning is across North Tropical to the east. The majority of the properties that have water frontage on the Indian River Lagoon are not zoned for agricultural use in this area. Compatibility of agricultural activities with surrounding suburban estate zoning should be evaluated by the Board

Summary: This request represents the applicant's desire to rezone the property to AU for the purposes of establishing agricultural pursuits and to construct accessory structures to support the new uses on the property. This area of Merritt Island is primarily developed with single-family uses along the Indian River Lagoon. The properties to the north and south of the subject property are also zoned SEU. AU zoning is across North Tropical to the east. The Board should weigh the compatibility of AU uses next to suburban estate zoning.

NATURAL RESOURCES MANAGEMENT OFFICE
Rezoning Review
SUMMARY

Item #: 15PZ00022	Applicant: Lisa Frazier for Linda Spain
Zoning Request: SEU to AU	
P & Z Hearing Date: 07/06/15	BCC Hearing Date: 08/06/15

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

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

Comments:

This review relates to the following property: Twp. 24, Rng. 36, Sec. 15; Tax ID No. 2413249

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

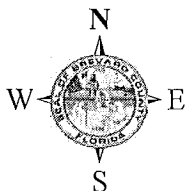
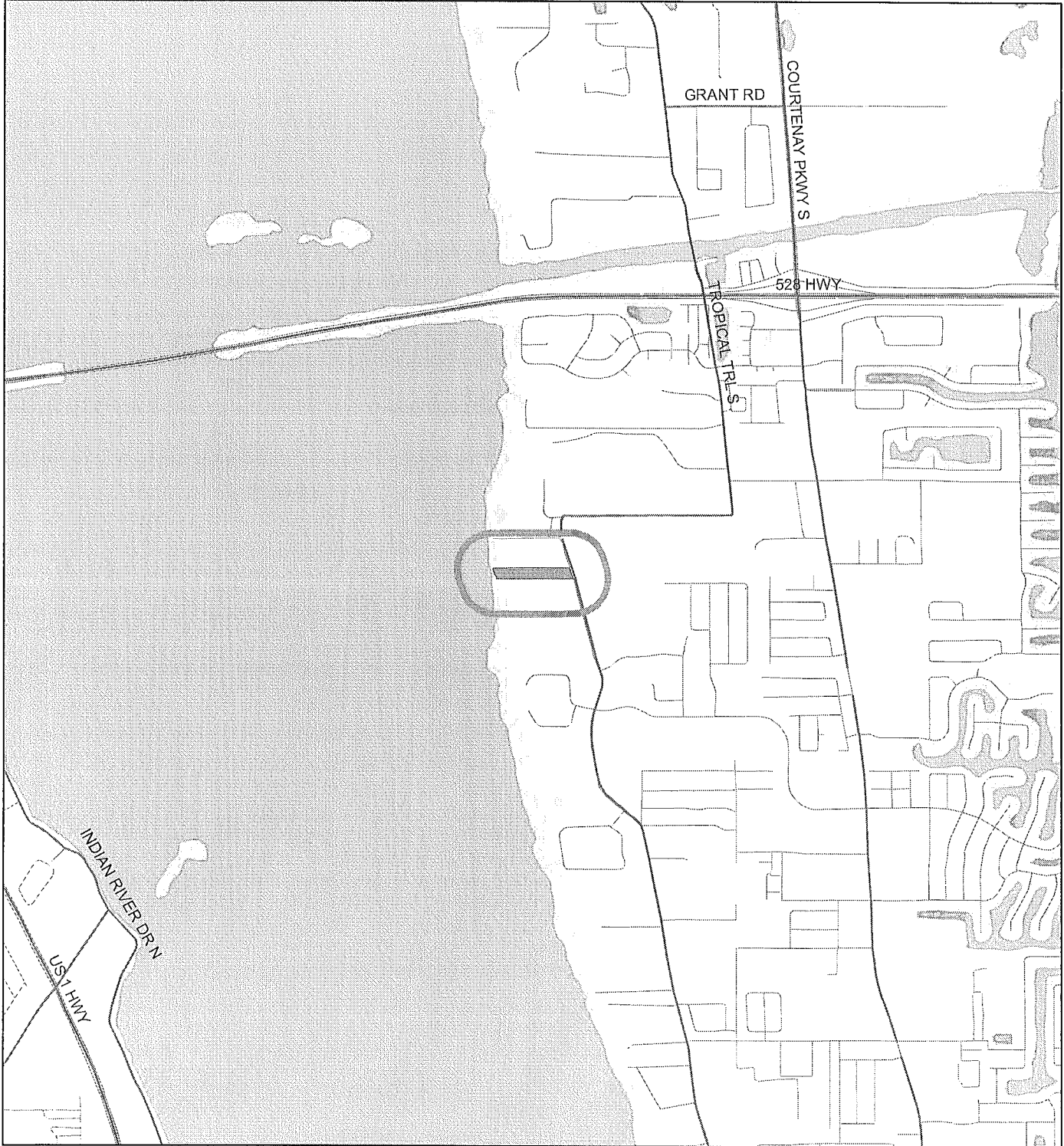
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

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

LOCATION MAP


SPAIN, LINDA E TRUSTEE


15PZ00022



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

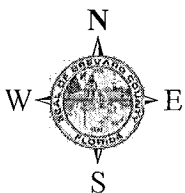
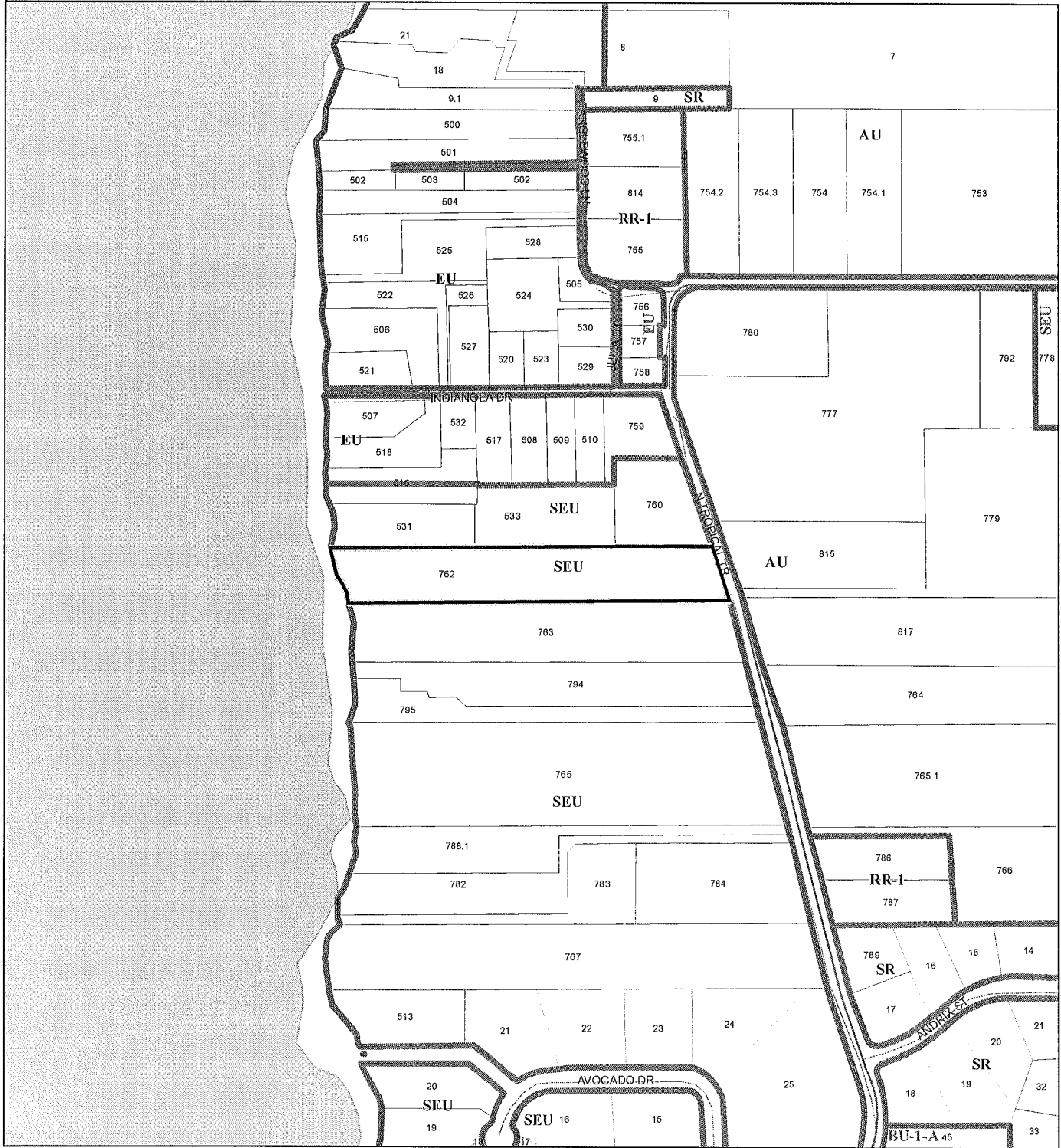
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 4/22/2015




ZONING MAP

SPAIN, LINDA E TRUSTEE

15PZ00022



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

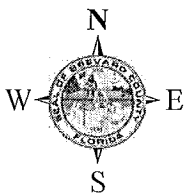
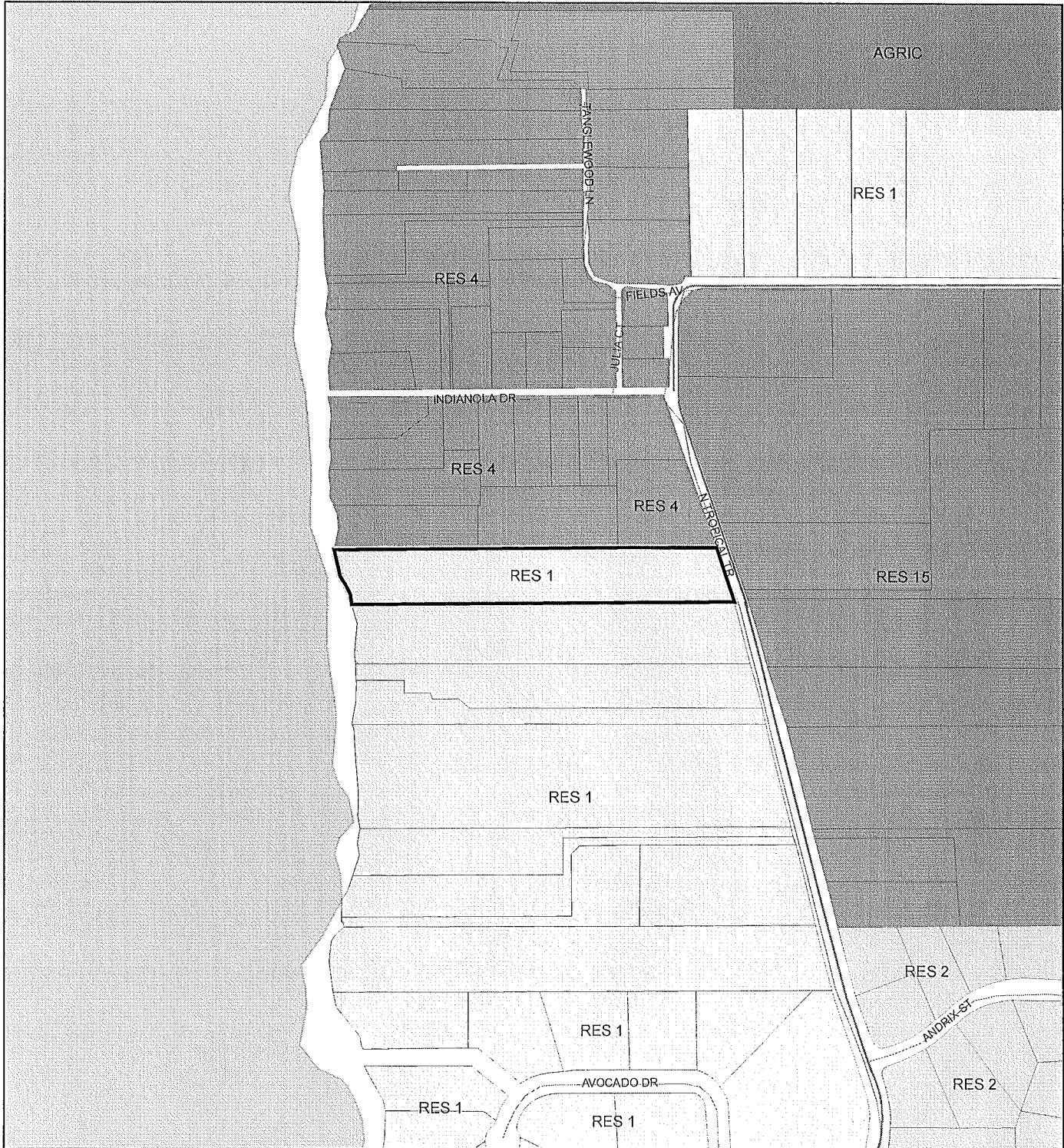
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/10/2015



FUTURE LAND USE MAP

SPAIN, LINDA E TRUSTEE

15PZ00022



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

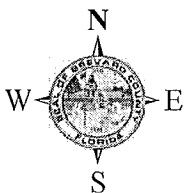
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 4/22/2015

AERIAL MAP


SPAIN, LINDA E TRUSTEE

15PZ00022



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2014

 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 the Brevard County Planning and Zoning Office - GIS Section Date: 4/22/2015

III.B.6.

Commission District # 2 (15PZ00028)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: 1322 CLEARLAKE, LLC

Request: Removal of BDP in BU-2

Subject Property:

Parcel ID#: 24-36-20-56-00-01
Tax Acct#: 2416727
Location: East side of Clearlake Rd., between Melrose St. and Furnari St.
Address: 1322 Clearlake Rd., Cocoa
Acreage: 1.21 acres.

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-2 with BDP	BU-2
Potential*	6,000 sq. ft. Retail BDP potential	6,000 sq. ft. Document Shredding Facility
Can be Considered under FLU MAP	YES COMMUNITY COMMERCIAL	YES

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

	ADT	PM Peak		
Trips from Existing Zoning	343	30	Segment Number	31
Trips from Proposed Zoning	42	6	Segment Name	Dixon to Rosetine
Maximum Acceptable Volume (MAV)	35,700	3,249	Acceptable LOS	E
Current Volume	19,750	1,797	Directional Split	
Volume With Proposed Development	19,792	1,803	ITE CODE 815 Freestanding Discount Store 110 Gen. Lt. Ind. (Proposed)	
Current Volume / MAV	55.3%	55.3%		
Volume / MAV with Proposal	55.4%	55.5%		
Current LOS	D	D		
LOS With Proposal	D	D		

Land Use Compatibility

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

The request is for the removal of a Binding Development Plan (BDP) in the BU-2 zoning classification. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities. The surrounding zoning classifications to the north across Melrose Street are BU-2 and RU-1-7, to the south BU-2, to the east RU-1-7 and RU-2-15 and BU-2 to the west, across Clearlake Road. The RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet. The RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots. This area of Cocoa is characterized by the commercialized Clearlake Road corridor. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

NA

Other Considerations: The applicant is seeking the removal of a Binding Development Plan (BDP) on the subject property. The BDP approved in 2002 (Z-10684) was for the purposes of limiting the development on the subject property" to a bakery distribution facility with the retail sale of bakery and related products, provide a six foot high masonry wall along the property's east property line, restrict access to Clearlake Road and locate the loading docks no less than 25 feet from the property's east property line."

The subject property is developed with a 5,765 square foot commercial building and is no longer used as a bakery distribution facility. The property owners have a new tenant that provides a document and paper shredding service. Due to the specifics of the BDP, the applicant wishes to remove the BDP on the property.

Summary: This request is for the removal of an existing Binding Development Plan on the subject property which limits the property to a bakery distribution facility. The building is no longer occupied by the bakery and the property owners have a new tenant for the site.

The Board may wish to amend the BDP rather than remove it so that the surrounding properties are not impacted by the new business by retaining the stipulation for a 6 foot masonry wall, restricting access to Clearlake Road and maintaining the loading docks at the 25 foot setback from the east property line.

EXISTING → To Be Removed FYI

III.B.6.



CFN:2002086405 04-08-2002 12:36 pm
OR Book/Pages: 4567 / 0351

BINDING DEVELOPMENT PLAN

RETURN: Clerk to the Escond #27

THIS BINDING DEVELOPMENT PLAN ("Amended Agreement") made and entered into this 7th day of February 2002, and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida ("County"); and AKAR PROPERTIES, L.L.C., a Florida limited liability company ("Owner");

WITNESSETH:

WHEREAS, Owner owns unimproved real property ("Property") located in Brevard County, Florida, said Property being more particularly described in Exhibit "A", which is attached hereto and incorporated herein by this reference; and

WHEREAS, Owner desires to develop the Property as a distribution center for the delivery of bakery products and pursuant to Brevard County Code Section 62-1157; and

WHEREAS, Owner did heretofore and on the 1st day of October, 2001, execute in favor of the County a Binding Development Plan Agreement ("Initial BDP"), said Initial BDP being recorded in Official Records Book 4471, at Page 1972 *et seq.*, Public Records of Brevard County, Florida; and

WHEREAS, the parties hereto intend by this Amended Agreement to cancel and make of no further force and effect the Initial BDP, together with exhibits thereto, and replace and provide in lieu thereof the Amended Agreement; and

WHEREAS, in addition to the foregoing, Owner proposes and incorporates herein by reference as Exhibit "B" an Amended Conceptual Site Plan dated January 25, 2002 prepared by Bowman Architects and Engineers; and

LE:0401
011035778
C:\MY DOCUMENTS\AKAR\BDP.DOC

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 7 #Names: 2
Trust: 4.00 Rec: 29.00 Serv: 0.00
---: 0.00 Excise: 0.00
Mfg: 0.00 Int Tax: 0.00

11

RETURN: Clerk to the Board #27

WHEREAS, the County is authorized by law to regulate development of the Property;

NOW, THEREFORE, the parties agree as follows:

1. That the foregoing recitals are true and are incorporated herein by reference.
2. That the Property and the improvements to be placed thereon shall, subject to County approval and applicable land regulations, be designed and constructed by the Owner or its successors in interest in substantial accordance with the Amended Conceptual Site Plan
3. That the County shall not be required or obligated to construct or maintain or participate in any way in the construction or maintenance of the Property or the improvements, it being the intent of the parties that the Owner, Owner's grantees, successors or assigns in ownership interest or such other association or assignee satisfactory to the County, shall be responsible for the maintenance of the Property or the improvements.
4. That the Owner shall:
 - a. Restrict the Retail, Warehousing and Wholesale Commercial (BU-2) permitted uses to a bakery distribution facility, with the retail sale of bakery and related products;
 - b. Provide a six (6') foot-high masonry wall along the Property's east property line;
 - c. Restrict access to the Property so that sole access will be from Clearlake Road; and
 - d. Provide that the loading docks shall be located no less than twenty five (25') feet from the Property's east property line.
5. That the Owner shall comply with all regulations and ordinances of the County.

This Amended Agreement constitutes Owner's agreement to meet additional standards or restrictions

LS083601
012301070
COUNTY OF CALIFORNIA



CFN:2002086405
OR Book/Page: 4567 / 0352

17

RETURN: Clerk to the Board

in developing the Property. This Amended Agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this Property.

6. That Owner represents to the County that Owner is the sole owner of the Property, and mortgagee(s), if any, have joined in the execution of this Amended Agreement.

7. That the Owner, upon execution of this Amended Agreement, shall pay the County the cost of recording this Agreement among the Public Records of Brevard County, Florida.

8. That this Agreement shall be binding upon and shall inure to the benefit of the successors or assigns of the parties hereto and shall run with the Property unless or until rezoned or otherwise modified by formal act of the County and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to or of the Property.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed as of the day and year first above written at Brevard County, Florida.

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

Attest:

Signature of Secretary
Secretary, Clerk
(Seal)

By
Signature of Chairman

Chairman ("County")

AS Approved BY THE Board on 2/1/02

AKAR PROPERTIES LLC

By Patricia D. Rogoski

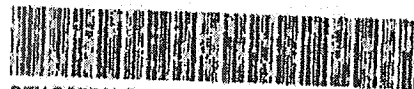
Patricia D. Rogoski, Member
1322 Clearlake Road
Cocoa, Florida 32922

Print Name: [Signature]

Print Name: [Signature]
(Witnesses as to Owner)

(Owner)

LE006591
313303776
CAMY DOCUMENT SERVICES, INC.

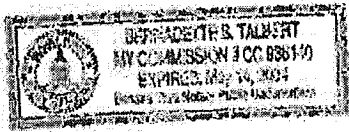


13

RETURN: Clerk to the Board #22

STATE OF FLORIDA :
COUNTY OF BREVARD :

The foregoing instrument was acknowledged before me this 4th day of April, 2002, by Truman Scarborough as the Chairman, and Scott Ellis, as Clerk of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, on behalf of said entity. They are personally known to me or who has produced _____ as identification.



Debra D. B. Talbert
Notary Public, State of Florida at Large

Print Name: _____

Commission No. _____

My Commission Expires: _____

(Seal)

STATE OF TENNESSEE:
COUNTY OF SHELBY:

The foregoing instrument was acknowledged before me this 1st day of March, 2002, by Patricia D. Rogoski, as Designated Member of AKAR PROPERTIES LLC, a Florida limited liability company, on behalf of said liability company. She is personally known to me or who has produced _____ as identification.

Notary Public, State of Tennessee

Print Name: *Patricia D. Rogoski*

Commission No. _____

My Commission Expires: _____

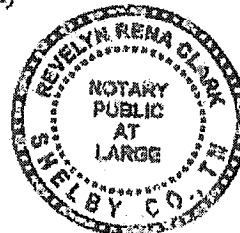
(Seal)



CFN:2002038405

OR Book/Page: 4567 / 0354

LS 06/01
212204/573
ONLY DOCUMENTS AKAR #07.DOC



14

RETURN: Clerk to the Board

That portion of Lot 9 of ATKINSONS SUBDIVISION, PLAT NO. 1, as recorded in Plat Book 9, Page 35 of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Lot 9, and run Easterly along the South line of said Lot 9, a distance of 10.0 feet to an intersection with the Easterly Right of Way line of Clearlake Road and the Point of Beginning; thence continue Easterly, along said South line of Lot 9, a distance of 200.0 feet; thence Northerly, parallel with the East line of said Lot 9, a distance of 100.0 feet; thence Westerly, parallel with said South line of Lot 9, a distance of 200.0 feet to a point on the aforementioned Easterly Right of Way line of Clearlake Road; thence Southerly, along said Easterly Right of Way line, a distance of 100.0 feet to the Point of Beginning. Same being the South 100.0 feet of the East 200.0 feet of the West 210.0 feet of said Lot 9, otherwise described as Lot 1, PAUL'S SUBDIVISION, according to the Plat thereof recorded in Plat Book 10, Page 62A, Public Records of Brevard County, Florida.

LESS AND EXCEPT the North 20 feet of the above described parcel.

AND

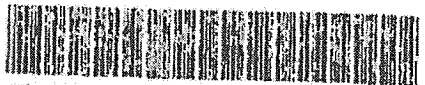
A tract of land in Lot 3, ATKINSONS SUBDIVISION, PLAT NO. 1, as recorded in Plat Book 9, Page 35, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Lot 3, and run Easterly, along the North line of said Lot 3, a distance of 10.0 feet to an intersection with the Easterly Right of Way line of Clearlake Road and the Point of Beginning; thence continue Easterly, along said Northerly line of Lot 3, a distance of 200.0 feet; thence Southerly, parallel with the East line of said Lot 3, a distance of 75.0 feet; thence Westerly, parallel with the North line of said Lot 3, a distance of 200.0 feet to a point on the aforementioned easterly Right of Way line of Clearlake Road; thence Northerly, along said Easterly Right of Way line, a distance of 75.0 feet to the Point of Beginning.

AND

Lot 2 and the North 20 feet of Lot 1, LESS and EXCEPT road right of way, of REPLAT OF LOTS 9 AND 10 of ATKINSON'S SUBDIVISION, PLAT NO. 1 a/k/a Paul's Subdivision, according to the Plat thereof as recorded in Plat Book 10, Page 62A, Public Records of Brevard County, Florida.

EXHIBIT "A"
(Legal Description of Property)



CPN:2002086406
OR Book/Page: 4567 / 0355

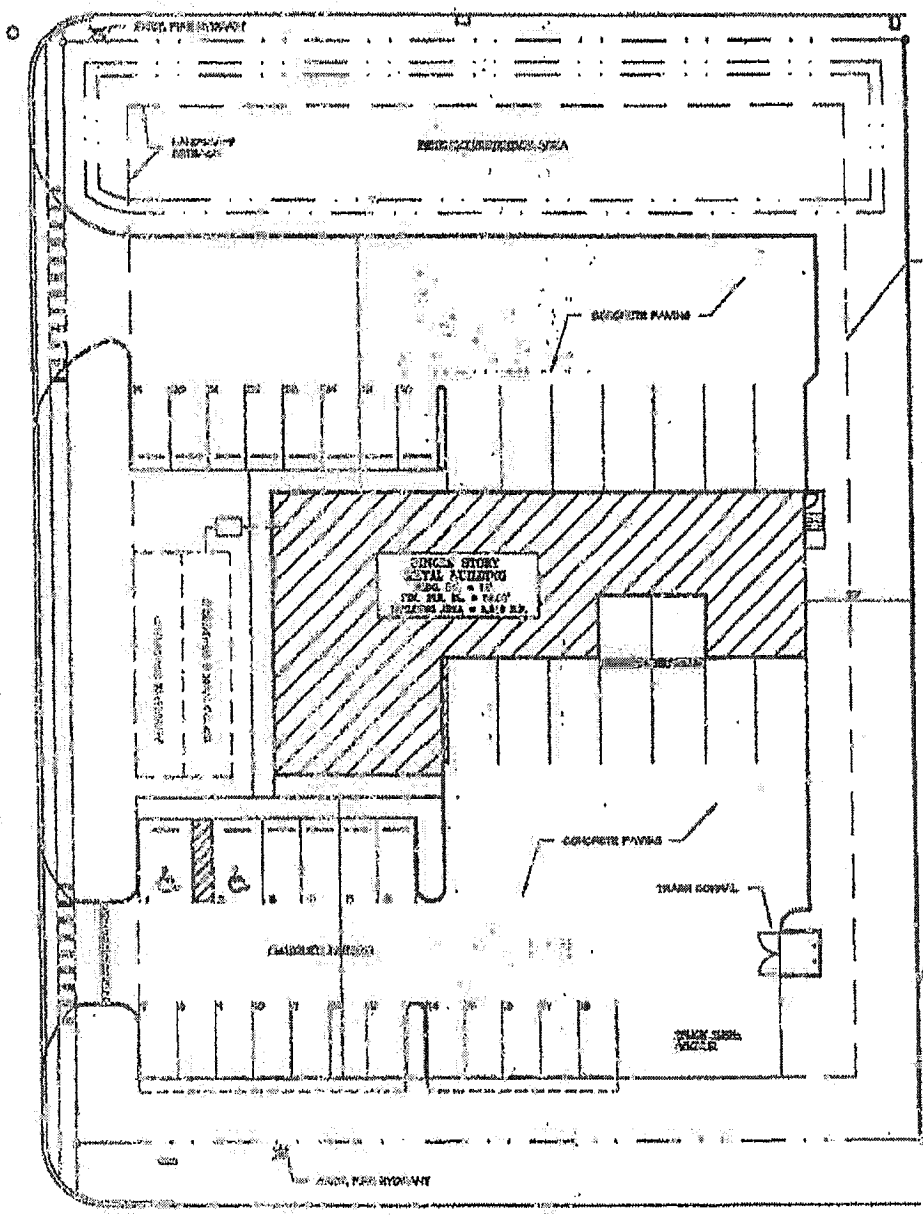
15

ZONED RU-1

ZONED RU-1-7

EXHIBIT "B"
AMENDED CONCEPTUAL SITE PLAN

MELROSE STREET
40' RIGHT-OF-WAY



FURNARI STREET
40' RIGHT-OF-WAY

ZONED RU-1

ZONED RU-2-1B

PROPOSED SITE PLAN



[Handwritten Signature]
1/29/02

RETURN: Clerk to the Board 927

CLEARLAKE ROAD
60' RIGHT-OF-WAY



CFN 2002086405
OR Book/Page: 4567 / 0356

DATE	1/29/02
BY	[Signature]
CHECKED	[Signature]
APPROVED	[Signature]

Wonder Bread Retail Sales Facility
1332 Clearlake Road
Cocoa (Brevard County), Florida

BOWMAN ARCHITECTS & ENGINEERS
ARCHITECTS ENGINEERS PLANNERS
30 Grace Street, Suite A, South Beach, Florida 33139 305-488-0510

Tyler D. Bowman
FLORIDA LICENSE NUMBER 00421

16

RETURN: Clerk to the Board #27



CFN:2002086405
OR Book/Page: 4567 / 0357

JOINER, CONSENT AND SUBGRINATION

COMES NOW, HARBOR FEDERAL SAVINGS BANK, a banking corporation organized and existing under the laws of the United States of America ("Mortgagee") as owner and holder of a mortgage and mortgage note secured thereby (collectively, "Mortgage") encumbering the Property, said Mortgage being recorded in Official Records Book 4434, at Page 1747, *et seq.*, among the Public Records of Brevard County, Florida, and, for and in consideration of Ten and no/100 (\$10.00) Dollars and other items of value, receipt whereof being acknowledged by the Mortgagee, does, by these presents, subordinate to, join in and consent to the foregoing Binding Development Plan Agreement, all as hereinabove provided.

Signed Sealed, and Delivered
in the Presence of:

[Signature]
Print Name: Muse A. DeLeon

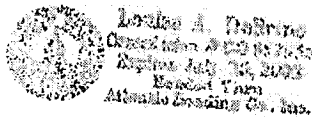
[Signature]
Print Name: Suzanne M. [unclear]
(Witnesses as to Mortgagee)

HARBOR FEDERAL SAVINGS BANK

By: *[Signature]*
Print Name: Kim Belardinelli
Print Title: Vice President
Print Address: 100 Capri Trail
Melbourne, Florida 32904
("Mortgagee")

STATE OF FLORIDA :
COUNTY OF BREVARD :

The foregoing instrument was acknowledged before me this 11th day of March, 2002, by Kim Belardinelli, vice president as vice president President on behalf of HARBOR FEDERAL SAVINGS BANK, a banking corporation organized and existing under the laws of the United States of America. He or she is personally known to me or who has produced _____ as identification.



Notary Public, State of Florida
Print Name: Louise A. DeBriano

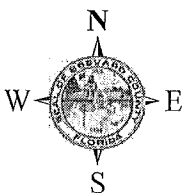
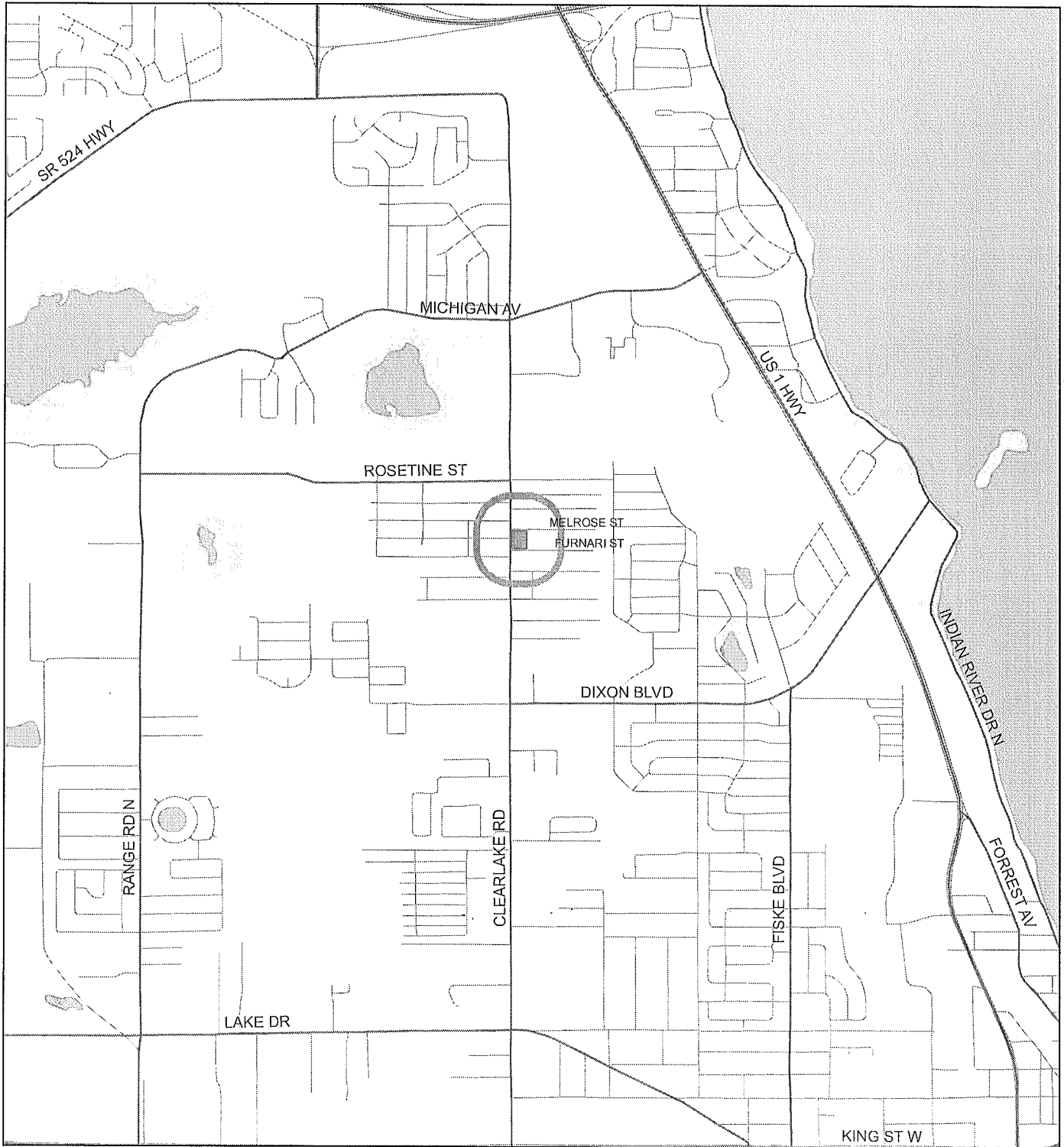
Commission No. _____
My Commission Expires: _____
(Seal)

(17)

LOCATION MAP


1322 CLEARLAKE LLC


15PZ00028



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

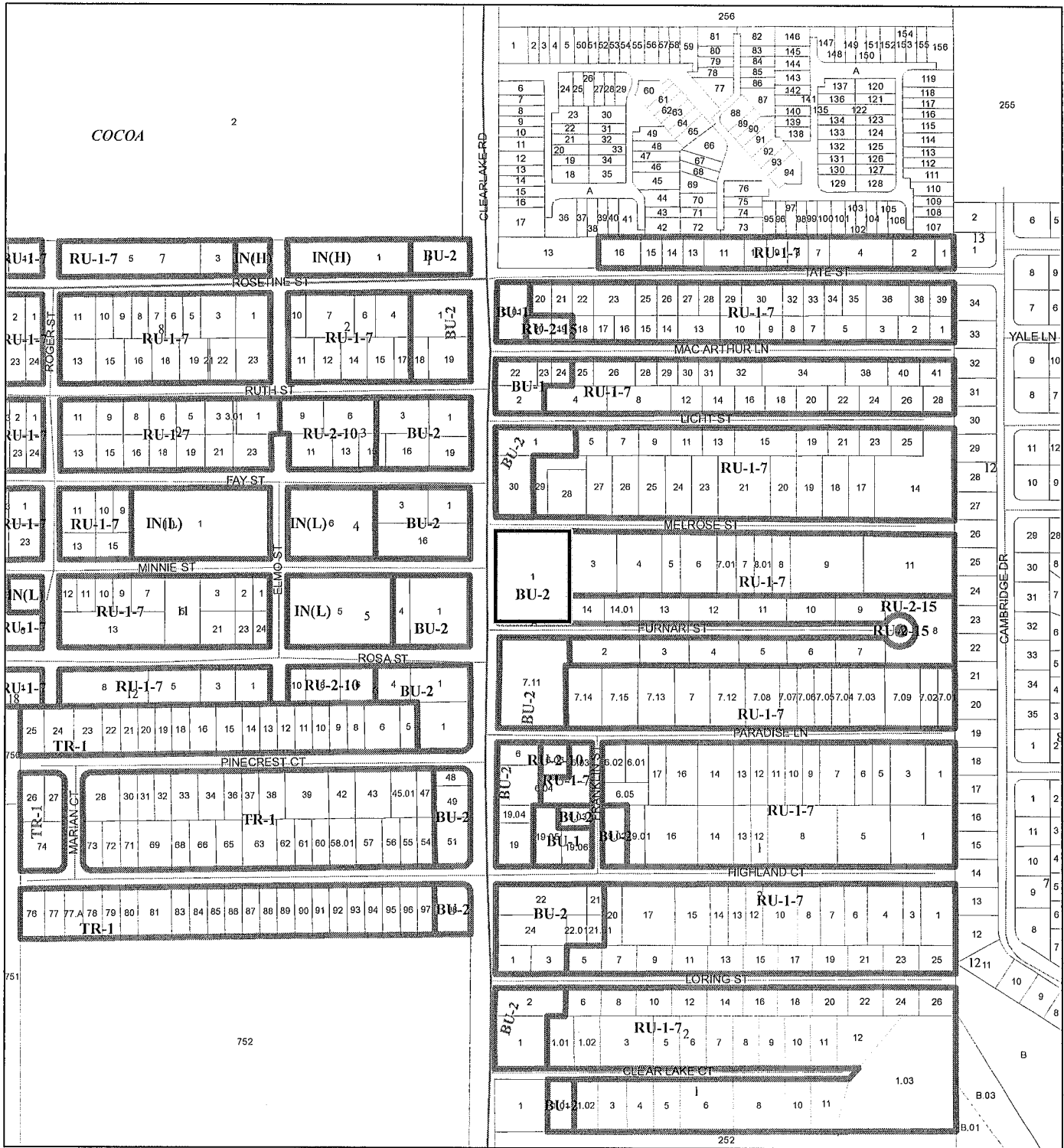
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/13/2015

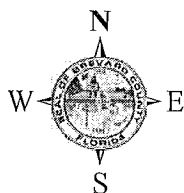
ZONING MAP




1322 CLEARLAKE LLC

15PZ00028



1:4,800 or 1 inch = 400 feet



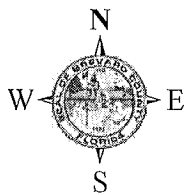
-  Subject Property
-  Parcels
-  Zoning

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FUTURE LAND USE MAP

1322 CLEARLAKE LLC

15PZ00028



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

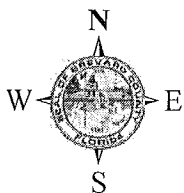
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Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/13/2015

AERIAL MAP

1322 CLEARLAKE LLC

15PZ00028



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2015

— 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 the Brevard County Planning and Zoning Office - GIS Section Date: 5/13/2015

III.B.7.

Commission District # 3 (15PZ00029)
Initial Hearing Dates: P&Z 07/06/15 BCC 08/06/15

REZONING REVIEW WORKSHEET

Applicant Name: SEBASTIAN INLET MARINA, LLC

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

Subject Property:

Parcel ID#: 30-38-14-00-505-00
Tax Acct#: 3006485
Location: East side of U.S.1, approx. 425 ft. south of Overlook Dr.
Address: 8685 U.S. Hwy 1, Micco
Acreage: 2.85 acres.

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-2	BU-2 with CUP for alcohol
Potential*	1,400 sq. ft. Retail	75 seat Restaurant
Can be Considered under FLU MAP	YES COMMUNITY COMMERCIAL	YES

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

Trips from Existing Zoning	80	7	Segment Number	416
Trips from Proposed Zoning	178	14	Segment Name	Indian River Co. Line - Micco
Maximum Acceptable Volume (MAV)	48,000	4,368	Acceptable LOS	E
Current Volume	20,921	1,903	Directional Split	
Volume With Proposed Development	21,019	1,910	ITE CODE 815 Freestanding Retail-Existing 932 Sit Down Restaurant	
Current Volume / MAV	43.5%	43.5%		
Volume / MAV with Proposal	43.8%	43.7%		
Current LOS	C	C		
LOS With Proposal	C	C		

Land Use Compatibility

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

The request is for a Conditional Use Permit (CUP) for the on-premises consumption of alcohol in conjunction with a restaurant in the BU-2 zoning classification. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. The property to the north and west is zoned BU-1. To the south is RU-2-4 zoning. The RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots. This area of Micco is characterized by a mixture of residential and commercial properties. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

NA

Other Considerations: The request is for a Conditional Use Permit (CUP) for the on-premises consumption of alcohol as part of a 75 seat restaurant and bar. The site is developed as a commercial/recreational marina with 256 wet/dry slips and the applicants desire to add a restaurant and bar to the first floor. This area of Micco is characterized by a mixture of residential and commercial properties. The property abutting to the south is zoned multi-family but is developed with a single-family residence.

The site was approved for a CUP for the on-premises consumption of alcohol in 2011 (Z-11569) as a bar and restaurant with 150 seats. The business was not expanded at the time of approval and the three year timeframe to establish the on-premises consumption of alcohol use has lapsed. Therefore, the applicant has reapplied for a CUP. However, the seating has been reduced to 75 seats instead of 150 seats.

Section 62-1906 prohibits alcoholic beverage service within 300 feet of a church or school, except for restaurants with more than 50 seats. The applicant has submitted a survey indicating there are no churches or schools within 300 feet of the property.

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 11 – 15 of these comments. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

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

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

The proposed conditional use will not result in a substantial or adverse impact on adjacent and nearby property owners by the numbers of users or employees since the site is large enough to accommodate these numbers on-site with ample distance to surrounding properties, nor by emissions or nuisance activities as the proposed restaurant is a quality restaurant with state-of-the-art kitchen equipment, nor by increase in traffic since the site is on a major highway that operates at a high level of service and the proposed increase in trips is minimum.

The site is developed as a commercial/recreational marina. The site plan for the marina was approved in February 27, 2007 with a parking waiver of 28.5%, reducing the required total spaces for the marina from 149 spaces to 90 spaces. The current parking arrangement provides a total 91 spaces. When the CUP was originally approved in 2011, they submitted a parking study to justify a 48% waiver of parking for the property since the CUP request would have generated an additional need of 52 parking spaces. Now with a reduction in seating and a remodel of the first floor, parking needs are sufficient.

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

Adjacent properties;
Operating hours;
Amount of traffic generated;
Building size and setbacks; and
Parking availability.

The existence of commercial properties in this area along the US 1 corridor is prominent and consistent with the character of the area. The use, function, operation, and hours, as well as traffic and parking availability is compatible with the area and consistent with code requirements.

The property to the north and west is zoned BU-1. To the south is RU-2-4 zoning and although it is zoned multi-family, it is developed with a single-family residence. This area of Micco is characterized by a mixture of residential and commercial properties.

The applicant has indicated the restaurant hours of operation will be from 11 a.m. to 10 p.m.

The property received site plan approval for a marina in February of 2007 and meets setbacks.

A parking study was submitted with the original request for the on-premises consumption of alcohol and was accepted by the County.

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

In our opinion, the addition of a quality restaurant in the area will only lead to increased property values in the area, as there are none currently in the immediate vicinity.

Single-family residential development abuts the property to the south.

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

Ingress and egress, for all purposes, for this property is already existing as approved by Brevard County under a site plan review process (2006) for its original construction.

Access is from Highway US 1.

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

The proposed use is not foreseen to create any of the above mentioned undesirable issues. The proposed restaurant will be a quality restaurant, completely indoors to reduce noise, and with state-of-the-art kitchen equipment to eliminate smoke, odor and emissions.

This property is subject to the Performance Standards found in Sections 62-2251 through 62-2271 of Brevard County Code.

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

Acknowledged. It is the full intent of the owner/applicant to not exceed the required levels for noise.

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

The site currently is enrolled in solid waste service and does not anticipate that the addition of the proposed restaurant would exceed the adopted level of service.

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

Acknowledged. It is the full intent of the owner/applicant to not exceed the required levels for water and wastewater. The site is currently serviced by potable water and will utilize an on-site septic system.

The site is presently served by on-site septic system. In 2011, when the original CUP was approved they were seeking a connection for wastewater to eliminate the on-site septic system. The engineer for the project has

indicated that the Marina has been accepted into the Barefoot Bay Utility Service area since that time and will seek future conversion to sewer

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

The proposed restaurant will be a quality restaurant, completely indoors to reduce noise. The site has existing screening and buffers in accordance with County standards per the site plan review (2006) for the original construction, which is maintained as required.

The property received site plan approval in February of 2007 and meets landscaping and buffering requirements.

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

Signs and lighting are existing and meet current County requirements. Should any additional signs and/or lighting be proposed, the required permits will be obtained and the items will be in accordance with the standards for glare, interference, or hazards.

This property is subject to the Performance Standards found in Sections 62-2251 through 62-2271 of Brevard County Code.

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

The proposed hours of operation of the restaurant are from 11:00 a.m. to 10:00 p.m., which is consistent with the use and enjoyment of the surrounding properties.

Proposed hours of operation are anticipated to be seven days a week. Staff suggested to the applicant during the 2011 request, that restaurant hours of operation be limited to evenings, after the marina closes, to ease parking impacts. Alternatively, it was suggested that the applicant consider limiting lunchtime service to the bar area only. However, the total number of seating for the restaurant has decreased by half and parking availability is sufficient outside of these recommended times.

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

The building is existing. No exterior expansion is proposed.

The proposed restaurant and bar will occupy the first floor of the existing building.

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

All loading areas are in compliance with current County requirements. The parking is existing as well. Additional parking (valet) is proposed within the building structure.

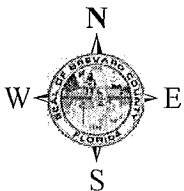
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LOCATION MAP


SEBASTIAN INLET MARINA LLC


15PZ00029



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

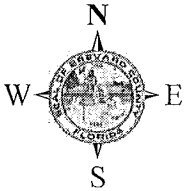
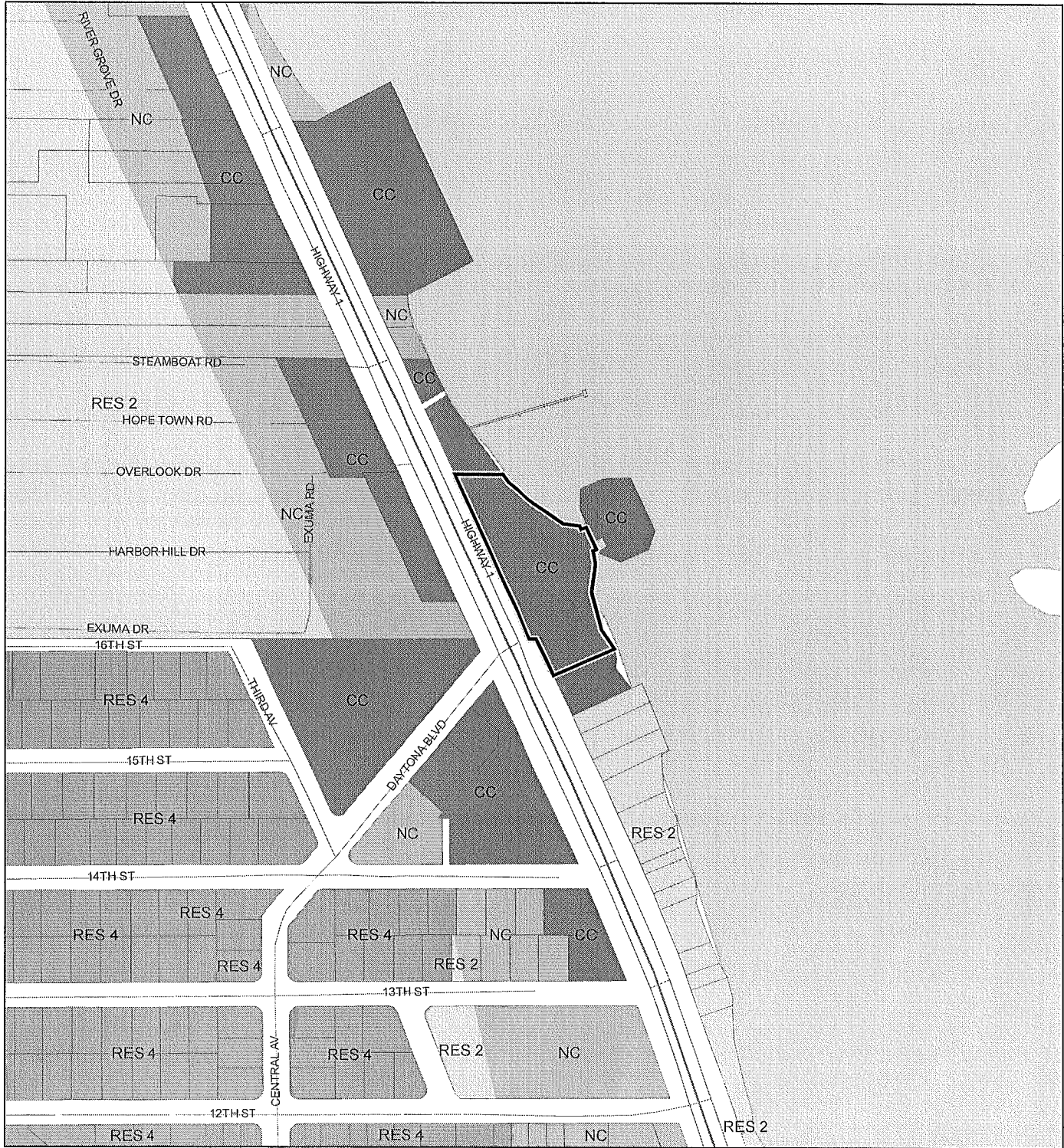
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 5/15/2015

FUTURE LAND USE MAP

SEBASTIAN INLET MARINA LLC

15PZ00029



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

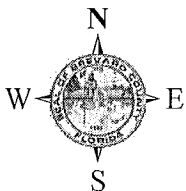
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AERIAL MAP


SEBASTIAN INLET MARINA LLC


15PZ00029



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2015

 Subject Property

 Parcels

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