



AGENDA REPORT
August 2, 2018

**Public Hearing, Re: MHE, LLC (Mike Erdman/Sharon Harrell) requests a
Small Scale Comprehensive Plan Amendment from NC to CC. (18PZ00057)
(District 2)**

SUBJECT:

Public Hearing, Re: MHE, LLC (Mike Erdman/Sharon Harrell) requests a Small Scale Comprehensive Plan Amendment changing the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC). The property is 1.21 acres, located approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.) (18PZ00057) (District 2)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider the Small Scale Comprehensive Plan amendment proposing to change the Future Land Use designation from NC to CC.

SUMMARY EXPLANATION and BACKGROUND:

The subject property has two Future Land Use designations, NC on the 1.21 acre portion and CC on the remaining 0.76 acre. This area of unincorporated Brevard County is comprised of mainly CC development along the SR 520 principal east/west arterial roadway on Merritt Island. The parcel is surrounded on all sides by CC, making the NC Future Land Use designation isolated at this location.

A companion rezoning application was submitted accompanying this request for Future Land Use designation change, proposing to change the zoning classification from Single-Family Residential (RU-1-7) to Retail, Warehousing, and Wholesale Commercial (BU-2)

On July 9, 2018, the Local Planning Agency heard the request and unanimously recommended approval.

CLERK TO THE BOARD INSTRUCTIONS:

Board Chair and Clerk to sign attached Ordinance.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **Maps**
- ▢ **FYI MIRA Memo**
- ▢ **Draft Ordinance**



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

August 6, 2018

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Erin Sterk

RE: Item H.4., Ordinance for Small Scale Plan Amendment 18S.03, Changing the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC)

The Board of County Commissioners, in regular session on August 2, 2018, adopted Ordinance No. 18-18, Small Scale Plan Amendment 18S.03, changing the Future Land Use designation from NC to CC. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe

Tammy Rowe, Deputy Clerk

Encl. (1)

44

RESOLUTION NO. 18PZ00057

On motion by Commissioner Barfield, seconded by Commissioner Smith, the following resolution was adopted by a unanimous vote: (Commissioners Tobia and Isnardi absent)

WHEREAS, MHE, LLC – have applied for a Small Scale Comprehensive Plan Amendment (18S.03) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as a parcel of land being a portion of lands described in ORB 5589, Page 3458, which lie in the NW ¼ of Brevard County, Florida, being more particularly described as follows: Commence at the west ¼ corner of said Section 36, and run N89deg29'08"E, along the south line of said NW ¼, a distance of 420 ft. to the SW corner of aforesaid lands described in ORB 5589, Page 3458, the point of beginning; thence continue N89deg29'08"E, along said south line, a distance of 100 ft. to the SE corner of said lands; thence N00deg32'34"W, parallel with the west line of said NW ¼, a distance of 526.76 ft. to the SW corner of Lot 21 of "Plat of Highland Park Subdivision Section Two" according to the plat thereof, as recorded in Plat Book 10, Page 12, of the Public Records of Brevard County, Florida; thence S88deg43'18"W, along the westerly extension of the south line of said Lot 21, a distance of 100.01 ft.; thence S00deg32'34"E, parallel with said west line of the NW ¼, a distance of 525.42 ft. to the point of beginning. (1.208 acres) Located approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.); and

Section 36, Township 24S, Range 36E, and,

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Comprehensive Plan Amendment (18S.03) to change the Future Land Use designation from NC to CC, be APPROVED as recommended, and adopted Ordinance No. 18-18. The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 2, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on August 2, 2018.

ATTEST:



Scott Ellis
SCOTT ELLIS, CLERK
(SEAL)

(LPA Hearing – July 9, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

ORDINANCE NO. 18- 18

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2018, 18S.03, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2018 as Plan Amendment 18S.03; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 18S.03; and

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

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and
Officially filed with the Secretary of State on August 6, 2018.

WHEREAS, on July 9, 2018, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 18S.03, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 2, 2018, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 18S.03; and

WHEREAS, Plan Amendment 18S.03 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 18S.03 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 18S.03 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 18S.03, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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

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

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

DONE AND ADOPTED in regular session, this 2 day of August, 2018.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____
Rita Pritchett, Chair

As approved by the Board on August 2, 2018.

EXHIBIT A
18S.03 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

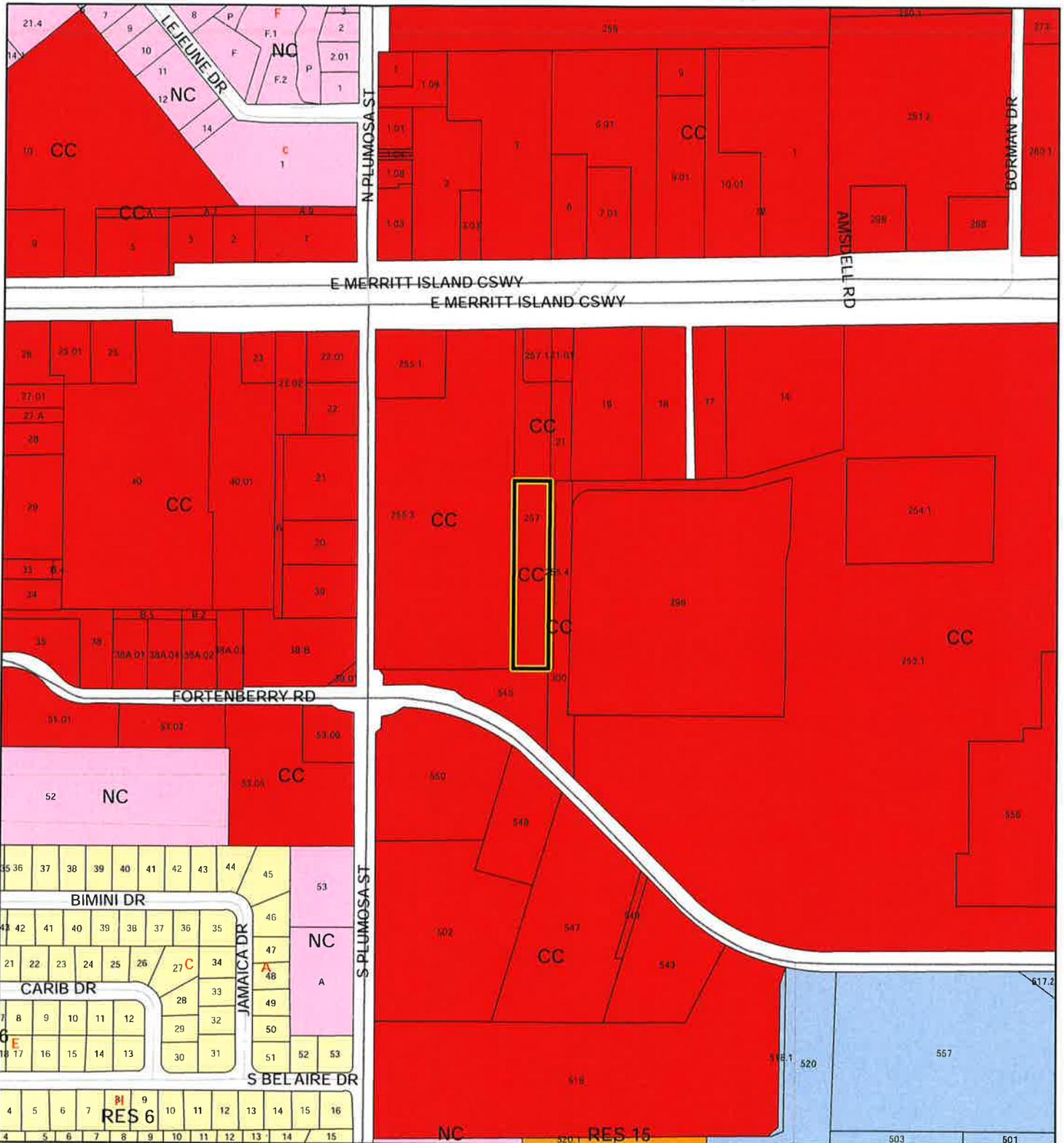
Contents

- 1. Proposed Future Land Use Map**

PROPOSED FUTURE LAND USE MAP

MHE, LLC

18PZ00057 SMALL SCALE AMENDMENT 18S.03



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 5/21/2018

EXHIBIT B
FINDINGS OF FACT

Contents

1. Legal Description

AD#2083848, 6/21/2018

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, JULY 9, 2018, and THURSDAY, AUGUST 2, 2018. DISTRICT 2. (18PZ00051) - HOUSING AUTHORITY OF BREVARD COUNTY - (Michael Bean/Steve Monroe) - requests a change of zoning classification from PUD (Planned Unit Development) to RU-2-15 (Medium Density Multi-Family Residential), on property described as Lot 64, Nevins Subdivision, as recorded in ORB 725, Pages 38 - 39, of the Public Records of Brevard County, Florida; Lot 8, Merritt Apartment Sites, as recorded in ORB 6004, Pages 1566 - 1567, of the Public Records of Brevard County, Florida, less and except Lot 19, Block A, Plat of Hibiscus Park; and Lot 65, 10, Nevins Subdivision, as recorded in ORB 6004, Pages 1566 - 1567, of the Public Records of Brevard County, Florida, less and except Lot 19, Block A, Plat of Hibiscus Park; Section 26, Township 24, Range 36, (11.88 +/- acres) Located on the south side of Citrus Blvd., approx. 400 ft. west of N. Courtney Pkwy. (No assigned address. In the Merritt Island Redevelopment Area.) DISTRICT 4. 2. (18PZ00052) - JINKIE A. BAYS, TRUSTEE - (Troy and Audrey Taylor) - requests a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant, in a BU-1 (General Retail Commercial) zoning classification, on property described as the north 275 ft. of Tax Parcel 760, as recorded in ORB 7252, Pages 1891 - 1892, of the Public Records of Brevard County, Florida. Section 18, Township 27, Range 37, (0.568 acres) Located on the south side of Aurora Rd., approx. 0.19 mile west of Croton Rd. (2241 Aurora Rd., Melbourne) DISTRICT 4. 3. (18PZ00055) - JULIAN AND MARTHA GOLDSMITH - request a change of zoning classification from GU (General Use) to RU-1-7 (Single-Family Residential) on property described as Lots 1 & 2, Block 28, Plan of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida, together with the W 1/2 of the abutting portion of Third Street vacated under Resolution recorded in ORB 3931, Page 225, of the Public Records of Brevard County, Florida; and together with the N 1/2 of the portion of Freeman Lane vacated under Resolution recorded in ORB 4514, Page 1594 and re-recorded in ORB 5039, Page 3989, of the Public Records of Brevard County, Florida, abutting said Lots 1 & 2, Block 28, and abutting the said W 1/2 of the portion of vacated Third Street abutting said Lot 1, Block 28, Section 12, Township 26, Range 36, (0.33 acres) Located on the south side of Ernest Sands Rd., approx. 0.26 mile west of U.S. Hwy 1. (3165 Ernest Sands Rd., Rockledge) DISTRICT 2. 4. (18PZ00057) MHE, LLC - (Mike Erdman or Sharon Harrell) - requests a Small Scale Plan Comprehensive Amendment from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as a parcel of land being a portion of lands described in ORB 5589, Page 3458, which lie in the NW 1/4 of Section 36, Township 24S, Range 36E, Brevard County, Florida, being more particularly described as follows: Commence at the west 1/4 corner of said Section 36, and run N89deg29'08"E, along the south line of said NW 1/4, a distance of 420 ft. to the SW corner of aforesaid lands described in ORB 5589, Page 3458, of the point of beginning; thence continue N89deg29'08"E, along said south line, a distance of 100 ft. to the SE corner of said lands; thence N00deg32'34"W, parallel with the west line of said NW 1/4, a distance of 526.76 ft. to the SW corner of Lot 21 of "Plat of Highland Park Subdivision Section Two" according to the plat thereof, as recorded in Plat Book 10, Page 12, of the Public Records of Brevard County, Florida; thence S88deg43'18"W, along the westerly extension of the south line of said Lot 21, a distance of 100.01 ft.; thence S00deg32'34"E, parallel with said west line of the NW 1/4, a distance of 525.42 ft. to the point of beginning. (1.208 acres) Located approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 185.03: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. DISTRICT 2. 5. (18PZ00056) MHE, LLC - (Mike Erdman or Sharon Harrell) - requests a change of zoning classification from RU-1-7 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on property described as a parcel of land being a portion of lands described in ORB 5589, Page 3458, which lie in the NW 1/4 of Section 36, Township 24S, Range 36E, Brevard County, Florida, being more particularly described as follows: Commence at the west 1/4 corner of said Section 36, and run N89deg29'08"E, along the south line of said NW 1/4, a distance of 420 ft. to the SW corner of aforesaid lands described in ORB 5589, Page 3458, the point of beginning; thence continue N89deg29'08"E, along said south line, a distance of 100 ft. to the SE corner of said lands; thence N00deg32'34"W, parallel with the west line of said NW 1/4, a distance of 526.76 ft. to the SW corner of Lot 21 of "Plat of Highland Park Subdivision Section Two" according to the plat thereof, as recorded in Plat Book 10, Page 12, of the Public Records of Brevard County, Florida; thence S88deg43'18"W, along the westerly extension of the south line of said Lot 21, a distance of 100.01 ft.; thence S00deg32'34"E, parallel with said west line of the NW 1/4, a distance of 525.42 ft. to the point of beginning. (1.208 acres) Located approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.) DISTRICT 2

b. (18PZ00058) - 1322 CLEARLAKE, LLC - (Michael Dreyer) - requests the following: (1) Removal of an existing BDP (Binding Development Plan), in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Lot 1, Atkinsons Subdivision Replat of Lots 9, 10, as recorded in Plat Book 10, Page 62, and ORB 5697, Pages 3744 - 3746, both of the Public Records of Brevard County, Florida. Section 20, Township 24, Range 36 (1.21 acres). (2) A change of zoning classification from BU-1 (General Retail Commercial) to BU-2, on property described as Tract A, Royal Subdivision, according to the Plat thereof, as recorded in Plat Book 19, Page 20, Public Records of Brevard County, Florida. Section 20, Township 24, Range 36, (0.02 acres) (1.23 acres total) Located on the east side of Clearlake Rd., between Molrose St. and Furnari St. (1322 Clearlake Rd., Cocoa) DISTRICT 4. 7. (18PZ00060) - VININGS PALM BAY INVESTMENT, LLC - (Tom Cabrero/Bruce Moia) - requests a Small Scale Comprehensive Plan Amendment (185.04) from Res. 15 to CC (Community Commercial), on property described as a parcel of land lying in Sections 13 & 24, Township 26S, Range 36E, and Section 19, Township 26S, Range 37E, of Brevard County, Florida. Being more particularly described as follows: Beginning at the SW corner of Lot 1, Block A of Pineda Landings, as recorded in Plat Book 61, Pages 45 - 48, inclusive of the Public Records of Brevard County, Florida; thence N53deg53'31"E along the south line of said Lot 1, a distance of 250 ft.; thence S36deg05'10"E, parallel to the east right-of-way line of Wickham Rd., a distance of 199.08 ft. to the point of curvature of a curve concave westerly, having a radius of 1,256.60 ft., a central angle of 21deg55'26", and a chord bearing S25deg07'26"E, 477.90 ft.; thence southerly along said curve, an arc distance of 480.83 ft. to the terminus of said curve; thence N89deg29'08"E, a distance of 261.23 ft. to a point on the east right-of-way line of Wickham Rd. (right-of-way width varies), said point being on a curve concave westerly, having a radius of 1,006.60 ft., a central angle of 18deg03'50", and a chord bearing N27deg03'15"W, 316.04 ft.; thence northerly along said right-of-way line and curve, an arc distance of 317.35 ft. to the point of tangency of said curve; thence continue along said right-of-way line N36deg05'10"W, a distance of 199.08 ft. to the point of beginning. (3.43 +/- acres) Located on the east side of N. Wickham Rd., approx. 340 ft. south of Jordan Blass Dr. (No assigned address. In the Melbourne area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 185.04: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. (18PZ00059) - VININGS PALM BAY INVESTMENT, LLC - (Tom Cabrero/Bruce Moia) - requests a change of zoning classification from BU-2-15 (Medium Density Multi-Family Residential) to BU-1 (General Retail Commercial), and removal of an existing BDP (Binding Development Plan) on property described as a parcel of land lying in Sections 13 & 24, Township 26S, Range 36E, and Section 19, Township 26S, Range 37E, of Brevard County, Florida. Being more particularly described as follows: Beginning at the SW corner of Lot 1, Block A of Pineda Landings, as recorded in Plat Book 61, Pages 45 - 48, inclusive of the Public Records of Brevard County, Florida; thence N53deg53'31"E along the south line of said Lot 1, a distance of 250 ft.; thence S36deg05'10"E, parallel to the east right-of-way line of Wickham Rd., a distance of 199.08 ft. to the point of curvature of a curve concave westerly, having a radius of 1,256.60 ft., a central angle of 21deg55'26", and a chord bearing S25deg07'26"E, 477.90 ft.; thence southerly along said curve, an arc distance of 480.83 ft. to the terminus of said curve; thence N89deg29'08"E, a distance of 261.23 ft. to a point on the east right-of-way line of Wickham Rd. (right-of-way width varies), said point being on a curve concave westerly, having a radius of 1,006.60 ft., a central angle of 18deg03'50", and a chord bearing N27deg03'15"W, 316.04 ft.; thence northerly along said right-of-way line and curve, an arc distance of 317.35 ft. to the point of tangency of said curve; thence continue along said right-of-way line N36deg05'10"W, a distance of 199.08 ft. to the point of beginning. (3.43 +/- acres) Located on the east side of N. Wickham Rd., approx. 340 ft. south of Jordan Blass Dr. (No assigned address. In the Melbourne area.) 9. (18PZ00061) - MERRITT SQUARE REALTY, LLC; MERRITT SQUARE CH, LLC; AND MERRITT SQUARE NASSIM, LLC - (Phil Nohr) request a CUP (Conditional Use Permit) for Trailer and Truck Rental in a BU-1 (General Retail Commercial) zoning classification, on property described as a parcel of and being portion of Section 36, Township 24S, Range 36E, Brevard County, Florida, more particularly described as follows: Begin at a rebar marking the intersection of the northerly right-of-way line of Fortenberry Rd. (60-ft. right-of-way) with the westerly right-of-way line of Sykes Creek Pkwy. (150-ft. right-of-way), thence S89deg30'46"W, along said right-of-way line of Fortenberry Rd., a distance of 797.50 ft. to a rebar and cap (stamped "BMEG"); thence N00deg29'22"W, a distance of 260.64 ft. to a nail and disk (stamped "BMEG"); thence N89deg25'57"E, a distance of 294.25 ft. to a rebar & cap (stamped "BMEG"); thence N00deg34'03"W, a distance of 57.97 ft.; thence N89deg47'15"E, a distance of 490.67 ft. to said westerly right-of-way line of Sykes Creek Pkwy., thence S02deg46'45"E, along said right-of-way line of Sykes Creek Pkwy., a distance of 316.92 ft. to the point of beginning. (5.388 +/- acres) Located on the northwest corner of S. Sykes Creek Pkwy. and Fortenberry Rd. (777 E. Merritt Island Cswy.) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, JULY 9, 2018, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, AUGUST 2, 2018, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, Per: Erin Sterk, Planning and Zoning Manager. By: Jennifer Jones, Special Projects Coordinator II.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 7, 2018

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

Attention: Ms. Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your revised electronic copy of Brevard County Ordinance No. 18-18, which was filed in this office on August 6, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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 development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for 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 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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

Small Scale Plan Amendment 18S.03 (18PZ00057)
Township 21, Range 35, Section 9

Property Information

Owner / Applicant: MHE, LLC

Adopted Future Land Use Map Designation: NC

Requested Future Land Use Map Designation: CC

Acreage: 1.21 acres

Tax Account #: a portion of 2427795

Site Location: Approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd.

Current Zoning: RU-1-7

Requested Zoning: BU-2

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant	BU-2	CC
South	Cocoa Beach Regional Chamber of Commerce	BU-1	CC
East	Merritt Square Mall	BU-1	CC
West	Mike Erdman Nissan	BU-2	CC

Background & Purpose

The applicant is seeking to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.21 acre piece of a greater 1.97 acre parcel of land. The remaining .76 acre piece of the greater parent parcel already retains the CC Future Land Use designation. The subject parcel is located within Unincorporated Brevard County in South Merritt Island, approximately 440' south of SR 520.

The subject property is a piece of a greater parcel which used to contain a nonconforming mobile home park, but is now vacant. Merritt Square Mall lies to the east, Cocoa Beach Regional Chamber of Commerce to the south and Mike Erdman Nissan to the west. This parcel of land has two Future Land Use designations, with this 1.21 portion of the greater parcel retaining the Neighborhood

Commercial (NC) Future Land Use designation. The 0.76 acre portion of the same parcel to the north already retains the Community Commercial (CC) Future Land Use designation.

A companion rezoning application was submitted accompanying this request for Future Land Use designation change, proposing to change the Zoning classification from Single-Family Residential (RU-1-7) to Retail, Warehousing and Wholesale Commercial (BU-2).

Environmental Resources

Note: The Natural Resources Management Office will provide a detailed analysis at the time of the future 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*

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

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject portion of the greater parcel does not have frontage on a roadway. This portion of the parcel, if developed together with the remainder of the Community Commercial portion, would have frontage on East Merritt Island Causeway (SR 520), a principal arterial roadway system.

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

The subject parcel is adjacent to developed properties to the north, south, east and west sides which retain the proposed Community Commercial (CC) Future Land Use designation. The CC portion of this overall parcel to the north has connectivity to East Merritt Island Causeway (SR 520) to the north and the potential for cross-access to the parcels to its east and west, if considered during redevelopment.

- C. Existing commercial development trend in the area;

East Merritt Island Causeway (SR 520) corridor is characterized by a variety of developed commercial businesses which serve several neighborhoods and sub-regional areas with such uses as retail, auto dealerships, a regional mall and professional offices.

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

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

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

The subject parcel is served by the Cocoa Utilities' potable water supply. There are existing Brevard County Utilities sewer lines that run along the majority of the southern portion of the parcel. If this portion of the greater parcel were developed to include the 0.76 acre portion to the north, there are existing Brevard County Utilities sewer lines that run along the south side of East Merritt Island Causeway (SR 520) that could become accessible to this site.

If developed with the 0.76 portion of the overall parcel, there would be direct access to East Merritt Island Causeway (SR 520). The additional impact to the roadway resulting from this site's development would fall within the Level of Service standards for this Principle Arterial Road.

- F. Spacing from other commercial activities;

The portion of the subject parcel is adjacent to vacant land to the north, which was previously a part of the nonconforming mobile home park. The site is adjacent to commercially developed property with an existing warehouse facility that serves the auto dealership on the east, commercially developed property with an existing professional office building that houses the Cocoa Beach Regional Chamber of Commerce to the south and a commercially developed property that has the Mike Erdman Nissan auto dealership to the west.

A significant amount of commercially designated land exists along East Merritt Island Causeway (SR 520) in this area, as it is a commercial district that experiences much pass-by traffic for those living or working beachside and is a destination for those on the mainland. Within all of unincorporated Brevard County, this area makes up one of the largest conglomerates of commercially designated lands not broken up into smaller commercial nodes, second only to the west Cocoa area.

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

The Future Land Use designation change from Neighborhood Commercial (NC) to Community Commercial (CC) is proposed on a 1.21 acre portion of a greater 1.97 parcel of land. The remaining northern portion of the overall parcel is a 0.76 acre piece that currently has a Community Commercial (CC) Future Land Use designation. Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan, community commercial development is intended to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.

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

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

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

This area of Merritt Island is comprised of Community Commercial (CC) land uses. The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for Community Commercial (CC) property. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern.

**Strip Commercial Development
Policy 2.15**

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

Criteria:

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

The subject portion of the overall parcel does not have frontage on a roadway. This portion of the overall site, if developed together with the remainder of the Community Commercial portion of this parcel, would have frontage on East Merritt Island Causeway (SR 520), a principal arterial roadway system. The remainder of the parcel to the north has an existing Future Land Use designation of Community Commercial (CC). If this portion of the parcel were to be developed with the remainder of the parcel to the north, cross-access could be made to the surrounding properties, which could result in reduced trips onto East Merritt Island Causeway.

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

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

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

At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and non-vehicular access into the site. Sidewalk along SR 520 is in place today.

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

Policy 2.7

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

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

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

The subject parcel is less than 10 acres and there are two existing parcels along the East Merritt Island Causeway (SR 520) corridor that are over 10 acres. To the northwest of this subject site is an existing Shopping Complex and just to the east is the sixty (60) plus acre Merritt Square Mall. The total community commercial area from East Merritt Island Causeway to the north, Sykes Creek Parkway to the east, Fortenberry Road to the south and South Plumosa Street to the west is approximately 108 acres.

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

The subject parcel is 1.97 total acres in size, with 0.76 acres already having the Community Commercial (CC) Future Land Use designation and this additional 1.21 acres proposed for a change to Community Commercial (CC). The subject parcel is not located 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.

The subject parcel is less than 10 acres. As the East Merritt Island Causeway (SR 520) corridor and several intersecting north-south connections consist of parcels primarily retaining the Community Commercial (CC) Future Land Use designation, the total of the enormous cluster of Community Commercial (CC) in central Merritt Island totals greater than several hundred acres in size. This may be due in large part to the commercial development being a destination for not only the citizens of

Merritt Island, but also for many residents and visitors of both the beachside municipalities and from the mainland.

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

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

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

This portion of the overall parcel has the potential for a 14,734 square foot building. The FAR is regulated through the land development regulations at the time of site plan review.

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

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate exchange from the East Merritt Island Causeway (SR 520).

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on 1.21 acres of the greater 1.97 acre parcel. This area of Unincorporated Brevard County is comprised of mainly CC development along the SR 520 principal east/west arterial roadway on Merritt Island.

This 1.21 acre portion of the greater parcel is surrounded on all sides by CC, including the 0.76 acre remainder of this parcel. Since it is surrounded on all sides by CC, the NC Future Land Use designation is isolated at this location.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not generate traffic that would cause deficiency of adopted roadway levels of service. Today, the traffic counts indicate that East Merritt Island Causeway (SR 520) is at 47% of the maximum acceptable volume (MAV). The CC portion of this overall parcel to the north has connectivity to East Merritt Island Causeway (SR520) to the north and the potential for creating cross-access to the adjacent commercial parcels exists if the parcels are redeveloped.

This request is accompanied by a companion proposal for a change of Zoning classification from Single-Family Detached Residential (RU-1-7) to Retail, Warehousing and Wholesale Commercial (BU-2).

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review**

SUMMARY

Item #: 18PZ00057	Applicant: MHE LLC - Erdman
Future Land Use Request: NC to CC	
P&Z Hearing: 07/09/18;	BCC Hearing: 08/02/18

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, County or Local 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
Hydric Soils/Wetlands	Not Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not Mapped	Surface Waters	N/A
Floodplains	Not Mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp 24, Rng. 36, Sec. 36;
Tax ID No. 2427795**

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

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. Per Section 62-4339, all development shall preserve Protected trees; and per Section 62-4341, Specimen and Protected trees shall be preserved to the Greatest Extent Feasible. Greatest Extent Feasible includes but is not limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing vehicular use areas/parking. Land clearing is not permitted without prior authorization by NRM.