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February 3, 2017

MEMORANDUM

TO: Robin DiFabio, Planning and Development Director Attn: Conroy Jacobs

RE: Item IV.B.4., Small Scale Plan Amendment (16S.10)

The Board of County Commissioners, in regular session on February 2, 2017, adopted Ordinance No. 17-02, Amending the Small Scale Plan (16S.10) to change the Future Land Use from Agriculture to Residential 1, and change of classification from GU to RR-1 on 2.06 acres, located on the south side of Gandy Road, approximately 0.38 mile east of Hog Valley Road (No assigned address. In the Mims area.). Enclosed is a fully-executed Ordinance for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

RESOLUTION NO. 16PZ00106

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

WHEREAS, GARY R. SMITH has applied for a Small Scale Plan Amendment (16S.10) to change the Future Land Use designation from Agricultural to Residential 1; and a change of classification from GU (General Use) to RR-1 (Rural Residential), on property described as Lot 1, Block 7, Indian River Park, a subdivision according to the plat thereof, recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida, less and except I-95 right-of-way. (2.06 acres) Located on the south side of Gandy Rd., approx. 0.38 mile east of Hog Valley Rd. (No assigned address. In the Mims area.)

Section 22,

Township 20GS,

Range 34E, and,

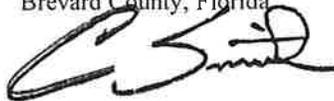
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board/Local Planning Agency was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board/Local Planning Agency recommended that the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

WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board's/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 Plan Amendment to change the Future Land Use designation from Agricultural to Residential 1, and change of classification from GU to RR-1, be APPROVED, and that the zoning classification relating to the above described property be changed to RR-1, and 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 February 2, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Curt Smith, Chairman
Brevard County Commission

As approved by Brevard County Commission on February 2, 2017.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z/LPA Hearing – January 9, 2017)

(*) LPA Recommendation – Approved Small Scale Plan Amendment

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.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

February 6, 2017

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

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 17-02, which was filed in this office on February 3, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 17- 02

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SECOND SMALL SCALE PLAN AMENDMENT OF 2017, 16S.10, 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 2017 as Plan Amendment 16S.10; 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 16S.10; 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 Secretary of State February 3, 2017

WHEREAS, on January 9, 2017, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 16S.10, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on February 2, 2017, 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 16S.10; and

WHEREAS, Plan Amendment 16S.10 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 16S.10 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 16S.10 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 16S.10, 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 February, 2017.

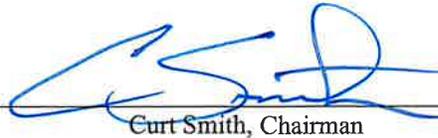
ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: _____



Curt Smith, Chairman

As approved by the Board on 2/2/17, 2017.

EXHIBIT A
16S.10 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

- 1. Proposed Future Land Use Map**

PROPOSED FUTURE LAND USE MAP

SMITH, GARY R.

16PZ00106 and Small Scale Amendment 16S.10



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 herein.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 11/1/2016

EXHIBIT B
FINDINGS OF FACT

Contents

1. Legal Description

PUBLIC HEARING

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, JANUARY 9, 2017, and THURSDAY, FEBRUARY 2, 2017: **DISTRICT 1 IV.B.2 (16PZ00098) DAVID & MICHELLE MURPHY** - request a change of classification from RU-1.9 (Single-Family Residential) to RU-1-1.1 (Single-Family Residential) on property described as Tax Parcels 758 and 758.1, as recorded in ORB 7419, Pages 716-717, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35** (0.94 acres) Located on the southeast corner of Irwin Ave., and Old Dixie Hwy (3485 Old Dixie Hwy, Mims) IV.B.3. (16PZ00103) **JAMIE & HOLLY K. BUNNELL** - request a change of classification from AU (Agricultural Residential) to RR-1 (Rural Residential) on property described as Tax Parcel 767, as recorded in ORB 6374, Page 2660, of the Public Records of Brevard County, Florida. **Section 28, Township 24, Range 35** (1 acre) Located on the north side of S.R. 524, approx. 0.21 mile northeast of S.R. 520 (6300 Hwy 524, Cocoa) IV.B.4. (16PZ00106) **GARY R. SMITH** - (Robert E. Smith) - requests a Small Scale Plan Amendment (16S.10) to change the Future Land Use designation from Agriculture to Residential 1 and a change of classification from GU (General Use) to RR-1 (Rural Residential) on property described as Lot 1, Block 7, Indian River Park, a subdivision according to the plat thereof, recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida, less and except I-95 right-of-way. **Section 22, Township 20G, Range 34** (2.06 acres) Located on the south side of Gandy Rd., approx. 0.38 mile east of Hog Valley Rd. (No assigned address. In the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 16S.10: 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. IV.B.5. (16PZ00108) **MOBILE WORLD OF BREVARD** - (John Hoskin) - requests a change of classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2, on property described as Tax Parcel 5, as recorded in ORB 3627, Pages 1219 - 1220, of the Public Records of Brevard County, Florida. **Section 07, Township 24, Range 36** (3.18 acres) Located on the southwest corner of U.S. Highway 1 and Louis Drive (3737 N. Hwy 1, Cocoa) IV.B.6. (16PZ00109) **ALL SPACE STORAGE** - (Vaheed Teimouri) - requests a change of classification from PIP (Planned Industrial Park) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on property described as Tax Parcels 30 & 39, as recorded in ORB 7690, Pages 1934 - 1935, of the Public Records of Brevard County, Florida. **Section 06, Township 24, Range 36** (6.27 acres) Located on the west side of N. U.S. Hwy 1, approx. 0.34 miles south of Canaveral Groves Blvd. (Tax Parcel 30 = No assigned address. In the Cocoa area; Tax Parcel 39 = 3855 N. U.S. Hwy 1, Cocoa) **DISTRICT 4 IV.B.7. (16PZ00104) C&L BAYTREE, LLC** (Jim Bartoe) - requests a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with Restaurant Use, in a BU-1 (General Retail Commercial) zoning classification, on property described as Tax Parcel 528, as recorded in ORB 5339, Pages 0887 - 0889, of the Public Records of Brevard County, Florida. **Section 11, Township 26, Range 36** (7.53 acres) Located on the north side of Wickham Rd., approx. 220 ft. east of Baytree Dr. (No assigned address. In the Melbourne area) **DISTRICT 5 IV.B.8. (16PZ00094) - G.T. MOTORS** - (Phil Nohrz) - requests a Small Scale Plan Amendment (16S.09) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), and a change of classification from RU-1.9 (Single-Family Residential) to BU-1 (General Retail Commercial), on property described as Lot 3, Valencia Acres, a subdivision of Lots 22 & 27. **Section 2, Township 28S, Range 36E**, plat filed in Deed Book 329, Page 146, of the Public Records of Brevard County, Florida (1.4 acres) Located on the east side of Valencia Rd., approx. 400 ft. north of W. New Haven Ave. (108 Valencia Rd., Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 16S.09: 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. IV.B.9. (16PZ00107) - **ROBERT C. & MARION L. BAUMAN** - (Joseph Kilmer) - request a change of classification from RR-1 (Rural Residential) and RU-1.7 (Single-Family Residential) to all RU-1.7, on property described as Lots 12, 13, & 14, Block 31, June Park, according to the plat thereof, as recorded in Plat Book 4 of the Public Records of Brevard County, Florida, and Lots 15 - 33, Block 31, June Park Subdivision, as recorded in Plat Book 4, Page 4, of the Public Records of Brevard County, Florida. **Section 12, Township 28, Range 36** (1.52 acres) Located on the east side of Washington St., approx. 0.17 mile south of Milwaukee Ave. (Lot 12 = No assigned address. In the Melbourne area. Lot 15 = 2685 Washington St. Melbourne) **DISTRICT 2 IV.B.10. (16PZ00084) - HOME DEPOT USA, INC.** - (Edward J. Allen) - requests a CUP (Conditional Use Permit) for Trailer & Truck Rental Service, in a BU-1 (General Retail Commercial) zoning classification, on property described as all that tract or parcel of land lying and being in **Section 35, Township 24 South, Range 36 East, Brevard County, Florida**, and being more particularly described as follows: Commencing at the NW corner of the NE 1/4 of Section 35, Township 24 South, Range 36 East, Brevard County, Florida; thence along the N line of the NE 1/4 of said Section 35 N89deg19'10"E, a distance of 63.24 ft. to the intersection with the easterly right-of-way line of N. Courtenay Pkwy. (100' public right-of-way); thence along said easterly right-of-way S00deg32'50"E, a distance of 424.42 ft. to PK nail found with washer stamped "Bussen Mayer", said point being the true point of beginning. Thence having established the true point of beginning, thence leaving said right-of-way N50deg28'54"E, a distance of 279.09 ft. to a 3/8" rebar found; thence N49deg43'55"E, a distance of 26.12 ft. to a point; thence N50deg30'56"E, a distance of 135.06 ft. to a chiseled "X" found; thence S15deg25'52"E, a distance of 902.79 ft. to a 1/2" rebar found with cap stamped "Republic National" on the northwesterly right-of-way of Palmetto Ave. (50' public right-of-way); thence along said Northwestly right-of-way S50deg44'44"W, a distance of 152.97 ft. to a 1/2" rebar found with cap stamped "Bussen Mayer"; thence leaving said right-of-way N39deg12'19"W, a distance of 38.22 ft. to a 1/2" rebar found with cap stamped "Bussen Mayer"; thence with a curve to the left, having a radius of 25 ft., an arc length of 28.90 ft., a chord which bears N72deg19'06"W, a distance of 27.31 ft. to a point; thence S74deg34'08"W, a distance of 302.98 ft. to a point; thence with a curve to the left, having a radius of 25 ft., an arc length of 15.52 ft., a chord which bears S56deg47'03"W, a distance of 15.27 ft. to a point; thence with a curve to the right, having a radius of 95 ft., an arc length of 83.65 ft., a chord which bears S64deg13'35"W, a distance of 80.98 ft. to a point; thence S89deg27'10"W, a distance of 25.92 ft. to a point on the aforementioned easterly right-of-way of N. Courtenay Pkwy., thence along said easterly right-of-way N00deg32'50"W, a distance of 773.26 ft. to the true point of beginning. (9.37 acres) Located on the east side of N. Courtenay Pkwy., approx. 340 ft. north of S.R. 520 (200 N. Courtenay Pkwy., Merritt Island) 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, JANUARY 9, 2017, 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, FEBRUARY 2, 2017, 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 288.26, 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: Cynthia Fox, Planning, Zoning & Enforcement Manager. By: Jennifer Jones, Special Projects Coordinator.