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**BOARD OF COUNTY COMMISSIONERS**

TO: Port St. John Dependent Special District Board Members  
FROM: Cindy Fox, Planning & Zoning Manager  
SUBJ: Planning and Zoning Staff Comments  
August 12, 2015  
DATE: July 7, 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 Port S. John Dependent Special District 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.4.**

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**FINDINGS OF FACT (EXHIBIT B)**

*Small Scale Plan Amendment 15S.02  
Township 26, Range 36, Section 13*

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**Property Information**

*Owner / Applicant:* **Bartlett, Gary K**

*Adopted Future Land Use Map Designation:* RES 4

*Requested Future Land Use Map Designation:* NC

*Acreage:* 0.27 +/- acres *Tax Account #:* 2311373

*Site Location:* Located on the northeast corner of Fay Blvd. and Severndale St.

*Current Zoning:* RU-1-9

*Requested Zoning:* BU-1-A

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**Surrounding Land Use Analysis**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	SFR	RU-1-9	RES 4
<b>South</b>	SFR	RU-1-9	RES 4
<b>East</b>	Church	IN (L)	RES 4
<b>West</b>	SFR	RU-1-9	RES 4

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**General Analysis**

The subject property is zoned RU-1-9 and currently operates as a Child Day Care Center, with a RES 4 future land use designation. The RU-1-9 zoning classification does not permit the existing use. The proposed amendment will amend the RES 4 future land use designation and provide for Neighborhood Commercial (NC) designation. The proposed NC future land use will increase the range of permitted uses and allow for the companion rezoning to BU-1-A, that permits the existing use.

The parcel abuts IN (L) to the east and RU-1-9 to the north, west and south. All parcels have RES 4 future land use designation.

### 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.*

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### 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.*

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### 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 parcel has direct access to Severndale Street, a local road, to the west and Fay Blvd, an urban minor arterial road, to the south.*

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

*The subject parcel of 0.27 acres is surrounded by RES 4.*

- C. Existing commercial development trend in the area;

*The immediate area is residential in character.*

- 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;

*The transportation concurrency analysis indicates that required infrastructure is available to support the existing and proposed use of subject property.*

- F. Spacing from other commercial activities;

*The subject parcel is within ¼ mile of parcels with PLNIP and CC Future Land Use Designation.*

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

*The subject parcel has a RES 4 Future Land Use Designation.*

- 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 at the time of a 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.

*There is no commercial use along this block face.*

#### **Activities Permitted in Neighborhood Commercial (NC) Future Land Use Designations Policy 2.5**

Neighborhood Commercial (NC) development activities are intended to be low-impact in nature and serve the needs of the immediate residential area. Intrusion of land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.14.

*The applicant stated that the proposed use will not differ from existing use, as a child day care center. There is an associated rezoning that would allow a child day care center to operate as a permitted use under BU-1-A zoning classification.*

#### **Locational and Development Criteria for Neighborhood Commercial Uses**

##### **Policy 2.6**

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

##### **Criteria:**

A. Neighborhood commercial clusters should be located at collector/collector or collector/arterial intersections, except as otherwise provided for in this Comprehensive Plan.

*The subject property is located on the north side of Fay Boulevard, an urban minor arterial road, which intersects Curtis Boulevard, a collector roadway, approximately 0.27 miles to the east.*

B. Due to the linear nature and lack of intersections along SR A1A south of Melbourne Beach, new neighborhood commercial uses may be considered along those roadways if there is sufficient infrastructure to support commercial development; if the area has an established commercial character; and if they are consistent with the other applicable policies of this Comprehensive Plan.

*The subject property is not located along SR A1A.*

C. New neighborhood commercial land use sites should incorporate no more than two acres maximum at each corner of an intersection, as set forth in A of this policy. Neighborhood commercial land uses at such intersections should not exceed eight (8) acres total.

*The size of subject parcel is 0.27 acres.*

D. Neighborhood commercial development clusters should be spaced at least 1/2 mile apart, except in the south beaches where neighborhood clusters should be spaced at least three (3) miles apart.

*The subject property is within 1/2 mile of another NC property, with BU-1-A zoning; however, that property is buffered by railroad tracks.*

E. The gross floor area of neighborhood commercial complexes should not exceed 21,800 square feet and the Floor Area Ratio (FAR) should not exceed 0.75.

*The FAR will be addressed at 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.

*The development of subject property is not a recreation vehicle park.*

#### **Transitional Commercial Activities**

##### **Policy 2.14**

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

As a result of their intrinsic nature and scale of intensity, offices, non-retail and neighborhood commercial activities may be utilized as transitional activities to afford buffering between higher and lower intensity uses, including transportation corridors. The criteria listed below, as summarized by Table 2.3, should serve as locational guidelines for employing such development as transitional uses. Projects which are approved as transitional uses may be subject to special requirements by the County, such as buffers, lighting, hours of operation, access/egress points, etc. in order to minimize impact upon adjacent lower intensity uses. In residential land use designations, strict adherence to development parameters outlined in Policies 2.6 and 2.8 must be maintained to qualify for consideration as a transitional activity under this policy. Once a transition is achieved between a higher and lower intensity land use, this policy should not be construed to justify the extension or enlargement of such uses onto adjacent lower intensity lands.

**Criteria:**

C. Neighborhood Commercial uses may serve as a transition 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:	Planned Industrial Park or Planned Business Uses.
Future Land Use Designations:	Neighborhood Commercial and all Residential designations.
Roadway Access Requirements:	Direct access to a major transportation corridor.

*The proposed NC future land use designation would permit low intensity of Neighborhood Commercial uses, which would be further restricted by companion rezoning to BU-1-A. The surrounding future land use allows for a maximum of 4 residential units per acre. A Child Day Care Center may be considered as a neighborhood use. There is existing multi-modal access to subject property, provided by the availability of standard width sidewalk and marked pedestrian crosswalk. This will encourage pedestrian and bicycle trips, therefore potentially minimizing vehicular trips.*

*The subject property has direct access to Fay Boulevard an urban minor arterial road, which intersects Curtis Boulevard, a collector roadway, approximately 0.27 miles to the east. Fay Boulevard is currently operating below maximum accepted volume.*

*There is a mixture of commercial uses to the east of subject property, inclusive of BU-2, PIP, IN (L) and BU-1-A. The BU-1-A parcel is buffered by railroad tracks. The subject property abuts a church and may be considered as a transitional use to the neighboring single family residential homes. As a transitional use, no change to the RES 4 future land use is needed.*

**Summary**

The proposed change in future land use on 0.27 acres of developed land from RES 4 to NC is located on Fay Boulevard, which is an urban minor arterial roadway. The subject parcel currently operates as a child day care center. There are mixed commercial uses within ¼ mile of subject property, inclusive of PLNIP and CC, as well as a church immediately to the east. The proposed amendment may be considered a transitional use. The site is connected to surrounding residential neighborhood through availability of multimodal access and proper access management techniques, which promotes safety and efficiency.

As a transitional use under Policy 2.14 (c), the RES 4 Future Land Use designation can remain unchanged.

**III.B.4.**

**Commission District # 1 (15PZ00033)**  
**Initial Hearing Dates: PSJ 08/12/15 BCC 09/03/15**

**REZONING REVIEW WORKSHEET**

**Applicant Name: GARY K. AND CAROL LYNN BARTLETT, TRUSTEES**

**Request: Small Scale Plan Amendment (15S.08) from Residential 1 to NC;  
 and RU-1-9 to BU-1-A**

**Subject Property:**

**Parcel ID#: 23-35-24-25-35-1**  
**Tax Acct#: 2311373**  
**Location: Located on the northeast corner of Fay Blvd. and Severndale St.**  
**Address: 3930 Fay Blvd., Port St. John**  
**Acreage: 0.27 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-9	BU-1-A
<b>Potential*</b>	1 Unit	8,821 s,f, existing 100 children
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 4	NO**

\*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*Requires a Small Scale Comprehensive Plan Amendment from Residential 4 to Neighborhood Commercial

	<b>AADT</b>	<b>PM</b>		
Trips from Existing Zoning	10	1	Segment Number	115B
Trips from Proposed Zoning	448	82	Segment Name	Fay Blvd.
Maximum Acceptable Volume (MAV)	33,900	3,051	Acceptable LOS	E
Current Volume	12,825	1,154	Directional Split	0.54
Volume With Proposed Development	13,273	1,238	ITE CODE 565	
Current Volume / MAV	38%	38%		
Volume / MAV with Proposal	39%	39%		
Current LOS	E	E		
LOS With Proposal	E	E		

**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-A zoning classification. The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. The surrounding properties are zoned RU-1-9 to the northwest, IN(L) to the northeast, RU-1-9 to the southeast, across Fay Blvd and RU-1-9 to the southwest. IN(L) is an institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. This area of Port St. John is characterized by single-family development with some scattered commercial and institutional uses along the Fay Blvd. 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**

      \* 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	NA
Floodplains	Not Mapped	Habitat for Protected Species	Not Mapped

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 request represents the applicant's desire to remove the non-conforming status of the existing child care facility on the property so that they can refinance the property. In 1984, a Conditional Use Permit for a school was approved on the property (Z-6890). In 2003, the CUP was removed from the property since a school use was no longer allowed in the RU-1-9 zoning classification and the facility was operating as a childcare facility not a school, Z-10859(18).

The existing child care facility is currently licensed by the State as the Munchkinland Child Care Center in compliance with Chapter 65C-22, Florida Administrative Code, Child Care Standards, adopted by the Department and Authorized in Sections 402.301-402.319, Florida Statutes and is renewed annually.

This request should be evaluated within the context of **Policy 2.5** of the Future Land Use Element, which describes activities permitted in neighborhood commercial (NC) Future Land Use Designations.

Neighborhood Commercial (NC) development activities are intended to be low-impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use Designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;

- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.14.

This segment of Fay Boulevard is designated as residential and zoned for residential use. Therefore this request is accompanied by a Small Scale Comprehensive Plan Amendment for a change from Residential 4 to Neighborhood Commercial Future Land Use. The nearest commercial property is approximately a quarter mile to the east.

This request should be evaluated within the context of **Policy 2.14** of the Future Land Use Element, which describes locational and development criteria for transitional neighborhood commercial (NC) Future Land Use Designations.

As a result of their intrinsic nature and scale of intensity, offices, non-retail and neighborhood commercial activities may be utilized as transitional activities to afford buffering between higher and lower intensity uses, including transportation corridors. The criteria listed below, serves as locational guidelines for employing such development as transitional uses. Projects which are approved as transitional uses may be subject to special requirements by the County, such as buffers, lighting, hours of operation, access/egress points, etc. in order to minimize impact upon adjacent lower intensity uses. In residential land use designations, strict adherence to development parameters outlined in Policies 2.6 and 2.8 must be maintained to qualify for consideration as a transitional activity under this policy. Once a transition is achieved between a higher and lower intensity land use, this policy should not be construed to justify the extension or enlargement of such uses onto adjacent lower intensity lands.

**Criteria:**

C. Neighborhood Commercial uses may serve as a transition 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:	Planned Industrial Park or Planned Business Uses.
Future Land Use Designations:	Neighborhood Commercial and all Residential designations.
Roadway Access Requirements:	Direct access to a major transportation corridor.

The BU-1-A zoning classification is consistent with the companion Small Scale Comprehensive Plan request to change the Future Land Use Designation to Neighborhood Commercial. A Child Day Care Center may be considered as a transitional neighborhood use.

The subject property has direct access to Fay Boulevard an urban minor arterial road, which intersects Curtis Boulevard, a collector roadway, approximately 0.27 miles to the east.

There is a mixture of commercial, planned industrial, institutional and neighborhood commercial zonings to the east of subject property. The BU-1-A zoning classification for the subject property is buffered by railroad tracks. The subject property abuts a church and may be considered as a transitional use to the neighboring single family residential homes. As a transitional use, no change to the Residential 4 Future Land Use is required. If the Board wishes to approve the request for rezoning, it may wish to also consider the use as transitional, and not change the Future Land Use Designation of Residential 4 to Neighborhood Commercial.

**Summary:** The applicants are seeking the BU-1-A zoning classification for the purposes of legitimizing an existing non-conforming child care facility (Munchkinland) on the property. In 1984, a Conditional Use Permit for a school was approved on the property (Z-6890). In 2003, the CUP was removed from the property since a school use is no longer allowed in the RU-1-9 zoning classification and the facility was operating as a childcare

facility not a school, Z-10859(18). The existing facility is currently licensed and operating in compliance with state regulations.

Given the residential character of this area, the Board may wish to limit the use to a childcare facility with a Binding Development Plan, consider the property as a transitional use pursuant to Policy 2.14 (c) of the Future Land Use Element of the Comprehensive Plan and not change the Future Land Use Designation from Residential 4 to Neighborhood Commercial.

**NATURAL RESOURCES MANAGEMENT OFFICE  
 Rezoning Review  
 SUMMARY**

<b>Item #: 15PZ00033</b>	<b>Applicant: Gary &amp; Carol Bartlett</b>
<b>Zoning Request: Res 4 to NC and RU-1-9 to BU-1A</b>	<b>PSJ Hearing: 08/12/15    BCC Hearing: 09/03/15</b>
<b>P&amp;Z Hearing: 08/10/15</b>	

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	N/A
Floodplains	Not mapped	Wildlife	Not mapped

**Comments:**

**This review relates to the following property: Twp. 23, Rng. 35, Sec. 24; Tax ID No. 2311373**

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

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.