



**Planning & Development Department**  
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**BOARD OF COUNTY COMMISSIONERS**

TO: Planning & Zoning Board Members  
FROM: Cindy Fox, Planning & Zoning Manager  
SUBJ: Planning and Zoning Staff Comments  
October 6, 2014  
DATE: September 10, 2014

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

**STAFF COMMENTS PREPARED BY:**

Planning & Zoning Office  
NATURAL RESOURCES MANAGEMENT DEPARTMENT

**Legend of Terms:**

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

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

**Administrative Policy 4**

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

**Criteria:**

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

**Administrative Policy 5**

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

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

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

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

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

(c) *General standards of review.*

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

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

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

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

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

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

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

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

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

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

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

#### DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

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

**III.B.1**

**Commission District # 5 (14PZ-00074)**  
**Initial Hearing Dates: P&Z 10/06/14 BCC 11/06/14**

**REZONING REVIEW WORKSHEET**

**Applicant Name: PATRICIA G. MILLER**

**Request: RU-2-10 to RU-2-12**

**Subject Property:**

**Parcel ID#: 27-38-31-EW-F-6.03; 27-38-31-EW-F-7; and 27-38-31-EW-F-6**

**Tax Acct#: 2731688; 2731689; and 2731685**

**Location: North side of Grosse Pointe and south side of Franklyn Ave., approx. 0.16 mile west of Highway A1A**

**Address: Lot 6.03 – 222 Grosse Pointe; Lot 7 – 226 Grosse Pointe; and Lot 6 – 121 Franklyn Ave., Indialantic**

**Acreage: 0.54 acre.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-2-10	RU-2-12
<b>Potential*</b>	5 Units (6 dwelling units existing)	6 Units
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 15	YES

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

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	11.72	1.04	Segment Number	None Assigned
Trips from Proposed Zoning	11.72	1.04	Segment Name	N/A
Maximum Acceptable Volume (MAV)	None Assigned	None Assigned	Acceptable LOS	None assigned
Current Volume	Unknown	Unknown	Directional Split	
Volume With Proposed Development	No Change	No Change	ITE CODE 230 Zoning action does not increase existing dwelling units De Minimus Exempt	
Current Volume / MAV	Unknown	Unknown		
Volume / MAV with Proposal	Unknown	Unknown		
Current LOS	N/A	N/A		
LOS With Proposal	N/A	N/A		

**Land Use Compatibility**

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

The request is for the RU-2-12 zoning classification. The RU-2-12 zoning classification is a 12 unit per acre multiple-family residential zoning classification. It permits multiple-family residential development or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots. The surrounding properties are zoned RU-2-10 to the north, RU-1-11 to the east, RU-2-10 and RU-1-9 to the west. To the south, within the City of Indialantic, is a R-3 zoning classification that allows single-family, duplex and multi-family development, most similar to the County's RU-2-15 zoning classification. This area of Indialantic is characterized by a mixture of single-family and multi-family development. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

**Environmental Constraints**

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

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

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Not Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	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:** The subject property is developed with three existing duplexes. The existing duplexes, constructed in 1977, are located on substandard lots exceed the maximum density of 10 units per acre.

Pursuant to section 62-1372(4)(d) governing medium density, multiple-family residential zoning, the maximum density for RU-2-10 is ten units per gross acre. The lot is .52 of an acre with a maximum potential yield of 5 units. Therefore, the existing six units exceeds the maximum density for RU-2-10 zoning. A rezoning to RU-2-12 would bring these existing duplex units into compliance with the maximum density required.

This area of Indialantic is characterized by a mixture of single-family and multi-family development. The existing Future Land Use Designation of Residential 15 is consistent with the requested RU-2-12 zoning classification.

**Summary:** This request is for the purposes of seeking compliance with the required density maximum for the existing development. Without the requested zoning, the structures if destroyed, would not be able to be rebuilt to the same density. The six existing units could be rebuilt if destroyed or if the property was redeveloped.

This area of Indialantic is characterized by a mixture of single-family and multi-family development. RU-2-10 and RU-1-11 zoning are prevalent in this area of Indialantic.

**NATURAL RESOURCES MANAGEMENT OFFICE**  
**Rezoning Review**  
**SUMMARY**

**Item #: 14PZ-00074**

**Zoning Request: RU-2-10 to RU-2-12**

**P & Z Hearing Date: 10/06/14**

**Owner: Patricia G. Miller**

**BCC Hearing Date: 11/06/14**

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.

<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
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 properties: Twp. 27, Rng. 38, Sec. 31; Tax ID Nos. 2731685, 2731689, & 2731688**

The subject parcels contains mapped aquifer recharge soils (Canaveral-Palm Beach-Urban land complex). 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.

**III.B.2**

**Commission District # 5 (14PZ-00075)**  
**Initial Hearing Dates: P&Z 10/06/14 BCC 11/06/14**

**REZONING REVIEW WORKSHEET**

**Applicant Name: CAROL MACDONALD**

**Request: CUP for a Guesthouse in an RU-1-11 zoning classification**

**Subject Property:**

**Parcel ID#: 28-36-11-01-T-7**  
**Tax Acct#: 2801678**  
**Location: West side of Oklahoma St., approx. 0.14 mile south of Milwaukee Ave.**  
**Address: 2620 Oklahoma St., Melbourne**  
**Acreage: 0.85 acre.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-11	RU-1-11 with CUP
<b>Potential*</b>	1 Unit	1 Unit
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 4	YES

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

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	9.57	1.01	Segment Number	None Assigned
Trips from Proposed Zoning	9.57	1.01	Segment Name	N/A
Maximum Acceptable Volume (MAV)	None Assigned	None Assigned	Acceptable LOS	None assigned
Current Volume	Unknown	Unknown	Directional Split	
Volume With Proposed Development	No Change	No Change	ITE CODE 210 Zoning action does not increase SFR dwelling unit allowance De Minimus Exempt	
Current Volume / MAV	Unknown	Unknown		
Volume / MAV with Proposal	Unknown	Unknown		
Current LOS	N/A	N/A		
LOS With Proposal	N/A	N/A		

**Land Use Compatibility**

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

The request is for a Conditional Use Permit for a guest house in the RU-1-11 zoning classification. The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture. The surrounding zoning classifications are RU-1-11. This area of Melbourne is characterized by single-family development on lots that are .50 acre or greater in area. 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 NRM0'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	Hydric Soils Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Not 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 (NRM0) 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 NRM0's comments follow these staff comments.

**Other Considerations:** The applicant is seeking a Conditional Use Permit (CUP) for a guesthouse in the RU-1-11 zoning classification. The request would allow the applicant to construct a 600 square foot guest house accessory to their existing residence. This area of Melbourne is characterized by single-family development on lots that are .50 acre or greater in area.

The Brevard County Zoning Regulations define a guest house as "living quarters within a detached accessory building located on the same premises as the main building, to be used for housing members of the family occupying the main building or their temporary guests. Such quarters shall be subject to the provisions of section 62-1932, shall have no separate utility meters, and shall not be rented or otherwise used as a separate dwelling."

This request should be evaluated pursuant to section **62-1932** governing guesthouses which outlines the following criteria:

- (a) Guesthouses or servants' quarters are subject to the following minimum requirements:
  - (1) The structure shall contain no kitchen facilities except where consistent with paragraph (c) below.
  - (2) The structure shall be a detached accessory structure located to the rear of the principal structure and shall not be attached to any other accessory structure.
  - (3) The structure shall not exceed the maximum size permitted for accessory structures in the applicable zoning classification. Where there is no maximum, the structure shall not exceed 50 percent of the size of the principal structure.

*The principal structure is approximately 1,200 square feet which would allow a guest house up to 600 square feet in size.*

- (4) The structure shall be used for the accommodation of family members, temporary guests (maximum six months), or servants only.
- (5) The structure shall not be used for rental purposes.

*The applicant indicates the guest house is for a relative.*

- (6) The structure shall be set back a minimum of ten feet from the side and rear lot lines.
- (b) This conditional use shall not be granted on a parcel of land containing less than one-half acre. A conditional use permit shall not be required on parcels equal to or exceeding one acre in size.

*The subject property is .85 acres.*

- (c) A guesthouse or servants' quarters may contain kitchen facilities on parcels of at least one acre in size where the resulting density of the lot including the guesthouse or servants' quarters is consistent with the zoning regulation and comprehensive plan density designation. All other conditions enumerated above shall apply.

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6-9 of these comments. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

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

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

**This will be a mother-in-law cabin for myself with my daughter and son-in-law living in the existing dwelling.**

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

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

**Yes**

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

**This dwelling should not result in a reduction in value of abutting property.**

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

**The increase to existing traffic will be minimal.**

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

**None of the above listed should be caused by this dwelling.**

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

*The property is subject to the performance standards found in sections 62-2251 through 2271 of the Zoning regulations.*

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

**Yes**

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

**Yes**

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

*Will be reviewed during permit stage to meet required landscaping requirements.*

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

**Yes**

*No signage or lighting is proposed.*

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

**This will be a residence.**

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

*Proposed guest house is one story.*

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

*Parking will be onsite.*

**Summary:** This request represents the applicant's desire to construct a guest house accessory to the principal residence. The guest house could be approximately 600 square feet, 50 percent of the size of the existing single-family residence on the property. The applicant indicates that it will be used for a relative. This area of Melbourne is characterized by single-family development on lots that are .50 acre or greater in area.

**NATURAL RESOURCES MANAGEMENT OFFICE**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00075</b> <b>Zoning Request: CUP for Guest House</b> <b>P &amp; Z Hearing Date: 10/06/14</b>	<b>Owner: Carol MacDonald</b> <b>BCC Hearing Date: 11/06/14</b>
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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.

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

**Comments:**

**This review relates to the following property: Twp. 28, Rng. 36, Sec. 11; Tax ID No. 2801678**

The northern edge of subject parcel contains mapped hydric soils (Basinger sand), an indicator that wetlands may be present on the property. However, mapped hydric soils are not present in the vicinity of the proposed guest house.

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.

**III.B.3**

**Commission District # 2 (14PZ-00076)**  
**Initial Hearing Dates: P&Z 10/06/14 BCC 11/06/14**

**REZONING REVIEW WORKSHEET**

**Applicant Name: CHARLES C. CHANDLER, TRUSTEE**

**Request: CUP for a Towers and Antennas in a BU-2 zoning classification**

**Subject Property:**

**Parcel ID#: 24-37-07-CF-C-P**  
**Tax Acct#: 2462054**  
**Location: West side of Oklahoma St., approx. 0.14 mile south of Milwaukee Ave.**  
**Address: 2775 N. Banana River Dr., Merritt Island**  
**Acreage: 0.23 acre.**

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-2	BU-2 with CUP 150' Monopole
<b>Potential*</b>	Vacant Property	Cell Phone Tower
<b>Can be Considered under FLU MAP</b>	YES COMMUNITY COMMERCIAL	YES

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

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	0	0	Segment Number	129
Trips from Proposed Zoning	0	0	Segment Name	N. Courtenay to N. Banana River
Maximum Acceptable Volume (MAV)	59,800	5,441.8	Acceptable LOS	C
Current Volume	31,680	2,882.88	Directional Split	
Volume With Proposed Development	No Change	No Change	ITE CODE	No ITE Classification Proposed Cell Phone Tower
Current Volume / MAV	52.97%	52.97%		
Volume / MAV with Proposal	No Change	No Change		
Current LOS	C	C		
LOS With Proposal	C	C		

## Land Use Compatibility

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

This request is for a Conditional Use Permit (CUP) for a 150 foot monopole in a BU-2 zoning classification. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities. The surrounding properties are zoned BU-2 with the exception of GU zoning to the east. The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. This area of east Merritt Island is characterized by a mixture of commercial and industrial uses. 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	Not Mapped	Surface Water Protection	NA
Floodplains	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 application was submitted on August 7, 2014 and deemed complete prior to the adoption of the new Communications Facilities Ordinance and is therefore subject to review under the then-existing code. The applicant is requesting a Conditional Use Permit (CUP) for a 150 foot monopole communications tower and accessory equipment. The tower will accommodate up to five antenna carriers and the facility will be unmanned with occasional visits by service technicians. The site will be accessed via Dover Avenue. The subject property was rezoned from GU to BU-2 with a Small Scale Comprehensive Plan Amendment from Neighborhood Commercial to Community Commercial in May of this year (14PZ-00031). The proposed lease area on the subject property will be approximately 50 feet wide and 100 feet deep with a compound size of 2,491 square feet.

Pursuant to Florida State Statutes, § 365.172, the County may request that information or materials directly related to an identified land development or zoning issue be required. The information or materials required may include, but are not limited to, evidence that no existing structure can reasonably be used for the antennae placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, or that the proposed height of a new tower or initial antennae placement or collocation is necessary to provide the provider's designed service. The applicant has not provided any information regarding possible carriers that will have antenna on the proposed tower.

State statutes do not prohibit the local government from reviewing any applicable land development or zoning issue addressed in its adopted regulations that does not conflict with the statutes, "including but not limited to aesthetics, landscaping, land use based location priorities, structural design, and setbacks. Any setback or distance separation required of a tower may not exceed the minimum distance necessary, as determined by the

local government, to satisfy the structural safety or aesthetic concerns that are to be protected by the setback or distance separation". The applicant has submitted a site plan and photo simulations from different perspectives for visual impact analysis.

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6-9 of these comments. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

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

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

**The proposed communications facility will be unmanned with no vehicular traffic aside from the semi-annual maintenance visit. The facility will produce no noise or odor. This is a heavy industrial and commercial area with no residences nearby. There will be no adverse impact to adjacent and nearby properties.**

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

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

**The proposed facility will be gated and landscaped per the code to minimize visual impact. Only vehicular traffic will be in initial build of approximately three weeks and semi-annual visit thereafter for maintenance. There may be a pre-fabricated shelter within the lease area which will be gated and shielded by landscaping. The proposed compound will be most compatible with this industrial/commercial area.**

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

**The proposed development will not cause diminution of value.**  
*The closest residentially developed property is on the south side of SR 528.*

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

**Vehicular traffic will be very limited (semi-annual visit).**  
*The site will be accessed via Dover Avenue.*

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

**There will be no noise, odor, particulates, smoke, fumes nor emissions.**  
*The property is subject to the performance standards found in sections 62-2251 through 2271 of the Zoning regulations.*

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

**Not Applicable.**  
*The property is subject to the performance standards found in sections 62-2251 through 2271 of the Zoning regulations.*

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

**The facility will not generate any waste.**

Section 62-1901(c)(2)(e) Impact upon potable water and waste water levels of service:  
**Not Applicable.**

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

**The proposed facility will be landscaped per the code.**

*The applicant is providing a four foot fence as required and there is an existing 6 foot fence already in place. A proposed 5 foot landscape buffer is depicted on site plan.*

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

**The proposed development will not need lighting and will not have signage.**

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

**This is unmanned with no hours of operation. There will be no parking needed and no one present other than initial build an semi-annual visits thereafter.**

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

**Survey shall be provided.**

*The proposed height of the tower is 150 feet.*

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

**No permanent parking is necessary.**

*One space is provided onsite for technician parking.*

This request should also be evaluated in the context of Section 62-1953 of the Zoning Regulations that governs Towers and Antenna. The following excerpts apply to this request with the applicant's responses in **bold** and staff observations shown in *italics*:

- 62-1953(d)(1)** Towers and antennas which exceed 35 feet in height shall be located on the site at a distance equal to or in excess of five times the height of the tower or antenna, (from the base of the tower or antenna) from existing off-site single-family residential homes or property zoned primarily for single-family residential use (including AU). Any tower shall be set back a minimum of 200 feet from all property lines.

200' Setback from Lease Area Boundary Lines Waiver Request

<u>Direction</u>	<u>Current Setback</u>	<u>Waiver Requested from Leased Area</u>
<b>North</b>	<b>24.92</b>	<b>178.08</b>
<b>South</b>	<b>24.92</b>	<b>178.08</b>
<b>East</b>	<b>24.92</b>	<b>178.08</b>
<b>West</b>	<b>24.92</b>	<b>178.08</b>

*A waiver of 178.08' feet from the 200' foot setback is requested in all directions.*

- (2) Such towers shall use construction techniques that do not require guy wires (e.g., lattice or monopole structures).

*The tower will be a monopole design and will not require guy wires.*

- 62-1953(e)** (1) Such towers and antennas are subject to the requirements of subsection (d) above.  
(2) Towers exceeding 200 feet must be spaced at least 3500 feet from the nearest off-site tower.

*The proposed tower does not exceed 200 feet and therefore does not need to meet the 3500 foot separation distance requirement. See Exhibit showing all existing towers within the one and three mile search ring.*

- (3) Any existing vegetation six feet in height or above along a 50-foot perimeter around the entire parcel upon which the tower is to be erected must be preserved until the property is developed and county land clearing and landscaping requirements are met.

**62-1953(g)** Provisions applicable to all commercial towers.

- (3) Equipment buildings and pads shall be fenced and shall be landscaped and maintained with opaque landscape buffer. Security lighting for on-ground facilities and equipment shall be down-shielded to keep light within the boundaries of the site and minimize its potential attraction for birds.
- (5) Evidence must be submitted to demonstrate that no existing or approved tower or structure can accommodate the applicant's proposed antenna. Such evidence may be that no existing towers or structures are within the required geographic area meet the applicant's engineering requirement, that they are not of sufficient height or do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, that it would cause interference with the applicant's proposed antenna and that costs of collocating would exceed new tower development. Further the applicant can demonstrate that there are other limiting factors that render existing and/or approved towers and structures unsuitable.

*See exhibit of the site plan submitted by the applicant*

- (6) All commercial towers must be constructed to permit collocation by other providers. New communication towers shall be designed and constructed, both structurally and electrically, to (a) provide sufficient excess capacity over the initial loading; and (b) permit at least two other comparable communication providers to use the approved tower where feasible and subject to reasonable terms.

*See site plan exhibit submitted by the applicant which shows five collocation points for the proposed tower.*

- (8) Tower and antenna lighting.
  - b. Where lighting is required by Brevard County Mosquito Control on towers and antennas equal to or less than 200 feet in height, the frequency of high intensity lighting shall not exceed 20 flashes per minute.
  - c. All lights on towers and antennas of any height shall be up-shielded.

*The site plan depicts two locations for proposed lighting and will be reviewed during the site plan process.*

**62-1953 (h)** A waiver to one or more of the conditions enumerated in subsections (d) or (e) above may be considered by the Board of County Commissioners through a conditional use permit (CUP)

application, provided the general section 62-1901(c) CUP standards are met. The applicant must also demonstrate technical necessity for the location of the tower, that there are special existing or proposed circumstances pertaining to the structures or properties involved, and that the proposed setback and distance separation will satisfy safety and aesthetic concerns which the conditions in subsections (d) and (e) are intended to address. The applicant shall prepare an exhibit which will demonstrate to the board the visual impact of the proposed tower.

*Waivers of the required setbacks are requested.*

**62-1953(i)** The applicant must demonstrate consistency with (1) the general criteria set forth in section 62-1901(c); and (2) the requirements listed in subsections (d) and (e) above.

**Summary:** The applicant is requesting a Conditional Use Permit (CUP) for a 150 foot monopole tower and accessory equipment on a .114 (50' X 100') acre leased area out of a .23 acre parcel. The proposed tower is located on unimproved property.

Additionally, the code requires that towers maintain a 200 foot setback from property lines. The proposed tower does not meet the 200' setback from the leased boundary and requests the following waivers:

<u>Direction</u>	<u>Current Setback</u>	<u>Waiver Requested from Leased Area</u>
North	24.92'	178.08'
South	24.92'	178.08'
East	24.92'	178.08
West	24.92'	178.08'

Pursuant to Florida State Statutes, § 365.172, the County may request that information or materials directly related to an identified zoning issue be required. The information or materials required may include evidence that the proposed height of a new tower or initial antennae placement or collocation is necessary to provide the provider's designed service.

Although this application preceded the adoption of the Communications Ordinance, the Board may consider the expert analysis and conclusions in the Master Plan for evidentiary purposes. Under the Master Plan, the site is designated as "urban" which corresponds to a 120' maximum height recommendation. The applicant has provided a letter from Verizon expressing a statement of need and design objective for the general area of North Merritt Island and East Merritt Island to the south. The Master Plan identifies a county-owned site<sup>4</sup> in proximity to the proposed location. The recommendation for the county-owned site is a concealed facility at 80' to 100'. The Board should evaluate the necessity of the proposed tower height and design.

The County's consultant's report and findings are attached hereto for the Board's consideration.

**NATURAL RESOURCES MANAGEMENT OFFICE**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00076</b> <b>Zoning Request: CUP for Monopole Tower</b> <b>P &amp; Z Hearing Date: 10/06/14</b>	<b>Owner: Charles Chandler, Sr., Trustee</b> <b>BCC Hearing Date: 11/06/14</b>
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<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
Wetlands Potential/Hydric Soils	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Not mapped

**Comments:**

**This review relates to the following property: Twp. 24, Rng. 37, Sec. 07; Tax ID No. 2462054**

A portion of the property is mapped as floodplain as identified by the Federal Emergency Management Agency, as is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain 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.