



AGENDA REPORT
August 2, 2018

Public Hearing, Re: MHE, LLC (Mike Erdman/Sharon Harrell) requests a change of Zoning classification from RU-1-7 to BU-2. (18PZ00056) (District 2)

SUBJECT:

Public Hearing, Re: MHE, LLC (Mike Erdman/Sharon Harrell) requests a change of Zoning classification from Single-Family Residential (RU-1-7) to Retail, Warehousing, and Wholesale Commercial (BU-2). The property is 1.21 acres, located approx. 440 ft. south of S.R. 520, 500 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.) (18PZ00056) (District 2)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider the request for a change of Zoning classification from RU-1-7 to BU-2.

SUMMARY EXPLANATION and BACKGROUND:

The purpose of this request is to bring the southern portion of the overall site into the same Zoning classification as the existing northern part of the parcel (BU-2). Possible commercial activities permitted by the BU-2 classification on the 1.21-acre portion are compatible with the surrounding developed parcels. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square-foot lots.

This request for a change of Zoning classification accompanies a separate request for a Small Scale Comprehensive Plan Amendment (SSCPA), proposing a change of Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC). If the SSCPAs are not supported by the Board, this request for rezoning cannot be heard.

On July 9, 2018, the Planning and Zoning Board heard the request and unanimously recommended approval.

ATTACHMENTS:

Description

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

H5

RESOLUTION NO. 18PZ00056

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

WHEREAS, MHE, LLC have applied for a change of classification from RU-1-7 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as a parcel of land being a portion of lands described in ORB 5589, Page 3458, which lie in the NW ¼ of Brevard County, Florida, being more particularly described as follows: Commence at the west ¼ corner of said Section 36, and run N89deg29'08"E, along the south line of said NW ¼, a distance of 420 ft. to the SW corner of aforesaid lands described in ORB 5589, Page 3458, the point of beginning; thence continue N89deg29'08"E, along said south line, a distance of 100 ft. to the SE corner of said lands; thence N00deg32'34"W, parallel with the west line of said NW ¼, a distance of 526.76 ft. to the SW corner of Lot 21 of "Plat of Highland Park Subdivision Section Two" according to the plat thereof, as recorded in Plat Book 10, Page 12, of the Public Records of Brevard County, Florida; thence S88deg43'18"W, along the westerly extension of the south line of said Lot 21, a distance of 100.01 ft.; thence S00deg32'34"E, parallel with said west line of the NW ¼, a distance of 525.42 ft. to the point of beginning. (1.208 acres) Located approx. 440 ft. south of S.R. 520, 400 ft. east of Plumosa St., and 174 ft. north of Fortenberry Rd. (No assigned address. In the Merritt Island Redevelopment Area.); and

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

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

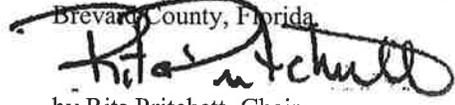
WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from RU-1-7 to BU-2 be APPROVED with the applicant's agreement to grant Brevard County an easement for stormwater and to participate in the Stormwater utility, as recommended by MIRA (Merritt Island Redevelopment Agency). The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

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

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

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

ATTEST:



Scott Ellis
SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – July 9, 2018)

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

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) *General standards of review.*

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
 - a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the

numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

These staff comments contain references to Policies of the Brevard County 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.

REZONING REVIEW WORKSHEET

18PZ00056

Commission District # 2

Hearing Dates: P&Z 07/09/18

BCC 08/02/18

Owner Name: MHE, LLC

Request: RU-1-7 to BU-2

Subject Property:

Parcel ID# 24-36-36-00-257 (portion of)

Tax Acct.# 2427795

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

Address: No assigned address. In the Merritt Island Redevelopment Area (MIRA).

Acreage: 1.21

Consistency with Land Use Regulations

YES

Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255

NO**

Proposal can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-7	BU-2
Potential*	6 detached units	14,734 sq. ft.
Can be Considered under FLU MAP	YES NC	NO** NC

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.**Requires Small Scale Amendment from NC to CC.

	ADT	PM PEAK		
Trips from Existing Zoning	57	6	Segment Number	320J
Trips from Proposed Zoning	26,521	1105	Segment Name	SR 520 - Plumosa - Mall entrance
Maximum Acceptable Volume (MAV)	62,900	5,661	Acceptable LOS	D
Current Volume	29,964	2,697	Directional Split	0.53
Volume With Proposed Development	56,485	5,084	ITE CODE 938	
Current Volume / MAV	47.64%	47.64%		
Volume / MAV with Proposal	89.80%	89.80%		
Current LOS	C	C		
OS With Propos.	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicant is seeking a change of Zoning classification from Single-Family Residential (RU-1-7) on a 1.21 acre portion of the greater 1.97 acre parcel to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of bringing the southern portion of the overall site into the same Zoning classification as the existing northern part of the parcel (BU-2). Possible commercial activities permitted by the BU-2 classification are compatible with the surrounding developed parcels. The Board should be aware of the potential for other BU-2 uses at this location to be proposed, as the car dealership on the adjacent site(s) is planned for relocation.

Prior use of this site was as a 17-unit nonconforming mobile home development. The prior use as a mobile home development was incompatible with surrounding Zoning classifications. The most recent zoning action on the subject property resulted from a request by the Board of County Commissioners under **Z-2980** on June 1972 which converted the previously –utilized Single Family Residential (RU-1) Zoning classification in to today's RU-1-7, RU-1-9, RU-1-11, and RU-1-13 Single-Family Residential Zoning classifications. As a result, this parcel's Zoning was converted to RU-1-7. A prior zoning change was heard under **Z-522** in August, 1961 which changed the zoning from General Use (GU) to RU-1.

This request for a change of Zoning classification accompanies a separate request for a Small Scale Comprehensive Plan Amendment (SSCPA), proposing a change of Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC). If the SSCP A is not supported by the Board, this request for Rezoning cannot be heard.

Land Use Compatibility

This site is seeking the Community Commercial (CC) Future Land Use designation; the current FLUE designation is Neighborhood Commercial (NC). **FLUE Policy 2.1** outlines the role of the Comprehensive Plan in the designation of commercial lands.

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

Existing strip commercial;
Transient commercial uses;
Tourist commercial uses;
Professional offices;
Personal service establishments;
Retail establishments;
Non-retail commercial uses;
Residential uses;
Institutional uses;
Recreational uses;
Public facilities;
Transitional uses pursuant to **Policy 2.14**; and Planned Industrial Park development (as permitted by PIP zoning).

The request for BU-2 Zoning should be evaluated within the context of **Policy 2.8** of the Future Land Use Element, which sets forth locational criteria for community commercial land use activities, as follows:

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

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

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

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

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

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

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

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

Given the zoning pattern in the area, **Policy 2.15**, which addressed infill vs. strip commercial development, should also be considered, as follows:

The creation/promotion of strip pattern of commercial development shall be discouraged. Infill within established strip commercial areas is preferred over extension of a strip commercial pattern. Extension of a commercial land use designation may be considered in circumstances where the proposed commercial parcel is located within a block in which at least fifty percent (50%) of the block face (in linear feet) is either currently developed with commercial land uses or is designated for commercial use. In either case, the proposed commercial land use extension shall not constitute an encroachment into a residential area. Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.
- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.
- C. A sidewalk or bicycle path shall be required where appropriate (as encouraged by Tables 2.1 and 2.2 of the FLUE) to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

Policy 2.14 of the Future Land Use Element discusses locational criteria for non-retail commercial uses. It provides for the introduction of non-retail uses in areas in which non-retail uses/zoning or industrial uses/zoning have been established. BU-2 Zoning is prevalent in the area to the west and north.

Policy 2.15, however sets for the criteria for assessing the promotion of strip commercial vs. infill commercial. In this instance, more than 50% of the block face is currently commercial. The majority of the block has a commercial Zoning of either BU-1 or BU-2. This subject property is the last lot within the block that has a residential Zoning classification.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The BU-2 Zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square-foot lots. The surrounding parcels are zoned BU-2 to the north and west with General Retail Commercial zoning (BU-1) to the east and south.

The most recent zoning change in a half mile radius of this site includes Zoning Action # **11PZ-00084**. **11PZ-00084** was a change from BU-1 to BU-2 with a BDP limiting the use to a retail and wholesale paint store only, with all BU-1 uses permitted, approved on June 13, 2012.

For Board Consideration

Because the applicant has not indicated what the specific future use of the property will entail, there is no indication that a future proposal for use will necessitate the BU-2 Zoning. The Board may wish to consider whether the BU-1 or BU-2 Zoning classification is more consistent and compatible with the surrounding development.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 18PZ00056	Applicant: MHE LLC - Erdman
Zoning Request: RU-1-7 to BU-2	
P&Z Hearing: 07/09/18;	BCC Hearing: 08/02/18

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

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

Comments:

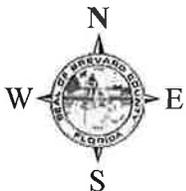
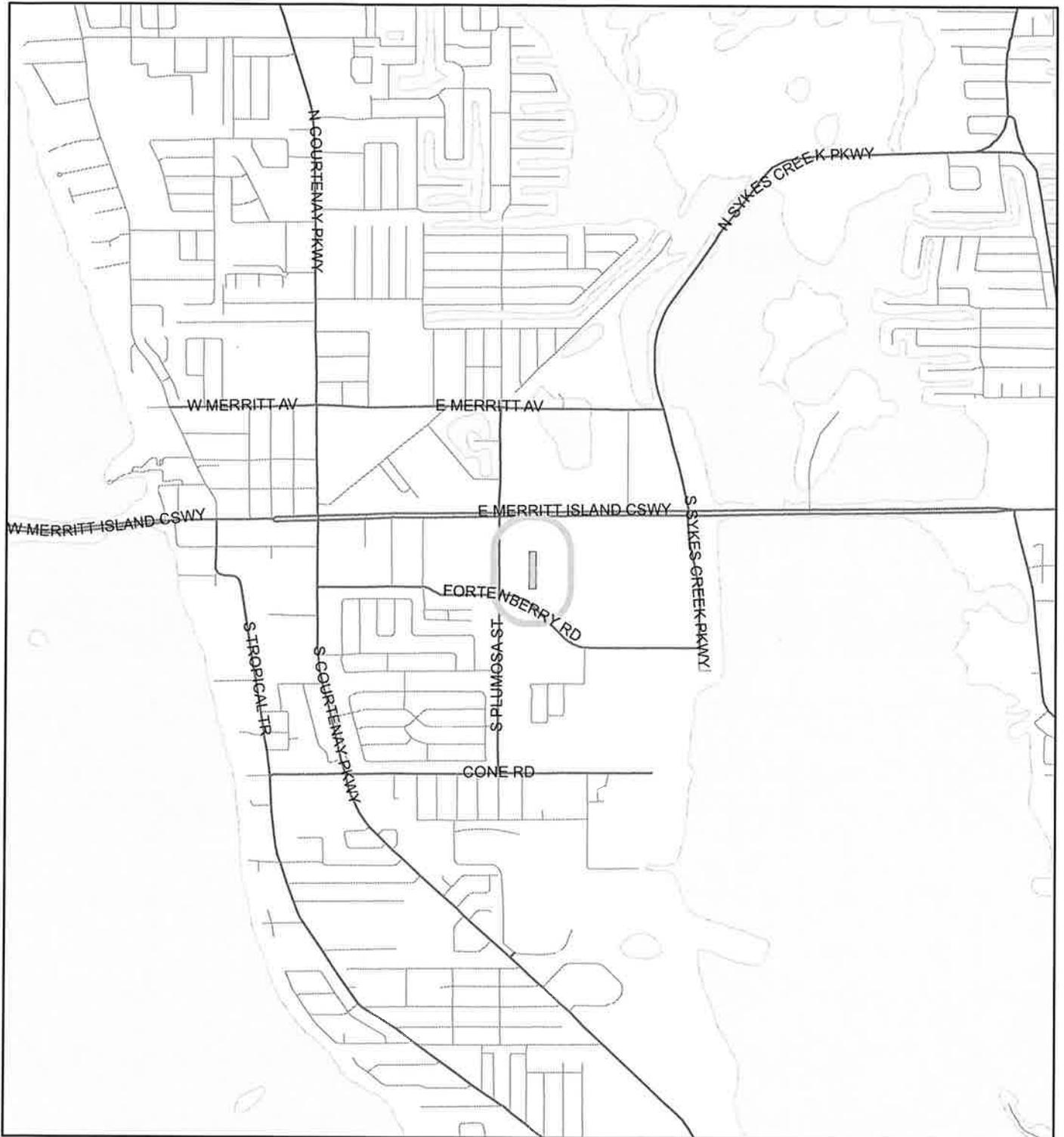
**This review relates to the following property: Twp 24, Rng. 36, Sec. 36;
Tax ID No. 2427795**

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

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Per Section 62-4339, all development shall preserve Protected trees; and per Section 62-4341, Specimen and Protected trees shall be preserved to the Greatest Extent Feasible. Greatest Extent Feasible includes but is not limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing vehicular use areas/parking. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

MHE, LLC
18PZ00056



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

Buffer Distance: 500 feet

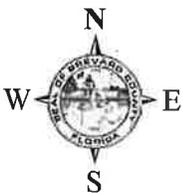
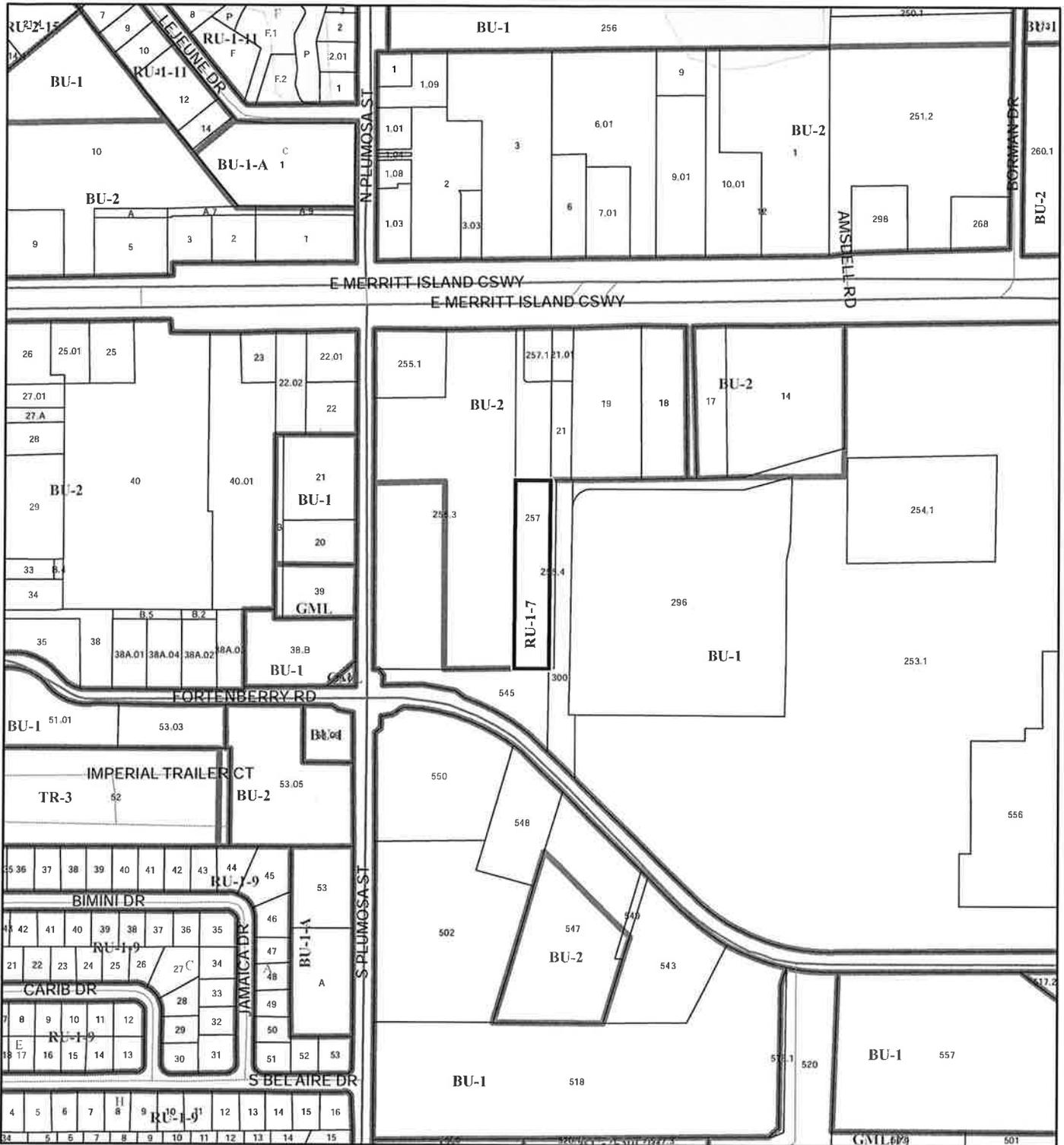
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/18/2018

-  Buffer
-  Subject Property

ZONING MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

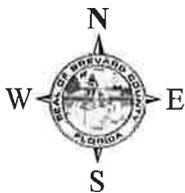
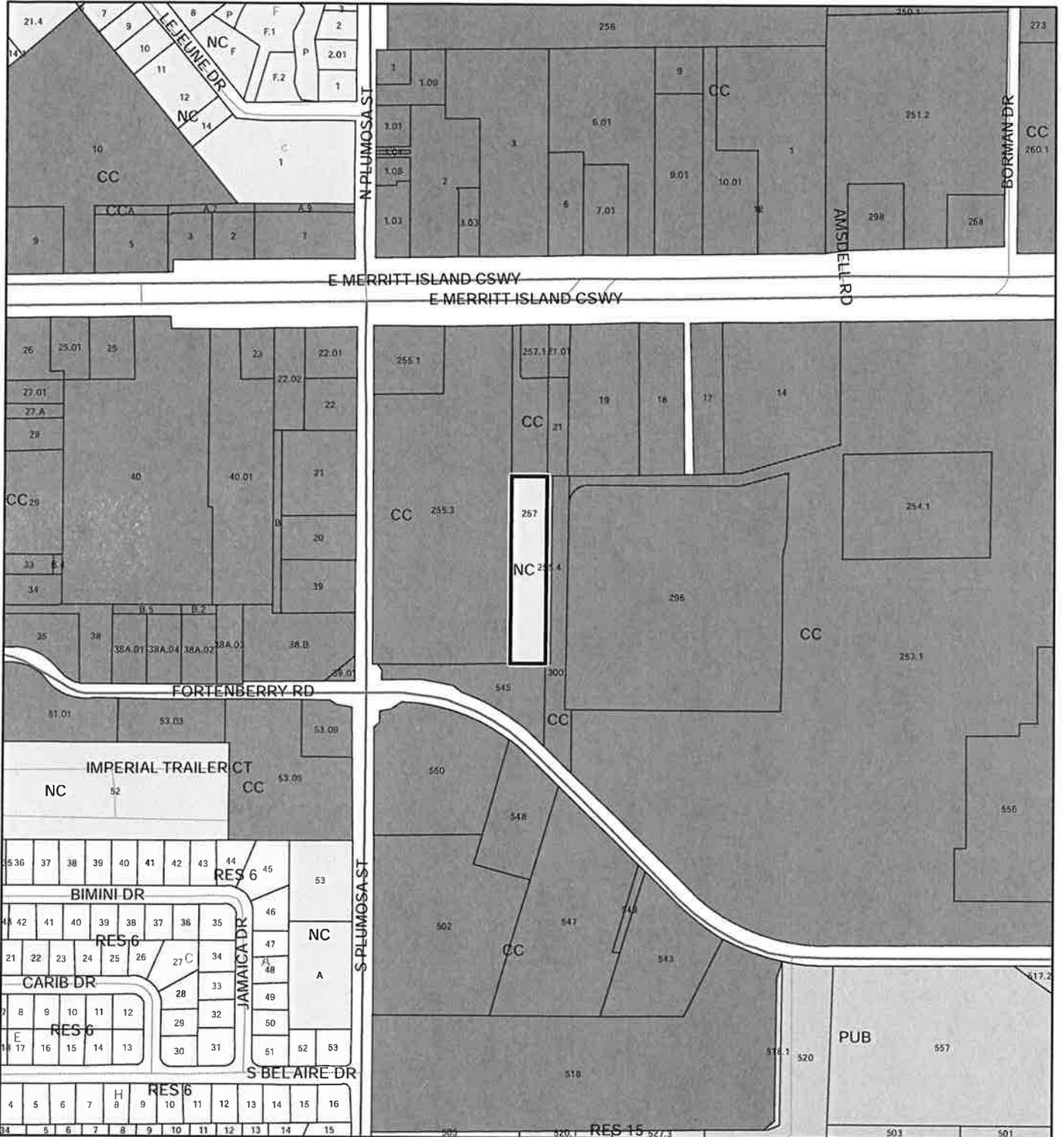
-  Subject Property
-  Parcels
-  Zoning

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Produced by BoCC - GIS Date: 5/18/2018

FUTURE LAND USE MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

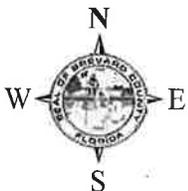
-  Subject Property
-  Parcels

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Produced by BoCC - GIS Date: 5/18/2018

AERIAL MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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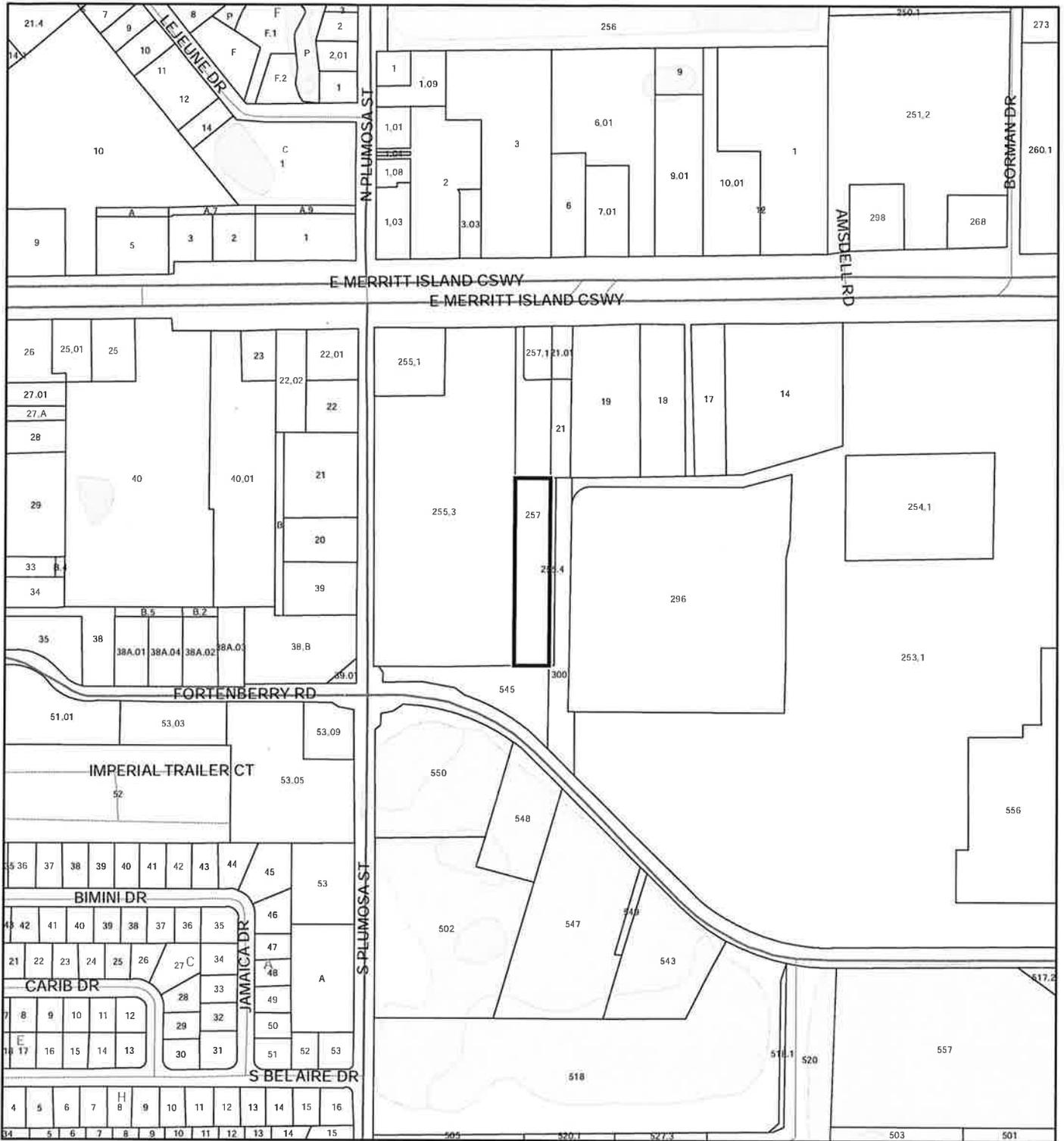
Produced by BoCC - GIS Date: 5/18/2018

 Subject Property

 Parcels

NWI WETLANDS MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/18/2018

National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |
| Subject Property | Parcels |

USDA SCSSS SOILS MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

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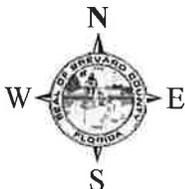
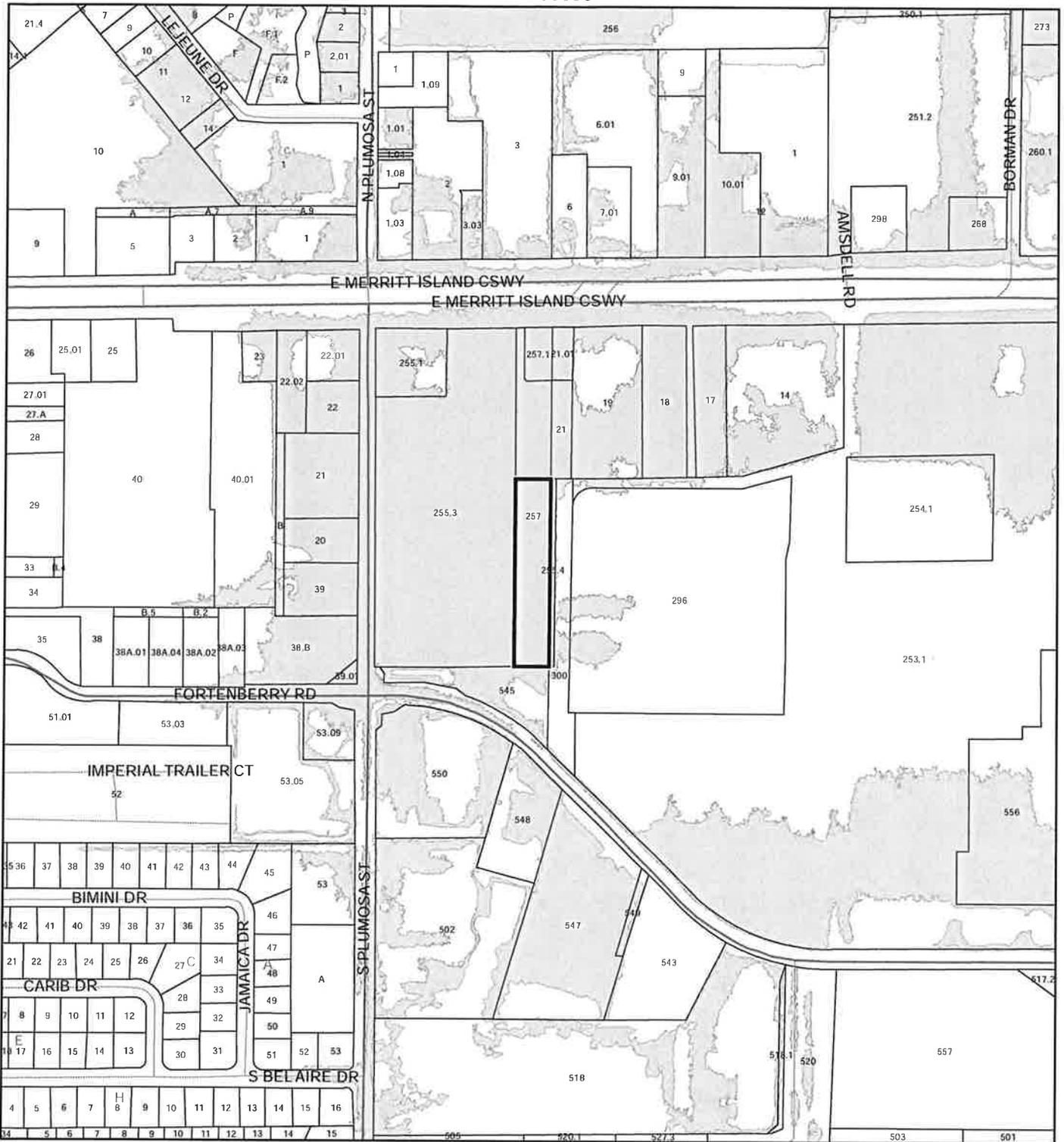
Produced by BoCC - GIS Date: 5/18/2018

USDA SCSSS Soils

	Aquifer and Hydric		Subject Property
	Aquifer		Parcels
	Hydric		
	None		

FEMA FLOOD ZONES MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/18/2018

FEMA Flood Zones

- | | | |
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EAGLE NESTS MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/18/2018

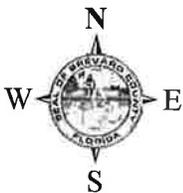
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MHE, LLC
18PZ00056



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/18/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



MERRITT ISLAND
REDEVELOPMENT AGENCY

FYI MIRA MEMO
18PZ00056
MHE, LLC

DATE: July 5, 2018

TO: Tad Calkins, Planning & Development Director
Erin Sterk, Planning & Zoning Manager
Jennifer Jones, Special Projects Coordinator

FROM: Cindy Thurman, MIRA Land Development Manager on Behalf of the MIRA Board of Directors

RE: **MHE, LLC - 18PZ00056 & 18PZ00057**

On June 28, 2018, the Merritt Island Redevelopment Agency's Board of Directors voted unanimously to approve the Small Scale Future Land Use change to Community Commercial and the rezoning request change from RU-1-7 to BU-2.

The applicant further, at the MIRA Board's request, agreed to granting the County an easement for stormwater and participating in the Stormwater utility.



MERRITT ISLAND
REDEVELOPMENT AGENCY

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