



**AGENDA REPORT
October 4, 2018**

**Legislative Intent and Permission to Advertise Re: Code Revisions to Hotel
and Motel Maximum Density in BU-1, BU-2, TU-1, TU-2 and PBP**

SUBJECT:

Legislative Intent and Permission to Advertise Revisions to Chapter 62, Article VI revising the maximum density requirements for hotel and motels, specifically Code Sections 62-1482 (BU-1), 62-1483 (BU-2), 62-1511 (TU-1), 62-1512 (TU-2), 62-1541 (PBP), and Permitted with Conditions Section 62-1844.5 (Tourist Efficiencies and Hotels and Motels).

FISCAL IMPACT:

None

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners approve the legislative intent and grant permission to advertise revisions to Chapter 62, Zoning Regulations to provide for no maximum density restrictions in zoning classifications where hotels and motels are allowed, in the community commercial future land use designation.

SUMMARY EXPLANATION and BACKGROUND:

Staff is requesting legislative intent and permission to advertise in order to remove the density requirement from all sections of the code so as to be consistent with the direction of the Board.

The Board, on August 14, 2018 granted legislative intent and permission to advertise an ordinance amending the General Tourist Commercial, TU-1 Section 62-1511(4), and add a new subsection (4) j. to increase the maximum density requirement in the TU-1 zoning classification for properties as long as the property is adjacent to a collector or arterial road, and where located within a commercial node.

However, the LPA on September 17, 2018 recommended removing the criteria for the location of the property and increase the maximum density requirement in the TU-1 zoning classification and add TU-2, as long as the subject property has the Community Commercial Future Land Use designation.

On September 18, 2019 the Board of County Commissioners conducted a second public

hearing to remove density caps for hotels in the TU-1 zoning classification. The motion was to re-advertise the code revision to eliminate hotel and motel density requirements and expand the code revision to include TU-1, TU-2, and BU-1 zoning classifications. It has come to staff's attention that hotels are also allowed in the PBP zoning classification, and therefore it has been included the proposed code amendment.

ATTACHMENTS:

Description

- ▢ **September 18, 2018 Board Memo**
- ▢ **Ordinance**



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October 5, 2018

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item F.1., Legislative Intent and Permission to Advertise for Code Revisions to Hotel and Motel Maximum Density in BU-1, BU-2, TU-1, TU-2 and PBP

The Board of County Commissioners, in regular session on October 4, 2018, approved legislative intent, and granted permission to advertise revisions to Chapter 62, Zoning Regulations to provide for no maximum density restrictions in zoning classifications where hotels and motels are allowed, in the community commercial future land use designation, with the exception of Merritt Island Redevelopment Area: 30 units per acre.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cmw



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September 19, 2018

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.3., General Tourist Commercial TU-1 Code Revision to Eliminate Hotel Density

The Board of County Commissioners, in regular session on September 18, 2018, conducted the second public hearing; and approved the readvertisement of the General Tourist Commercial TU-1 Code Revision to eliminate hotel density, and to include the Local Planning Agency (LPA) recommendation to expand TU-1, TU-2, and BU-1 Zoning Classifications.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 4, SUBDIVISIONS VII AND VIII, "TOURIST COMMERCIAL AND TRANSIENT TOURIST USE" SPECIFICALLY AMENDING SECTION 62-1511(4), GENERAL TOURIST COMMERCIAL, TU-1 ZONING AND SECTION 62-1512, TRANSIENT TOURIST COMMERCIAL, TU-2, AND SECTION 62-1541, PLANNED BUSINESS PARK; AND AMENDING ARTICLE VI, DIVISION 5, SUBDIVISION II, "PERMITTED USES WITH CONDITIONS" SPECIFICALLY AMENDING SECTION 62-1844.5, TOURIST EFFICIENCIES AND HOTELS AND MOTELS; TO PROVIDE FOR NEW DENSITY ALLOWANCES DEPENDING UPON THE FUTURE LAND USE DESIGNATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners wish to allow hotel and motel owners additional flexibility in their development potential; and

WHEREAS, the Future Land Use Element of Brevard County's Comprehensive Plan does not limit or designate the number of hotel or motel units within the Community Commercial Land Use Designation; and

WHEREAS, other Future Land Use Designations such as: Agriculture, Residential 1:2.5, Residential 1, Residential 2, Residential 4, Residential 6, Residential 10, Residential 15, Residential 30 Directive and Neighborhood Commercial all regulate the number of residential units which can be developed on a units/acre density limitation; and

WHEREAS, the Board of County Commissioners, on September 18, 2018 directed preparation of an amendment to the Zoning Regulations as it relates to hotel/motel development densities; and

WHEREAS, the Building Construction Advisory Committee, on October 10, 2018, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on October 22, 2018, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

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

Underline indicates additions.

~~Strike through indicates deletions.~~

SECTION 1. Section 62-1511(4). General Tourist Commercial, TU-1, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 62-1511. General tourist commercial, TU-1.

The TU-1 general tourist commercial zoning classification encompasses lands devoted to general tourist-related activities and recognizes the need for higher densities for motels and hotels. Also, a limitation of kitchen facilities is specified to prevent the conversion of motel and hotel units to permanent residential use. For purposes of this section, permanent residential use shall mean any use of one dwelling unit for more than three months by one family or one individual or any dwelling unit for which a lease is available for a period of time exceeding three months. The uses listed in subsection (1) of this section, or other uses of a similar nature that are compatible with the character of the uses specifically set forth in this section, are permitted.

- (4) Maximum density. No maximum density restrictions shall apply in the the community commercial future land use designation.
- a. ~~North beaches (north of the south boundary of Cocoa Beach): 30 units per acre in community commercial designations.~~
 - b. ~~Central beaches (south boundary of Cocoa Beach to U.S. 192): 12 units per acre in community commercial designations, except where otherwise provided by Amendment 98B.2 of the future land use element of the county comprehensive plan.~~
 - c. ~~South beaches (south of U.S. 192): Eight units per acre in community commercial designations.~~
 - d. ~~Mainland: 30 units per acre in community commercial designations subject to the following locational criteria:~~
 - 1. ~~Tourist uses should be located within a one-quarter-mile radius of intersections of major through-county transportation corridors with major arterials or roadways of a higher classification;~~
 - 2. ~~Within a one-quarter-mile radius of the Valkaria and Space Center Executive Airports;~~
 - 3. ~~Within a one-quarter-mile radius of the SR 405 corridor; or~~
 - 4. ~~Within one-quarter-mile of a highspeed rail/mag-lev terminus.~~
 - e. ~~Merritt Island redevelopment area: 30 units per acre.~~

SECTION 2. Section 62-1512(4). Transient Tourist Commercial, TU-2, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 62-1512. Transient tourist commercial, TU-2.

The TU-2 transient tourist commercial zoning classification encompasses land devoted to tourist facilities located within one-half mile from interstate or expressway interchange rights-of-way where traffic facilities are capable of accommodating higher-density uses and resulting traffic volumes. For the purposes of establishing the one-half mile distance, the point of tangency of the actual physical improvement of the on ramp or off ramp of the interstate and the roadway where the interchange serves, rather than the right-of-way line should be used as a beginning point. The one-half mile measurement shall include either the entire parcel, or if not the entire parcel, the entire principal structure as depicted in a binding development plan. Also, a limitation of kitchen facilities is specified to prevent the conversion of motel and hotel units to permanent residential use. For purposes of this section, permanent residential use shall mean any use of one dwelling unit for more than three months by one family or one individual or any dwelling unit for which a lease is available for a period of time exceeding three months. The uses listed in subsection (1), or other uses of a similar nature that are compatible with the character of the uses specifically set forth in this section, are permitted.

- (4) ~~Maximum density. Maximum density is 50 units per gross acre. For the purpose of computing density allowed, property divided by a public road shall be considered as separate parcels. No maximum density restrictions shall apply in community commercial future land use designations.~~

SECTION 3. Section 62-1541. Planned Business Park, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 62-1541. Planned business park, PBP.

The PBP planned business park zoning classification is intended to encourage compatible development within areas designated community commercial and planned industrial on the future land use map of the county comprehensive plan. The intent of the regulations for this classification is to provide the opportunity for the aggregation of land, prevent piecemeal nonresidential development and protect environmentally and historically significant areas. The SR 405/SR 407 corridor shall apply to property fronting that area of SR 405 running from Barna Avenue to the Indian River Lagoon and that area of SR 407 running from I-95 to SR 405.

(1) Permitted uses.

- a. Permitted uses are as follows:

All uses permitted in the BU-1 and BU-2 classification.

~~*Hotels and motels, limited to 30 units per acre.*~~

SECTION 4. Section 62-1844.5. Tourist Efficiencies and Hotels and Motels, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 62-1844.5. Tourist efficiencies and hotels and motels.

- (a) *Hotels and motels. Hotels and motels may be permitted in the general retail BU-1 and BU-2 zoning classification up to a maximum of 30 units per acre in areas designated community commercial on the future land use map. This use shall be subject to the development criteria in the general tourist commercial zoning classification (TU-1).*

Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 6. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 8. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this 23rd day of October, 2018.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Rita Pritchett, Chair
(as approved by the Board on November 13, 2018)

(S E A L)

Reviewed for legal form and content by: _____