



AGENDA REPORT
April 5, 2018

SUBJECT:

Public Hearing RE: Powell-Geary Services, LLC, Request for Amendment to Existing BDP in a PIP Zoning Classification. The property is 2.79 acres, located on the south side of Broadway Blvd., and east side of Industrial Dr., approx. 0.47 mile west of U.S. Hwy 1. (17PZ00150) (District 1)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board conduct a public hearing to consider the request for an amendment to the existing BDP in a PIP zoning classification.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is seeking an amendment to the existing BDP approved by the Board in December 2005 to allow for additional uses to be performed on the property. The existing BDP was established with a Rezoning of the property from to GU to PIP and prohibits septic tanks, truck parking/storage, and limits the use of structures to offices only. The proposed revisions expand the use of the property and include additional provisions to meet the concerns of his neighbors.

Proposed uses are limited to professional offices, mini-warehouses, workshops, repair of certain items, plant nursery, sales of certain goods, welding repair (except metal fabrication), parking, automobile washing, and a picnic and playground area.

The attached concept plan demonstrates that the self-storage mini-warehouses are proposed along the east side of the property and one warehouse building is proposed adjacent to Industrial Drive. Most of the proposed uses are anticipated to be conducted within the warehouse building.

On January 8, 2018, the Planning and Zoning Board/Local Planning Agency heard the request, along with public comment, and tabled the item to the January 19, 2018, Local Planning Agency meeting, at which time the board unanimously recommended denial of the request due to incompatibility, lack of buffering, and an incomplete BDP.

On February 1, 2018, the applicant appeared before the County Commission and

requested tabling to April 5, 2018, to allow time to revise the proposed BDP, provide staff with a conceptual plan, and to speak with surrounding property owners.

If approved by the Board, a fully-executed BDP will be scheduled as a consent item on a future County Commission agenda for Board acceptance.

ATTACHMENTS:

Description

- Administrative Policies**
- Staff Comments - Revised**
- Maps**
- FYI**
- Proposed BDP**
- Concept Plan**
- Public Comment**

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
*Revised 03/22/18

17PZ00150

Commission District # 1

Initial Hearing Dates: P&Z 01/08/18

BCC 02/01/18

Tabled Hearing Dates: 01/19/18

04/05/18

Applicant Name: Powell-Geary Services, LLC

Request: Amendment to Existing BDP in a PIP zoning classification

Subject Property:

Parcel ID# 23-35-25-00-1

Tax Acct.# 2311419

Location: South side of Broadway Blvd., and east side of Industrial Dr., approx. 0.47 mile west of U.S. Hwy 1.

Address: No assigned address. In the Cocoa area.

Acreage: 2.79 acres

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)

	CURRENT	PROPOSED
Zoning	PIP with BDP	PIP Replacement of BDP
Potential*	34,029 square feet	34,029 square feet
Can be Considered under FLU MAP	YES Industrial	YES Industrial

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

	ADT	PM PEAK		
Trips from Existing Zoning	232	29	Segment Number	36002
Trips from Proposed Zoning	232	29	Segment Name	US1 Camp to Broadway and Broadway to Fay
Maximum Acceptable Volume (MAV)	41,790	3,761	Acceptable LOS	D
Current Volume	27,976	2,518	Directional Split	0.5
Volume With Proposed Development	28,208	2,539	ITE CODE	
Current Volume / MAV	66.94%	66.94%	130	
Volume / MAV with Proposal	67.50%	67.50%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency	<input type="checkbox"/> Deficiency		

Background & Purpose of Request

The applicant is seeking an amendment to the existing BDP to allow for additional uses to be performed on the property. He has proposed revisions to some conditions and included additional provisions within the BDP in an effort to meet the concerns of his neighbors.

In December 2005, this site was rezoned from GU to PIP under Zoning action # Z-11204 with a Binding Development Plan (BDP). The current BDP has the following restrictions:

- No septic liquid storage tanks are installed or maintained on the property;
- No trucks will be parked or stored on the property;
- Structures built on the property will be for office use only; and
- The developer/owner will insure that no sludge, used drain field material or any other un-authorized material is dumped on this site.

The new owner, Powell-Geary Services, LLC, is submitting an application to amend the current BDP. One of the previous BDP conditions are proposed to remain but the other conditions would be amended, if approved.

The condition proposed to be retained is:

- The developer/owner will insure that no sludge, used drain field material or any other un-authorized material is dumped on this site.

The amended conditions are:

- Trucks in excess of six wheels will not be parked or stored on the property;
- Structures built on the property will be for the following uses:
 - Professional offices;
 - Mini-warehouses and self-storage mini-warehouses
 - Workshops/hobby shops for wood working, welding, ceramics and pottery, upholstery, leather work, art work, antiques, photography
 - Repair and storage of golf carts, bicycles, auto, lawn and farm equipment
 - Plant nursery
 - Sales of goods such as ceramics, crafts, furniture, golf carts, lawn and farm equipment, plants, building material
 - Electrical appliance and lighting fixture repair, sharpening and grinding,
 - Welding repairs (except metal fabrication)
 - Parking
 - Automobile washing
 - Picnic and playground

New conditions within the BDP are proposed to include:

- Hours of operation. The applicant states that hours will be limited to 8AM – 8PM.
- Reduce noise. Noises from welding and wood working will be buffered by a wall and by locating the self-storage mini-warehouses on the eastern side of the property.

This parcel has TR-2 residential zoning to the north and TR-1 residential zoning to the east. TR-2 is a single family residential mobile home Zoning classification which permits mobile homes or residences of standard construction on one-half acre lots. TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet. The zoning classification to the west and south is zoned IU. The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

Although this site is currently limited to the restrictions of the BDP, Planned Industrial Park (PIP) Zoning is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements. The PIP Zoning classification is intended for locations which are served by major roads but are not feasible for light or heavy industrial developments because of proximity to residential uses. The regulations for this district are intended to encourage development compatible with

surrounding or abutting residential districts, with suitable open spaces, landscaping and parking areas. Consequently, manufacturing activities that can be carried on in a relatively unobtrusive manner, and certain facilities that are necessary to serve the employees of the district, are permitted.

Land Use Compatibility

FLUE 3.2 outlines the role of Zoning in the designation of industrial lands. Zoning regulates the specific types and intensities of uses. Criteria which aid in assessing zoning compatibility shall consider the following standards:

Criteria:

- A. Permitted/prohibited uses;
- B. Existing industrial zoning trends in the area;
- C. Compatibility of proposed use with area;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal; and
- E. Impact upon natural resources, including air and water, wetlands, floodplains, and endangered species.
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

FLUE 3.3 outlines the role of Land Development Regulations in the designation of industrial lands. Once a proposed project is designed, site plan/land development regulations provide the final level of review for evaluating the acceptability of proposed industrial development activities. Criteria include:

Criteria:

- A. Accessibility of site for vehicular and non-vehicular modes;
- B. Buffering from adjacent existing/potential uses in terms of setbacks, landscaping, and open space as well as the arrangement of access and parking for the site;
- C. Open space provisions and balance of proportion between gross floor area and site size;
- D. Adequacy of pervious surfaces in terms of drainage requirements;
- E. Safety of on site vehicular circulation patterns (patrons, employees, and delivery vehicles) including loading facilities, truck parking and points of conflict;
- F. Storage locations and buffering from the surrounding area;
- G. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;
- H. Building placement/arrangement on the site;
- I. Provision of breezeway/visual corridor for riverfront properties;
- J. Placement of signage;
- K. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance.
- L. Performance based zoning requirements which may serve as a substitute for or accompany Land Development Regulations in attaining acceptable site design;
- M. Suitability of mixture of uses (if multiple uses proposed);
- N. Blending of the project with the character of the area; and
- O. Landscaping conforms with the policies of the Comprehensive Plan and land development code.

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.

Staff Comments: Page 4
IV.1. (17PZ00150)
01/08/18 PZ // 02/01/18 BCC

Applicable Land Use Policies

The removal of the use restrictions noted in the BDP will allow many additional uses found within the BU-1, BU-2 or PIP zoning classification to be performed on this site.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 17PZ00150	Applicant: Richard Powell
Request: Modify BDP	
P&Z Hearing Date: 01/08/18	BCC Hearing Date: 02/01/18

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRMD) 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 NRMD prior to submittal of any development or construction plans.

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

Comments:

**This review relates to the following property: Twp. 23, Rng. 35, Sec. 25;
 Tax ID No. 2311419**

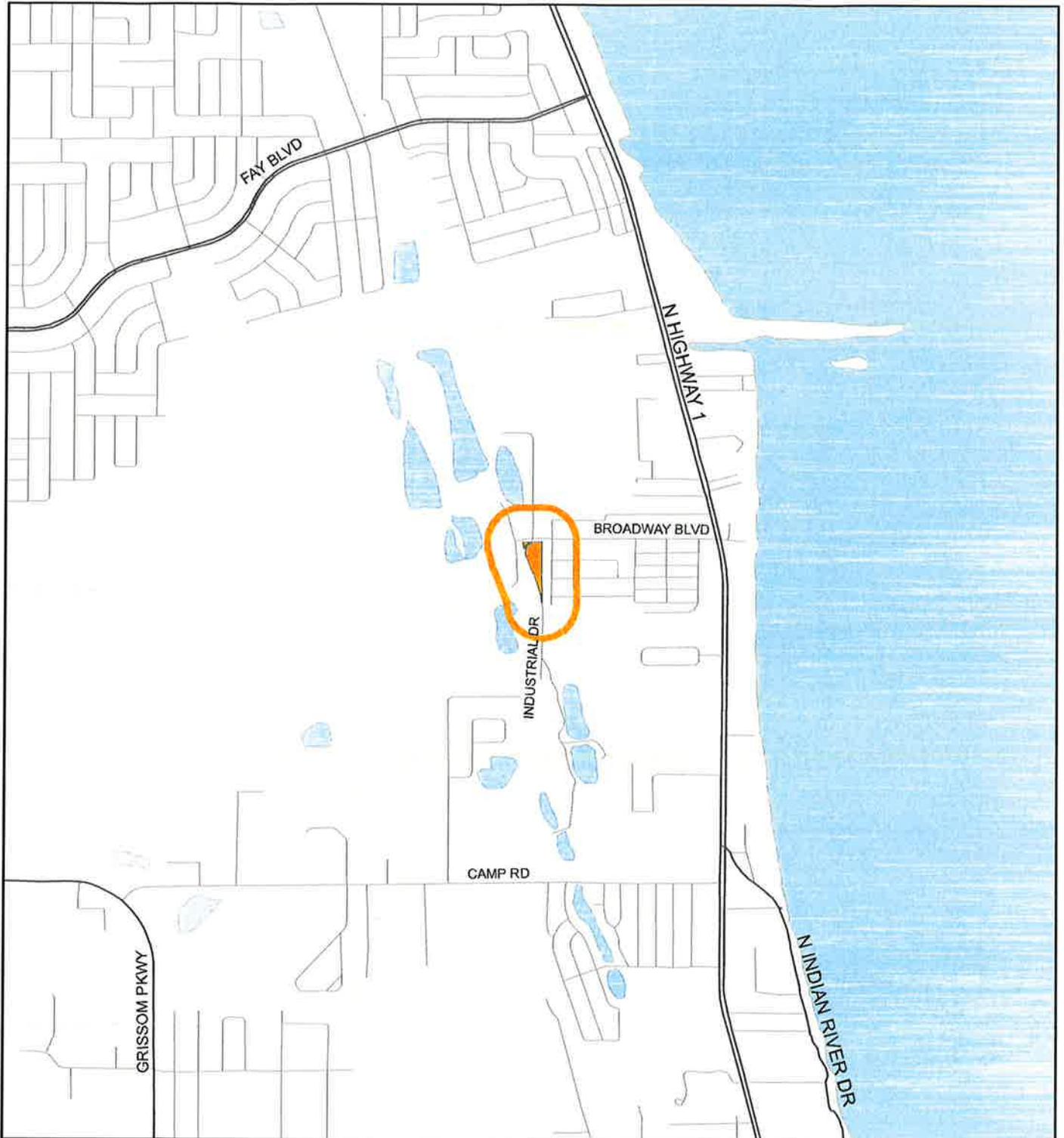
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. The parcel is heavily vegetated with mature native trees. Per Section 62-4341(18), Specimen and Protected trees shall be preserved or relocated on-site to the Greatest Extent Feasible as defined in Section 62-4332. The applicant is encouraged to contact NRMD at 321-633-2016 prior to any site plan design and/or land clearing activities.

The subject parcels contain mapped hydric soils (Basinger sand), an indicator that wetlands may be present on the property. However, an Environmental Assessment (EA) report prepared by Atlantic Environmental Solutions (AES) dated November 3, 2107, concluded that no SJRWMD or USACE jurisdictional wetlands exist on the property.

The subject parcel contains mapped aquifer recharge soils (Basinger sand and Paola fins sand, 0-5% slopes). The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Information available to NRMD indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. 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.

LOCATION MAP
POWELL-GEARY SERVICES, LLC
17PZ00150



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

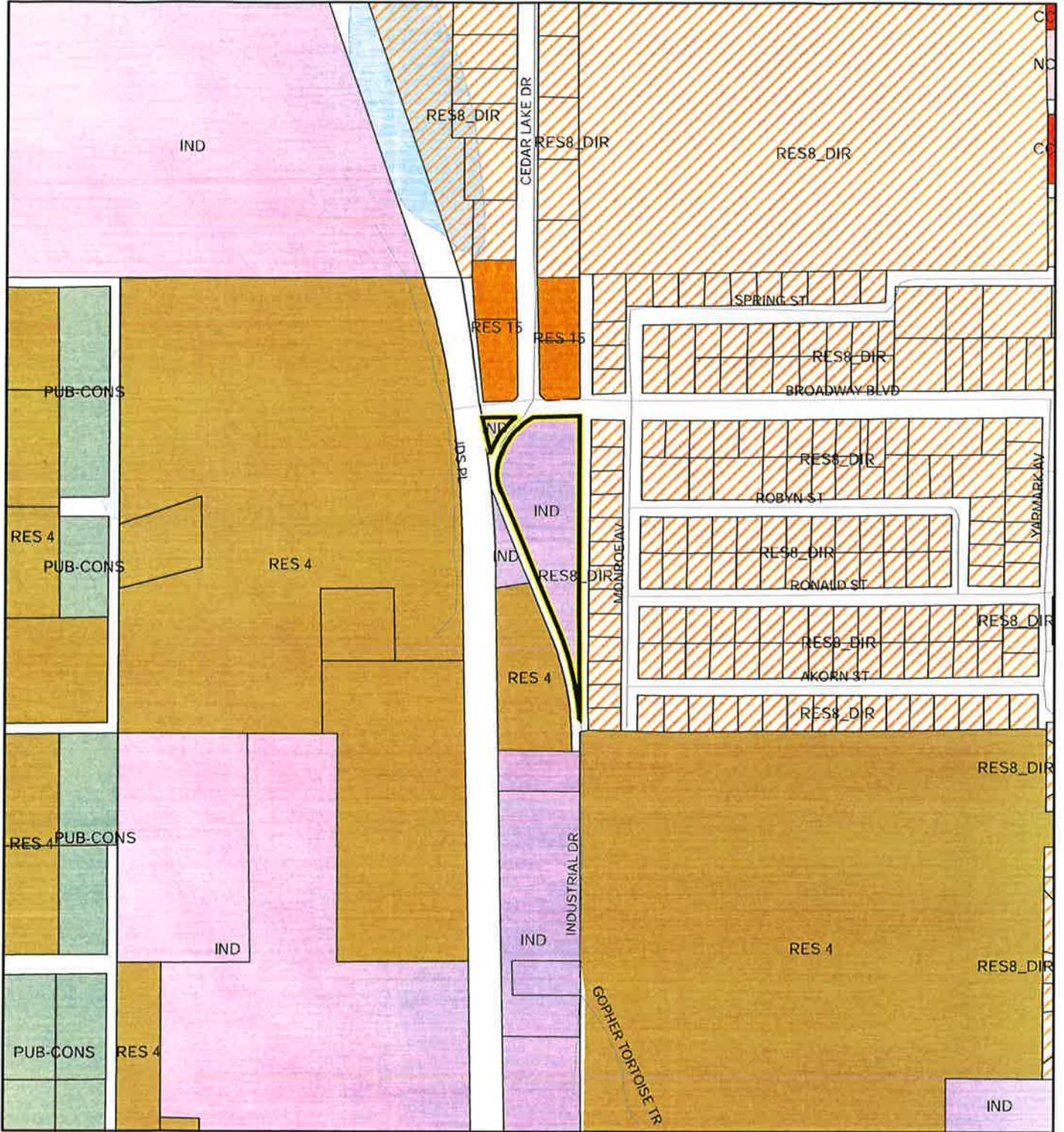
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 12/6/2017

FUTURE LAND USE MAP

POWELL-GEARY SERVICES, LLC

17PZ00150



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 12/4/2017

AERIAL MAP

POWELL-GEARY SERVICES, LLC

17PZ00150



1:2,400 - or 1 inch = 200 feet

PHOTO YEAR: 2017

 Subject Property

 Parcels

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

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 12/5/2017

Spoke with Richard Powell

Approve Have
Y or N Comments

Name	Comments	Approve	Have
Shelli Peterson (5280)	Does not abut 399 Broadway		
Sandi & Joseph Jones(5290)	Not at home		
Brenda Sue Sims(5300)	Brenda Sims owner not at home	Y	N
Shirley & Steven Randall(5310)	Spoke with Tenant		
Ruth Lostutter Trustee(5320)	✓ Would not talk to me		
Marida & Fransisco Garcia(5330)	Francisco J. Villaloro	Y	N
Hazel Benndt Estate(5340)	Larry Alderman	(Y)	N
Darlene & Clifford Ashcroft(5350)	NOT AT HOME		
Stephen Minor(5360)	GONE TO BEACH		
Henry F Adams(5370)	NOT AT HOME		
Aline and Pierre Cyr(5380)	NOT MOVED BACK YET		
Vinnie & Dallas Edmondson(5386)	Della Edmondson		N
James Collins(5390)	dina Howard Spoke with daughter who spoke with owner on the phone		XX

Powell Geary Services, LLC.

November 17, 2017

Dear Sir or Madam

We have purchased the lot behind you. We are working on the plans for the lot, and would like to have an open discussion with you.

Please join us on the lot. December 9, 2017 at Noon there will be chairs for your comfort.

We attempted to speak to all of you but did not reach all of you, but we do wish to speak to all of you. If you cannot attend on the 9th day of December, please call us so that we can talk to you, I live in Port St John.

Thank you



Richard L. Powell
321-749-2530

FYI
17PZ00150
Powell- Geary

Powell Geary Services, LLC.

November 17, 2017

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We have purchased the lot behind you. We are working on the plans for the lot, and would like to have an open discussion with you.

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We attempted to speak to all of you but did not reach all of you, but we do wish to speak to all of you. If you cannot attend on the 9th day of December, please call us so that we can talk to you, I live in Port St John.

Thank you

Richard L. Powell
321-749-2530

March 12, 2018

Dear _____

Re: 399 Broadway

The County has required me to speak to each resident a second time. Please call and let me know when we could meet between now and March 19, 2018. My Phone number is (321)749-2530. Please call as soon as you can because I must report to the county.

Thanking you in advance

**Richard L. Powell
321-749-2530**

January 24, 2018

Dear _____

Re: 399 Broadway

I have met several of you in person and have spoken on the phone to others since December 20, 2017. The zoning board chairman requested that I meet again with the residents on the west side of Monroe, to explain what I planned to do with the property at 399 Broadway. It is not always possible for everyone to come together at the same time, so I can set up several meetings or phone calls if you prefer, my phone number is 321-749-2530. I will be at 399 Broadway: Friday, January 26th from 5 to 6pm and Saturday Jan 27th from 10 to 11am.

Some concerns I have heard are noise, lights, truck parking, trees and a wall. Please let me know if there are any other concerns. My plan is to retain the trees and only remove any tree as a last resort. The trees are one of the things that attracted me to the property in the first place.

I plan to locate self-storage buildings on the east side with a buffer of space, wall, and existing trees, and to satisfy any other requirements of the county. This should minimize noise as there is storage only and no businesses to be operated out of those buildings.

The office and workshop buildings are going to be on the west side of the property. All work will be done indoors and is related to my hobbies and business interests. I plan on an office, hobby space, welding, wood working, ceramics, small owned equipment repair and fabrication as well as storage. I hope to have limited outdoor storage available.

The site plan approval process and building permit process of Brevard County are required to ensure that I meet or exceed the zoning and building requirements. They include things such as noise buffering, drainage control, setbacks, parking, lighting, septic system for the office building, fencing, buildings and other improvements.

Please either meet with me, call me or send me a note before January 30, 2018.

Thank you,

Richard L Powell
4745 Ivan Street
Port St John, FL 32927

321-749-2530

FYI
17PZ00150
Powell-Geary

Sterk, Erin

From: Tony Whitsett <twhitsett@cocoaf.org>
Sent: Thursday, March 22, 2018 10:15 AM
To: Sterk, Erin
Attachments: tax id 2311419.pdf

MR Sterk!

There is Water near your project but the nearest sewer is a forcemain that runs along Camp Road

Map Provided by
Cocoa Utilities

No sewer in area



Prepared by: Richard L Powell
Address: 4745 Ivan St, Cocoa, FL 32927

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Powell-Geary Services, LLC, a Florida company (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested retention of the Planned Industrial Park (PIP) zoning classification (Sec. 62-1542) and desires to develop the Property as an office, warehouse and mini storage facility, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. The Developer/Owner shall develop the property in accordance with Brevard County codes and guidelines for commercial property which abuts residential property to include a 25-foot setback/buffer along with a fence/wall in accordance with county approval along the east residential

property border. A concept illustration is being provided to depict the planned structures consisting of mini self-storage buildings and a main building to use as offices, warehouse, and workshops. The self-storage buildings will be along the east side of the property and the main building on the west side to limit noise effect on the residential properties. Self-storage access hours of operation are envisioned as 8 AM to 8PM and there will be provisions to prohibit operating repair shops out of the self-storage spaces. Lighting will be in accordance with county requirements and will be oriented to minimize effect on residential properties.

3. The Developer/Owner will be limited to the following land uses: Professional offices; mini-warehouses and self-storage mini-warehouses; workshops/hobby shops for wood working, welding, ceramics and pottery, upholstery, leather work, art work, antiques, photography; repair and storage of golf carts, bicycles, auto, lawn and farm equipment; plant nursery. Sales of goods such as ceramics, crafts, furniture, golf carts, lawn and farm equipment, plants, building material. Activities inside the main building to include electrical appliance and lighting fixture repair, sharpening and grinding, welding, fabrication, sales, storage, ceramic production and firing, office activities, repair and fabrication. Activities outside to include, parking, automobile washing, picnic and playground, and plant nursery.

4. The Developer/Owner shall insure that no trucks more than six wheels will be parked or stored on the property and that no sludge, used drain field material, or any other un-authorized material is dumped on this site.

5. There appear to be gopher tortoise on the property which shall be protected, and an area reserved for them. Development shall minimize the removal of trees to only what is necessary and replant in accordance with county approval.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Scott Ellis, Clerk
(SEAL)

Rita Pritchett, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(President)

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

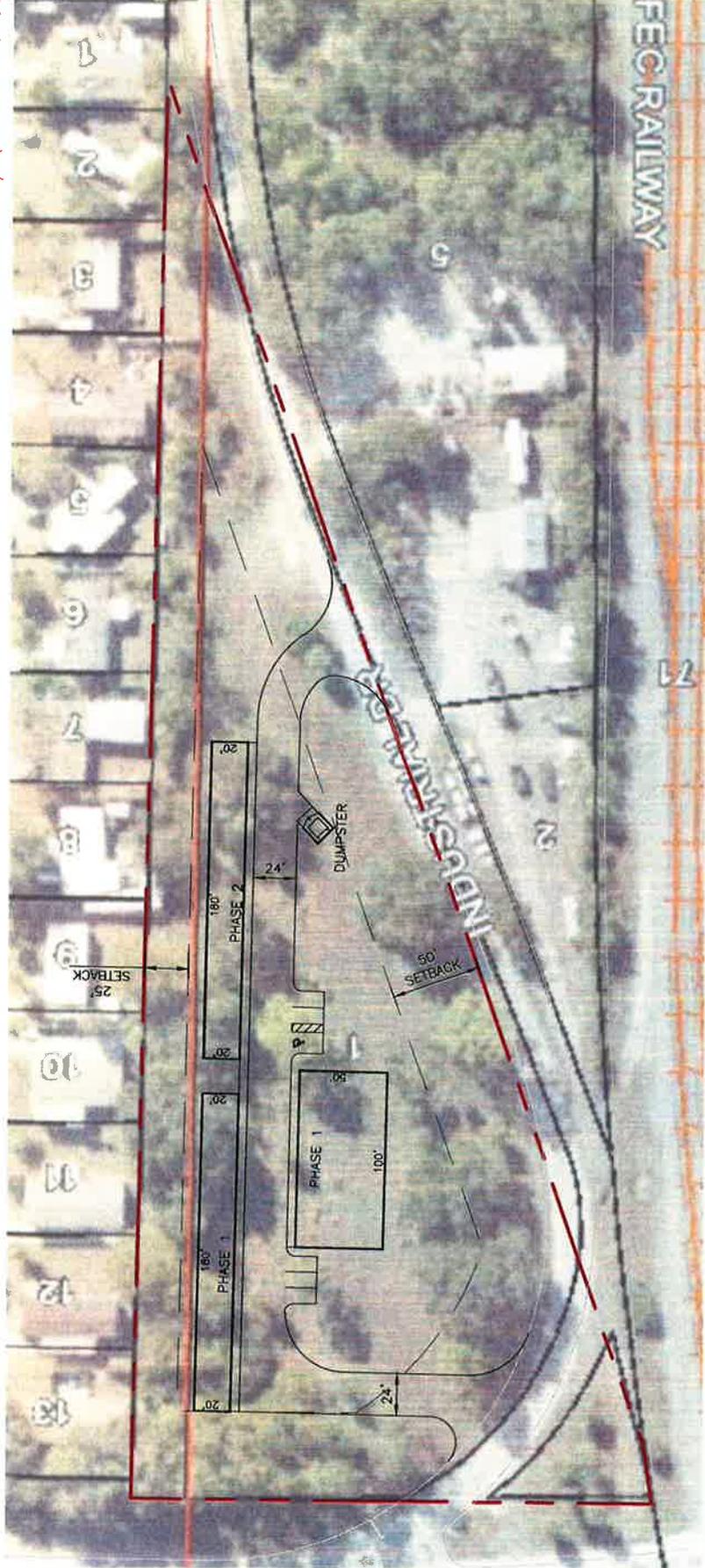
The foregoing instrument was acknowledged before me this ____ day of
, 20__, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

FYI
17PZ00150 - Powell-Geary - (submitted 03/13/18)



CONCEPTUAL SITE PLAN
1"=60'

2/23/18 CP-3



Planning and Zoning Board: 17PZ00150
For review by the Planning and Zoning Board during its meeting, circa 01-08-18.
For review by the Board of County Commissioners during its meeting, circa 02-01-18.
Situs: 399 Broadway Blvd, Cocoa, FL
Property Appraiser: 2311419
Parcel ID: 23-35-25-00-1
Binding Development Plan, March 7, 2006; OR BK 5615 / PG 3212

December 30, 2017

Board of County Commissioners
Planning and Development Dept.
2725 Judge Fran Jamieson Way, Bldg. A
Viera, FL 32940

Rita Pritchett, District 1 (Chair)
Board of County Commissioners
2000 S. Washington Ave, 2nd flr.
Titusville, FL 32780

Jim Barfield, District 2
Board of County Commissioners
2675 N. Courtenay Pkwy, Ste. 200
Merritt Island, FL 32953

John Tobia, District 3
Board of County Commissioners
2539 Palm Bay Rd. NE, Ste. 4
Palm Bay, FL 32905

Curt Smith, District 4
Board of County Commissioners
2725 Judge Fran Jamieson Way, C-214
Viera, FL 32940

Kristine Isnardi, District 5
Board of County Commissioners
490 Centre Lake Dr, Ste. 175
Palm Bay, FL 32907

The Board of County Commissioners should instruct the Planning and Zoning Board to investigate irregularities alleged to have occurred by, or under the supervision and control of, the former owner's septic tank business' personnel upon the subject real property. There should be an environmental study of, and core samples excavated from deep within, the subject real property. Please contact:

Dave Phillips, Environmental Administrator
Division of Waste Management
Florida Dept. of Environmental Protection
2600 Blair Stone Rd, MS#4515
Tallahassee, FL 32399-2400
850-245-8952

David Herbster, Environmental Administrator
Florida Dept. of Environmental Protection
3319 Maguire Blvd.
Orlando, FL 32803
407-897-4100

Please review the attached petition signed by those who have either purchased and / or have resided on real properties located on or near Monroe Avenue, Cocoa, FL.

Developer's Deception

1981: The entire area (including the subject real property) is zoned residential, alleged the developer. Look 360 degrees. It is forest and land cleared for homes just like yours. (See attached photographs taken on Dec. 30, 1981). Don't worry. This area will NEVER be re-zoned for commercial use. You can sleep without worries!

Real Estate Investor flips property from Residential to Limited Commercial use.

R.C. Cowan Mining Co, Inc. sold the subject real property, a forest, to Gerald R. Wyles and Carolyn S. Wyles on June 17, 1996, for \$15,300.00 (OR BK 3581 / PG 4328). The property could have been, but was not, developed for placement of one or more homes. Ten years later, Gerald R. Wyles realized that he could double his money if the property could be re-zoned commercial. Wyles had a septic tank business across the street. I need an office, Wyles claimed, and persuaded the Board of County Commissioners to agree to a Binding Development Plan (March 7, 2006; OR BK 5615 / 3212). The land was cleared, but an office was NEVER built!

Fast forward 11 years. Carolyn S. Wyles, as Trustee of her Trust, sold the subject real property to Powell-Geary Services, LLC, on Oct. 26, 2017, for \$40,000.00 (OR BK 8013 / PG 484). Wow. A profit of \$24,700.00. That's about 165% profit, just for re-zoning from residential to limited commercial. Thank you, Board of County Commissioners, for making us rich!

Real Estate Investor attempts to flip the property from Limited Commercial to Commercial use.

I should try that, too, apparently thinks Richard L. Powell. He researched public records, and knows the Binding Development Plan "runs with the land." Powell could build an office. O.k. But how could he double his money? What excuse could Powell use with a straight face before the Commission?

When Powell-Geary Services, LLC, sells the property, the next buyer will demand further concessions!

What about the home-owners' rights and property values?

The home-owners' "basis of the bargain" was that the area would remain zoned for residential use. We have elderly, families with children, and pets. We literally have watched the area transform from forest and dirt roads to residential subdivisions. Then, businesses began creeping-in. Oh, we're small operations, claimed the business owners. Just a few trucks. We'll keep it quiet. Don't worry. But then came the tractor trailers, carrying toxic chemicals. These trucks used the subject real property for "three-point turns" into the businesses. By so doing, the trucks' cabs came within a few feet of the borders of homes. Slip from brake to gas pedals, and the trucks could crash into homes and people.

Thanks to the subject real property being re-zoned from residential to limited commercial, the home-owners' property values have been reduced. Before, residential sales were based on the rural area. Now, who wants to live next to commercial property, as described above?

“Rubber-stamp approvals” must not be the defacto position of the Planning and Zoning Board, and the Board of County Commissioners

If the boards are truly interested in justice, the boards would re-zone the subject real property back to its original classification of residential use.

The Board of County Commissioners should deny the application by Powell-Geary Services, LLC. In-other-words, the Commission should not “bail-out” Richard L. Powell: If Powell didn’t like the Binding Development Plan, then his business should not have purchased the subject real property. Powell gets to build an office. Period. Have a nice day.

How will Powell-Geary Services, LLC compensate the home-owners? A wall? That would destroy the home-owners’ qualities of lifestyles including beautiful landscapes and sunsets. There would still be noise: vehicles, equipment, and people, possibly including “workplace violence.”

Our advice: Deny the application and keep the Binding Development Plan in full force and effect. Otherwise, the home-owners reserve our rights to initiate a class action lawsuit for reduction of property values!

Thank you for your consideration.

Sincerely,



Gerard Lostutter

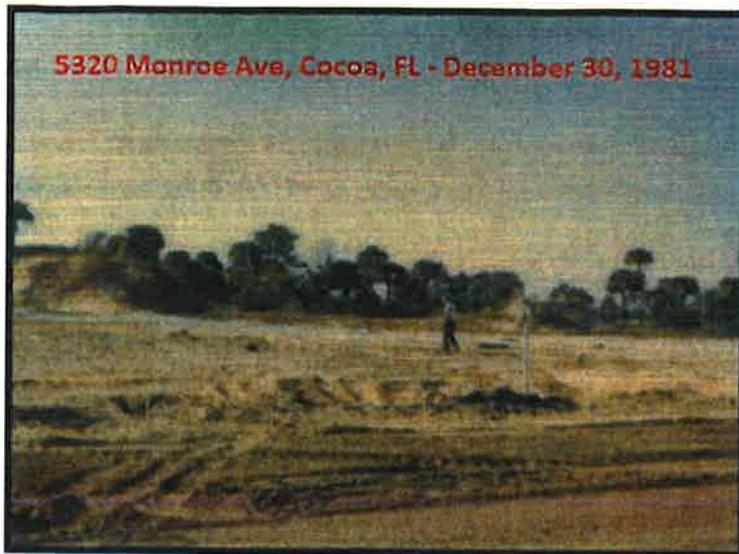
P. O. Box 27

Sharpes, FL 32959

Son of Ruth Lostutter

5320 Monroe Ave.

Cocoa, FL 32927



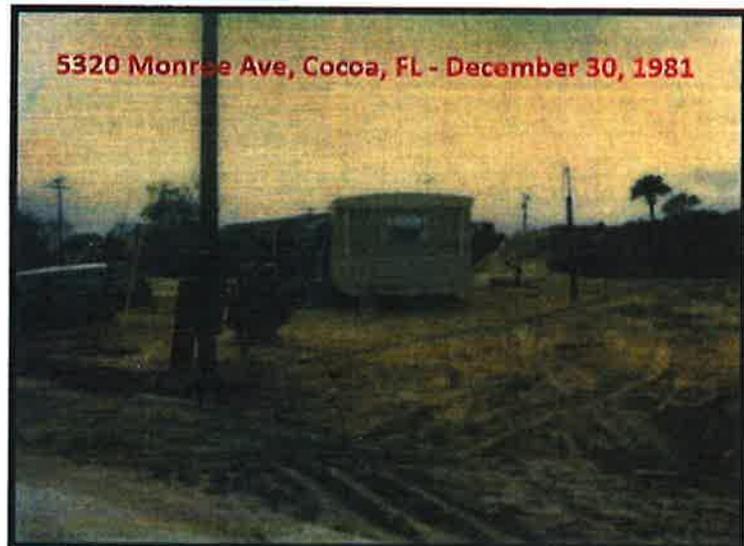
**The developer
promised a quiet,
residential
neighborhood.
No commercial
development!**

**Gerald Lostutter Sr.
is a lonely man in
the wilderness!**

**Electricity
and water?**

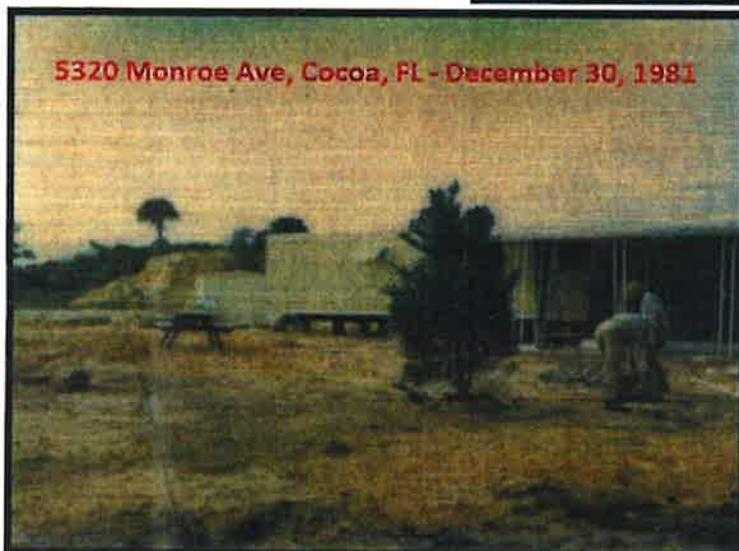
**Candles
and Coke.**

**Use nature's
out-house...**



**A fence?
To keep out whom?**

**Don't worry,
the county will
never re-zone
a residential
area to a
commercial one!**



Planning and Zoning Board: 17PZ00150

For review by the Planning and Zoning Board during its meeting, circa 01-08-18.

For review by the Board of County Commissioners during its meeting, circa 02-01-18.

Situs: 399 Broadway Blvd, Cocoa, FL

Property Appraiser: 2311419

Parcel ID: 23-35-25-00-1

Binding Development Plan, March 7, 2006; OR BK 5615 / PG 3212

PETITION

WHEREAS, we have either purchased and / or have resided on real properties located on or near Monroe Avenue, Cocoa, FL, based on a reliance and / or expectation of the real property, described above,

THAT the property was earlier zoned for residential use; and / or

THAT the property was subject to the Binding Development Plan, described above, so

THEREFORE, the undersigned request:

1. The Binding Development Plan remain "as-is" in full force and effect; or
2. If the Binding Development Plan is voided or amended in any way, that there be a requirement that the owner shall be solely financially responsible for the immediate construction of a barrier "sound wall."

THAT the wall shall be in height, width, depth and materials similar to walls constructed between public roads and residential subdivisions, according to building codes;

THAT the wall shall be constructed along the property's entire borders with all real properties located on Monroe Avenue, Cocoa, FL; and

THAT the wall shall be constructed no later than a reasonable, fixed date to be determined by the Planning and Zoning Board, and approved by the Board of County Commissioners of Brevard County, FL.

THE ABOVE is agreed by our signatures and dates below:

<u>Printed name</u>	<u>Signature</u>	<u>Date</u>	<u>House number</u>
Ruth Loster	<i>Ruth Loster</i>	12/27/17	5320 Monroe Ave, Cocoa, FL
Shirley Randall	<i>Shirley Randall</i>	12-27-17	530 Monroe Ave, Cocoa, FL
Steven L. Randall	<i>Steven L. Randall</i>	12-27-17	5310 Monroe Ave, Cocoa, FL
Alisha Alderman	<i>Alisha Alderman</i>	12-27-17	5340 Monroe Ave, Cocoa, FL
Henry F Adams	<i>Henry F Adams</i>	12/27/17	5370 Monroe Ave, Cocoa, FL
Clifford Ashcraft	<i>Cliff Ashcraft</i>	12-27-17	5350 Monroe Ave, Cocoa, FL
DARLENE ASTERAF	<i>Darlene Ashcraft</i>	12-27-17	5350 Monroe Ave, Cocoa, FL
Brenka Sims	<i>Brenka Sims</i>	12-27-17	5300 Monroe Ave, Cocoa, FL
RISELL ARTEL	<i>Riseell Artel</i>	12.27.17	5290 Monroe Ave, Cocoa, FL
Francisco Villatoro	<i>Francisco Villatoro</i>	12-27-17	5330 Monroe Ave, Cocoa, FL
Ethel Steward	<i>Ethel Steward</i>	12-27-17	5300 Monroe Ave, Cocoa, FL
Dallas Edmonds	<i>Dallas Edmonds</i>	12-27-17	53 Monroe Ave, Cocoa, FL
DENNY SOYA SR	<i>Denny Soya Sr</i>	12-27-17	359 Broadway Blvd, Cocoa FL
JAYNIE SCHMIDT	<i>Jaynie Schmidt</i>	12-27-17	359 Broadway Blvd, Cocoa FL

OBJECTION
17PZ00150
POWELL-GEARY

Planning and Zoning Board: 17PZ00150
For review by the Planning and Zoning Board during its meeting, circa 01-08-18.
For review by the Board of County Commissioners during its meeting, circa 02-01-18.
Situs: 399 Broadway Blvd, Cocoa, FL
Property Appraiser: 2311419
Parcel ID: 23-35-25-00-1
Binding Development Plan, March 7, 2006; OR BK 5615 / PG 3212

January 3, 2018

Richard L. Powell, MGRM
Powell - Geary Services, LLC
4745 Ivan St.
Cocoa (Port St. John), FL 32927

This letter and attachment does not create an attorney-client relationship.

In context of the subject real property having been under the possession and control of the former owners as operators of a septic tank company, and the Binding Development Plan, the title company should have prepared an Affidavit of Compliance as a pre-condition to sale.

The home-owners' concerns may be alleviated by the enclosed Affidavit of Compliance being signed by Carolyn S. Wyles.

You should record the Affidavit in the public records of Brevard County. You should send copies of the recorded Affidavit via U.S. Mail to all affected homeowners.

We thank you in advance for your anticipated cooperation.

Sincerely,


Gerald Lostutter
P. O. Box 27
Sharpes, FL 32959

Son of Ruth Lostutter
5320 Monroe Ave.
Cocoa, FL 32927

cc: Board of County Commissioners, Planning and Development Dept.
cc: Rita Pritchett, County Commissioner, District 1
cc: Jim Barfield, County Commissioner, District 2
cc: John Tobia, County Commissioner, District 3
cc: Curt Smith, County Commissioner, District 4
cc: Kristine Isnardi, County Commissioner, District 5

Enclosure: as stated.

Return to:
Richard L. Powell, MGRM
Powell - Geary Services, LLC
4745 Ivan St.
Cocoa (Port St. John), FL 32927
Planning and Zoning Board: 17PZ00150
Situs: 399 Broadway Blvd, Cocoa, FL
Property Appraiser: 2311419
Parcel ID: 23-35-25-00-1
Binding Development Plan (03-07-06)

Reserved for Clerk's recording

AFFIDAVIT OF COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared Carolyn S. Wyles, who, first being sworn and deposed, did state:

1. I am Carolyn S. Wyles, an unmarried woman, who expresses authority Individually and as Trustee of the Carolyn S. Wyles Trust, dated July 18, 2014.
2. Concerning the Warranty Deed (June 17, 1996; OR BK 3581 / PG 4328), the owners, Gerald R. Wyles and Carolyn S. Wyles, had exclusive possession and control of the subject real property described therein.
3. Concerning the the Trust Deed (June 7, 2002; OR BK 4615 / PG 2917), the owner, the Gerald R. Wyles and Carolyn S. Wyles Trust (06-07-02), via the Trustees, had exclusive possession and control of the subject real property described therein.
4. Concerning the Warranty Deed (July 18, 2014; OR BK 7172 / PG 168), the owner, the Carolyn S. Wyles Trust (07-18-14), via the Trustee, had exclusive possession and control of the subject real property described therein.
5. From June 17, 1996, to October 26, 2017, concerning all above-referenced deeds, and the Warranty Deed (10-26-17; OR BK 8013 / PG 484):
 - A. The subject real property has been in full compliance, by letter and spirit, of all federal, state, and county laws, ordinances, and regulations;
 - B. The subject real property has been in full compliance, by letter and spirit, of the Binding Development Plan (03-07-06; OR BK 5615 / PG 3212); and
 - C. The subject real property has environmentally acceptable fecal matter pursuant to federal, state, and county environmental regulations.