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BOARD OF COUNTY COMMISSIONERS

TO: Port St. John Dependent Special District Board Members

FROM: Cindy Fox, Planning & Zoning Manager
Conroy Jacobs, Planner I

SUBJ: Planning and Zoning Staff Comments
January 11, 2017

DATE: December 19, 2016

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

STAFF COMMENTS PREPARED BY:

Planning & Zoning Office
NATURAL RESOURCES MANAGEMENT DEPARTMENT

Legend of Terms:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) *General standards of review.*

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

FINDINGS OF FACT (EXHIBIT B)

Small Scale Plan Amendment 16S.11
Township 23, Range 35, Section 22

Property Information

Owner / Applicant: **Lukas & Annelise Kammerman**

Adopted Future Land Use Map Designation: RES 4

Requested Future Land Use Map Designation: CC

Acreage: 0.36 +/- acres Tax Account #: 2307354

Site Location: Northwest corner of Fay Blvd. and Grissom Pkwy.

Current Zoning: RU-1-9

Requested Zoning: BU-1

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single Family Residential	RU-1-9	RES 4
South	Roadway	N/A	N/A
East	Roadway	N/A	N/A
West	Single Family Residential	RU-1-9	RES 4

General Analysis

The applicant seeks to amend the existing RES 4 Future Land Use designation and provide for a Community Commercial designation. The subject parcel is developed with a single family residence and is located at the northwest quadrant of the Fay Boulevard and Grissom Parkway intersection. The subject site is 0.36 acres, with a Residential 4 Future Land Use designation and an RU-1-9 zoning classification. The subject parcel is immediately bordered by a 50 feet wide drainage right of way to the north and west, along with existing single family residential development.

This area of Port Saint John is characterized primarily by low density residential development. There is no other CC Future Land Use designation within close proximity to subject site. The applicant specified that the proposed use may include general retail, gas station along with convenience store and food service. This request is the third attempt to modify the existing single family residential use and provide for commercial development on the

subject parcel. The two previous Small Scale Comprehensive Plan Amendment from Residential to Mixed-Use District were both denied in 1998 (Z-10084) and 2001 (Z-10616) respectively.

The applicant suggested that he will subsequently seek to vacate the abutting drainage easement and rezone a parcel located to the west of the subject site, from residential to commercial should this request be approved. The aforementioned parcel and subject parcel are both under the same ownership. This would result in an increase in the size of the potential commercial tract and enable a wider array of commercial uses. Therefore, prior to rezoning to commercial, the applicant would be required to seek an additional small scale amendment, since the proposed zoning is not consistent with the RES 4 Future Land Use designation.

Environmental Resources

Note: The Natural Resources Management Office will provide a detailed analysis at the time of a the future request for rezoning for of the following environmental factors: Wetlands, Floodplains, Aquifer Recharge, and Endangered or Threatened Species. Applicants are encouraged to contact the Brevard County Natural Resources Management Office concerning environmental considerations prior to planning and development. Any future development will be subject to Brevard County's land development regulations.

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject property has direct access to Fay Boulevard to the south, a collector type roadway.

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

The subject parcel has an RES 4 Future Land Use designation and is entirely bordered by RES 4 Future Land Use designation and single family residential development. There is no other CC Future Land Use designation within close proximity to the subject parcel.

C. Existing commercial development trend in the area;

There is an existing mixed neighborhood commercial, low intensity institutional and residential node along the Fay Boulevard corridor. Approximately 0.3 miles west of the parent parcel, the most recent development in that node was a Family Dollar store that was approved on March 6, 2014 (13PZ-00084). Commercial development along Fay Boulevard has historically been limited to those serving the neighborhood needs. A Community Commercial Future Land Use designation will expand the scope of commercial uses, which may not be customary to the area.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There have not been fundamental changes in the character of the area as a result of infrastructure improvements.

E. Availability of required infrastructure at/ above adopted levels of service;

Fay Boulevard is a collector roadway. The preliminary concurrency analysis did not indicate that the proposed amendment would cause a deficiency on the availability of existing transportation facilities.

F. Spacing from other commercial activities;

There is an existing barbershop located to the east of subject site, across Grissom Parkway, which has a restricted neighborhood commercial zoning classification, with a RES 4 Future Land Use designation.

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

The subject parcel is 0.36 acres. There is no CC Future Land Use designation within close proximity to the subject property.

H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

An environmental analysis was required by NRMD at the time of a request for rezoning, please see associated rezoning staff report.

I. Integration of open space; and

Open space requirements are addressed during the site plan review stage.

J. Impacts upon strip commercial development.

The subject parcel has an existing RES 4 Future Land Use designation. The Board may wish to consider whether this request would contribute to strip commercial development. The applicants intent to expand the commercial site onto adjacent property to the west in the future may indicate a potential to encourage strip commercial development.

Activities Permitted in Community Commercial (CC) Future Land Use Designations Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant indicated that the proposed use may include general retail, gas station along with convenience store and food service. Many of these uses can introduce additional traffic and noise into this residential area.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are 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/principal arterial intersections.

The parent parcel is 0.36 acres, with an RES 4 Future Land Use designation. It is located at an intersection of a local and collector road. The Board may wish to consider whether the request for CC Future Land Use designation on 0.36 acres of parent parcel would cause an intrusion of the surrounding residential area.

- B Community commercial complexes should not exceed 40 acres at an intersection.

The subject parcel is 036 acres.

- 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.

The parent parcel is less than 10 acres.

- 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.

The gross floor area is regulated through land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The FAR is regulated through the land development regulations at the time of site plan review.

Strip Commercial Development

Policy 2.15

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. Refer to Figure 1 in the Appendix, "Illustrative Examples of Commercial Infill vs. Extension of Strip Development." Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

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 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

The subject parcel has an RES 4 Future Land Use designation. The proposed amendment from RES 4 to CC may permit commercial activities, which may adversely impact the surrounding residential neighborhood. There is no other CC Future Land Use designation within close proximity to aforementioned parcel. The Board may wish to consider whether this request would contribute to strip commercial development. The applicants intent to expand the commercial site onto adjacent property to the west in the future may indicate a potential to encourage strip commercial development.

Summary

The proposed amendment will amend the RES 4 Future Land Use designation on the 0.36 acre parcel and provide for a Community Commercial Future Land Use designation. There is no other CC Future Land Use designation within close proximity to aforementioned parcel. This request is the third attempt to modify the existing single family residential use and provide for commercial development on the subject parcel. The two previous Small Scale Comprehensive Plan Amendment from Residential to Mixed-Use District, the predecessor to Community Commercial land use designation, were both denied in 1998 (Z-10084) and 2001 (Z-10616) respectively. The character of this area, which is single family residential, has remained unchanged since the previous denials.

The applicant stated that the proposed use may include general retail, gas station along with convenience store and food service. As a result of the small size of this property, the applicant contemplating acquiring additional property to increase the scale of development. However, this will require an additional small scale amendment from residential to commercial, and companion rezoning request.

The Board may wish to consider whether this request would contribute to strip commercial development. The applicants intent to expand the commercial site onto adjacent property to the west in the future may indicate a potential to encourage strip commercial development.

IV.B.1.

Commission District # 1 (16PZ00111)
Initial Hearing Dates: PSJ 01/11/17 BCC 02/02/17

REZONING REVIEW WORKSHEET

Applicant Name: LUKAS J. & ANNELESE KAMMERMAN

Request: Residential 4 to CC; and RU-1-9 to BU-1

Subject Property:

Parcel ID#: 23-35-22-01-105-12
Tax Acct#: 2307354
Location: Northwest corner of Fay Blvd. and Grissom Pkwy.
Address: 5010 Fay Blvd., Cocoa
Acreage: 0.36

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-1-9	BU-1
Potential*	1 SFR	3,136 s.f.
Can be Considered under FLU MAP	YES RESIDENTIAL 4	NO**

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

	ADT	PM PEAK		
Trips from Existing Zoning	10	1	Segment Number	115B
Trips from Proposed Zoning	2,621	158	Segment Name	Fay Boulevard
Maximum Acceptable Volume (MAV)	33,900	3,051	Acceptable LOS	D
Current Volume	12,874	1,159	Directional Split	0.51
Volume With Proposed Development	15,495	1,317	ITE CODE 853	
Current Volume / MAV	37.98%	37.98%		
Volume / MAV with Proposal	45.71%	45.71%		
Current LOS	C	C		
OS With Propos	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Land Use Compatibility

FLUE Policy 2.1 Outlines the role of the Comprehensive Plan in the designation of commercial land.

This request is for a BU-1 zoning classification. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-1 zoning classification, in an area that is predominantly residential. The surrounding properties are zoned RU-1-9 to the north and west. The south and east boundary abuts County owned right of way. The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The requested BU-1 zoning classification requires a Small Scale Comprehensive Plan Amendment to Community Commercial, since the BU-1 zoning classification is not consistent with the RES 4 Future Land Use designation. The Board should evaluate the compatibility of this application within the context of Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

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

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

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils		Coastal Protection	NA
Aquifer Recharge Soils		Surface Water Protection	NA
Floodplains		Habitat for Protected Species	

Note: This is a preliminary review based upon 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 a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRM's comments follow these staff comments.

Other Considerations: The applicant is requesting the BU-1 zoning classification for the purpose of developing the subject 0.36 acre property as general retail, gas station with convenience store or food service. The subject parcel is developed with a single family residence, and is located at the north west quadrant of the Fay Blvd. and Grissom Pkwy. intersection. This area of Port Saint John is comprised of mainly single family residential land uses. There is no other BU-1 zoning classification within close proximity to the above mentioned parcel.

Historically, the was subject parcel was denied a Small Scale Comprehensive Plan Amendment from Residential to Mixed-Use District and a change of classification from RU-1-9 to BU-1, on May 21,1998 (Z-10084). Afterwards, the same property was again denied a Small Scale Comprehensive Plan Amendment from Residential to Mixed-Use District (now Community Commercial) and a change of classification from RU-1-9 to BU-1, on September 6, 2001 (Z-10616). This request is the third attempt to convert the existing single family residential use and provide for commercial development on the subject parcel.

As a result of the small size of this property, 0.36 acres, staff notes that meeting commercial land development standards, such as drainage, parking and landscaping requirements will likely be challenging. The applicant is proposing to seek to vacate the abutting 50 feet wide drainage easement and rezone a parcel located to the west of the subject site, from residential to commercial. The other parcel is also developed with a single family residence, and is zoned RU-1-9 with an RES 4 Future Land Use designation. The aforementioned parcel and subject parcel are both under the same ownership. However, this would also require a Small Scale Amendment, since the existing zoning and Future Land Use does not permit commercial development.

This request for BU-1 zoning classification should be evaluated within the context of **Policy 2.1** of the Future Land Use element, which governs the impact of proposed commercial development on infill vs strip development.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

A. Overall accessibility to the site;

The subject property has direct access to Fay Boulevard to the south, a collector type roadway.

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

The subject parcel has an RES 4 Future Land Use designation and is entirely bordered by RES 4 Future Land Use designation and single family residential development. There is no other CC Future Land Use designation within close proximity to the subject parcel.

C. Existing commercial development trend in the area;

There is an existing mixed neighborhood commercial, low intensity institutional and residential node along the Fay Boulevard corridor. Approximately 0.3 miles west of the parent parcel, the most recent development in that node was a Family Dollar store that was approved on March 6, 2014 (13PZ-00084). Commercial development along Fay Boulevard has historically been limited to those serving the neighborhood needs. A Community Commercial Future Land Use designation will expand the scope of commercial uses, which may not be customary to the area.

D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There have not been fundamental changes in the character of the area as a result of infrastructure improvements.

E. Availability of required infrastructure at/above adopted levels of service;

Fay Boulevard is a collector roadway. The preliminary concurrency analysis did not indicate that the proposed amendment would cause a deficiency on the availability of existing transportation facilities.

F. Spacing from other commercial activities;

There is an existing barbershop located to the east of subject site, across Grissom Parkway, which has a restricted neighborhood commercial zoning classification, with a RES 4 Future Land Use designation.

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

The subject parcel is 0.36 acres. There is no CC Future Land Use designation within close proximity to the subject property.

H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

An environmental analysis was required by NRMD at the time of a request for rezoning, please see associated rezoning staff report.

I. Integration of open space; and

Open space requirements are addressed during the site plan review stage.

J. Impacts upon strip commercial development.

The subject parcel has an existing RES 4 Future Land Use designation. The Board may wish to consider whether this request would contribute to strip commercial development. The applicants intent to expand the commercial site onto adjacent property to the west in the future may indicate a potential to encourage strip commercial development.

**Locational and Development Criteria for Community Commercial Uses
Policy 2.8**

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

Criteria:

A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are 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/principal arterial intersections.

The parent parcel is 0.36 acres, with an RES 4 Future Land Use designation. It is located at an intersection of a local and collector road. The Board may wish to consider whether the request for CC Future Land Use designation on 0.36 acres of parent parcel would cause an intrusion of the surrounding residential area.

B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject parcel is 036 acres.

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.

The parent parcel is less than 10 acres.

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.

The gross floor area is regulated through land development regulations at the time of site plan review.

E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The FAR is regulated through the land development regulations at the time of site plan review.

**Strip Commercial Development
Policy 2.15**

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:

The subject parcel has an RES 4 Future Land Use designation. The proposed amendment from RES 4 to CC will permit commercial activities, which may adversely impact the surrounding residential development. There is no other CC Future Land Use designation within close proximity to aforementioned parcel. The Board may wish to consider whether this request would ultimately contribute to strip commercial development, given that the applicants proposal to acquire additional residential properties and convert them to commercial use.

Summary: The applicant is seeking a BU-1 zoning classification for the purposes of developing the subject property as general retail, gas station with convenience store or food service. As a result of the small size of this property, 0.36 acres, staff notes that meeting commercial land development standards, such as drainage, parking and landscaping requirements will likely be challenging. The applicant has indicated that he will seek to vacate the abutting 50 feet wide drainage easement and rezone a parcel located to the west of the subject site, from residential to commercial, which could increase the developable area. However, this parcel will also require a small scale amendment from residential to commercial, since there would be an inconsistency with the Comprehensive Plan.

This request is reflective of the third attempt to transform the existing single family residential use and provide for commercial development on the subject parcel, the previous two attempts were denied. This area of Port Saint John may be described as a predominantly single family residential neighborhood. There is no other BU-1 zoning classification within close proximity to the above mentioned parcel.

The Board may wish to determine whether the proposed BU-1 zoning classification would contribute to strip commercial development, and whether this request represents an intrusion into the established residential neighborhood.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
 Rezoning Review**

SUMMARY

Item #: 16PZ00111	Applicant: Lukas Kammerman
Zoning Request: Res 4 to CC and RU-1-9 to BU-1	
PSJ Hearing Date: 01/11/17; LPA Hearing Date: 01/23/17; BCC Hearing Date: 02/02/17	

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

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

Comments:

This review relates to the following property: Twp. 23, Rng. 35, Sec. 22; Tax ID No. 2307254

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. Land clearing is not permitted without prior authorization by NRM.