



AGENDA REPORT
December 4, 2018

Second Hearing, Re: Resolution designating Tax Account 2426764 (265 E. Merritt Island Cswy) and Tax Account 2426763 (267 E. Merritt Island Cswy) in Unincorporated Brevard as a Brownfield Area, under Section 376.80, Florida Statutes, on behalf of SBJB Merritt, LLC owner/applicant (District 2)

SUBJECT:

Public Hearing, Re: Resolution designating Tax Account 2426764 (265 E. Merritt Island Cswy) and Tax Account 2426763 (267 E. Merritt Island Cswy) in Unincorporated Brevard as a Brownfield Area, under Section 376.80, Florida Statutes, on behalf of SBJB Merritt, LLC owner/applicant (District 2)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners (BOCC) conduct the second public hearing to allow 265 and 267 East Merritt Island Causeway in Merritt Island to seek economic development incentives through Brownfield Area designation pursuant to FS 376.80(2)(c).

SUMMARY EXPLANATION and BACKGROUND:

The Merritt Island Redevelopment Agency (MIRA) received a request dated October 16, 2018 addressed to County Manager Frank Abbate from Cardno Regional Services Manager Amy Long, on behalf of SBJB Merritt LLC (SBJB). Ms. Long requested that the Office of the County Manager recommend Brownfield Area Designation approval to the Board of County Commissioners. The Cardno submittal states that this Brownfield Area designation is a key component of the fiscal viability for redevelopment of the subject properties as a new restaurant and existing retail operation.

SBJB Merritt, LLC must demonstrate to the BOCC compliance with five key points under FS 376.80 regarding 1) ownership and agreement to redevelop, 2) economic productivity, 3) consistency with local comprehensive plan and land use, 4) public notification, and 5) financial ability. Compliance status is outlined in the attached staff report and applicant submittal. Additional information has been requested by Brevard County to determine

statutory compliance, with anticipated receipt prior to second hearing. If the BOCC is satisfied that SBJB Merritt, LLC has demonstrated compliance with the above criteria, approval of the attached resolution may be recommended. This resolution only entitles SBJB, Merritt, LLC to negotiate a Brownfield Site Rehabilitation Agreement (BSRA) with the applicable state entity, in this case, the Florida Department of Environmental Protection (FDEP).

The Cardno submittal states, and Natural Resources Management Department (NRM) review confirms, that the subject properties have documented environmental contamination of leaking underground storage tanks (LUSTs) that occurred as a result of previous operation as an auto sales facility. The Brownfield Area designation and BSRA must be completed by the end of the calendar year to allow the applicant to qualify for tax credits related to environmental assessment, remediation, and legal costs incurred in 2018. Rehabilitation and completed clean-up benefits are available as Florida corporate income tax credits and are administered by Department of Economic Opportunity and Department of Revenue.

On November 13, 2018, the BOCC conducted the first public hearing in the process and unanimously approved moving to the second public hearing.

Contact: Amanda Elmore, Special Projects Coordinator IV, Ext. 52609

ATTACHMENTS:

Description

- ▣ **ATT A STAFF REPORT**
- ▣ **ATT B RESOLUTION**
- ▣ **ATT C UPDATED APPLICATION 11-20-18**
- ▣ **ATT D BROWNFIELD INFORMATION**
- ▣ **ATT E APPLICANT PRESENTATION AND NOTES FOR SECOND HEARING**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

December 5, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Amanda Elmore

RE: Item H.5., Second Public Hearing for Resolution Designating Tax Accounts 2426764 and 2426763 (267 and 265 E. Merritt Island Causeway) in Unincorporated Brevard County as a Brownfield Area under Section 376.80, Florida Statutes, on Behalf of SBJB Merritt, LLC, as Owner/Applicant

The Board of County Commissioners, in regular session on December 4, 2018, conducted the second public hearing and adopted Resolution No. 18-190, to allow tax accounts 2426764 and 2426763, 265 and 267 East Merritt Island Causeway, Merritt Island, on behalf of SBJB Merritt, LLC, as owner/applicant, to seek economic development incentives through Brownfield Area designation pursuant to Florida Statute 376.80(2)(c). Enclosed is a certified copy of the Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

RESOLUTION NO. 2018 - 190

A RESOLUTION OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA, MAKING CERTAIN FINDINGS AND DESIGNATING THE REAL PROPERTY CONSISTING OF APPROXIMATELY 0.99 ACRES GENERALLY LOCATED ALONG AND FRONTING E MERRITT ISLAND CAUSEWAY (265 AND 267 E MERRITT ISLAND CAUSEWAY, MERRITT ISLAND, FL 32952; PARCEL ID NUMBERS 24-36-35-02-*25.01 AND 24-36-35-02-*25) AS A BROWNFIELD AREA PURSUANT TO SECTION 376.80(2)(C), FLORIDA STATUTES, FOR THE PURPOSE OF REHABILITATION AND PROMOTING ECONOMIC DEVELOPMENT; AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE DESIGNATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida has provided in Section 376.77 through 376.86 (the Brownfields Redevelopment Act), Florida Statutes, for designation of certain real property to be eligible for environmental remediation and economic development; and

WHEREAS, in order to be eligible for environmental remediation and economic development under the Brownfields Redevelopment Act, real property must be a contiguous area of one or more Brownfield Areas, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination, and must be designated as a "Brownfield Area" by local government resolution; and

WHEREAS, the real property area depicted in Exhibit "A", attached and incorporated as an integral part of this Resolution ("the property"); and

WHEREAS, the Board of County Commissioners has determined that the Property should be designated as a Brownfield Area eligible under the Brownfields Redevelopment Act, and has considered the criteria set forth in Section 376.80(2)(c); and

WHEREAS, the Brownfields Redevelopment Act created a process whereby a local government with jurisdiction over the Brownfield Area must by Resolution notify the Florida Department of Environmental Protection of its decision to designate a Brownfield Area for rehabilitation; and

WHEREAS, a local government shall designate a Brownfield Area under the provisions of the Brownfields Redevelopment Act provided that:

- (1) A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the Brownfield Area;
- (2) The rehabilitation and redevelopment of the proposed Brownfield Area will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site, which are full-time equivalent positions not associated with the implementation of the Brownfield Area Rehabilitation Agreement and which are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment agreement required under paragraph (5)(i). However, the job-creation requirement shall not apply to the rehabilitation and redevelopment of a Brownfield Area that will provide affordable housing as defined in section 420.0004, Florida Statutes, or the creation of recreational areas, conservation areas, or parks;
- (3) The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations ;
- (4) Notice of the proposed rehabilitation of the Brownfield Area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be made in a newspaper of general circulation in the area, at least sixteen square inches in size, and the notice must be posted in the affected area;
- (5) The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan; and

WHEREAS, having conducted two public hearings on the application;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and incorporated by reference in this resolution.

Section 2. The Board of County Commissioners has reviewed the requirements for a Brownfield Area designation, as specified in Section 376.80(2)(c), Florida Statutes, and based on the representations in SBJB Merritt, LLC's request and at the applicable public hearings, makes the following findings:

- a) SBJB Merritt, LLC owns the site, is requesting the Brownfield designation, and intends to rehabilitate and redevelop the Property as a Brownfield Area.
- b) The rehabilitation and redevelopment of the proposed Brownfield Area will result in economic productivity of the area and the creation of at least five new permanent jobs.
- c) Tax accounts No. 2426763 and 2426764 have the Community Commercial Future Land Use designation with BU-2 zoning classification. SBJB Merritt, LLC's proposed redevelopment of these parcels is consistent with Brevard County's local comprehensive plan, provided they submit and obtain the applicable approvals, including but not limited to, site plan and building permits. Restaurant and retail uses are a permissible use in the BU-2 zoning classification.
- d) SBJB Merritt, LLC has provided notice of the proposed rehabilitation of the Brownfield Area to neighbors and nearby residents of the proposed area and SBJB Merritt, LLC has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation.
- e) SBJB Merritt, LLC has provided reasonable assurance that it has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the Brownfield Area.
- f) SBJB Merritt, LLC is designated the person responsible for rehabilitations and redevelopment of the brownfield area as that term is defined at Florida Statute 376.79(15).

Section 3. The Board of County Commissioners designates the Property depicted on Exhibits "A-C," attached and incorporated by reference, as a "Brownfield Area" for purposes of the Brownfields Redevelopment Act. This designation simply entitles SBJB Merritt, LLC to negotiate a Brownfield Area Rehabilitation Agreement with the Florida Department of Environmental Protection. This designation shall not render Brevard County liable for any costs of site rehabilitation or source removal, as those terms are defined in Section

376.79 (19) and (2), Florida Statutes.

Section 4. The County Manager, or his designee, is authorized to notify the Florida Department of Environmental Protection of this Resolution designating the Property a "Brownfield Area" for purposes of the Act and to do all things necessary and expedient to accomplish the aims of this Resolution.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Resolution.

Section 6. This Resolution is effective immediately upon adoption.

DONE AND ADOPTED in regular session by the Board of County Commissioners, Brevard County, Florida on this 4 day of December, 2018.

ATTEST:

**BREVARD COUNTY BOARD
OF COUNTY COMMISSIONERS**

A handwritten signature in cursive script, appearing to read "Scott Ellis", is written over a faint circular seal of the Brevard County Clerk of the Court. The seal contains the text "SEAL OF BREVARD COUNTY FLORIDA" and "CLERK OF THE COURT".

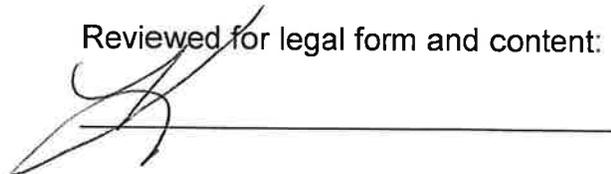
Scott Ellis, Clerk of the Court

A handwritten signature in cursive script, appearing to read "Kristine Isnardi", is written over a horizontal line.

Kristine Isnardi, Chair

As approved by the Board on 12/4/18

Reviewed for legal form and content:

A handwritten signature in cursive script is written over a horizontal line.



BOARD OF COUNTY COMMISSIONERS

SUBJECT: Resolution designating 0.99 acres, 265 and 267 E Merritt Island Causeway, Merritt Island, FL Parcel ID numbers 24-36-35-02-*25.01 (Tax account 2426764) and 24-36-35-02-*25 (Tax account 2426763), respectively, as a Brownfield Area pursuant to F.S. 376.80(2)(c) (District 2)

DATE: November 20, 2018

AUTHORS: Planning and Development Department

Section 376.80 (2)(c), Florida Statutes, allows local government to review, make certain findings and designate real property as a Brownfield Area for the purpose of rehabilitation and promoting economic development. Further, FS 376.80(2)(c) authorizes the County Manager or designee to notify the Florida Department of Environmental Protection of the designation.

Background:

SBBJ Merritt, LLC, a Melbourne, FL based developer, has submitted a Request for Designation of the properties located at 265 and 267 East Merritt Island Causeway, the Subject Properties, as a Brownfield Area. The conceptual design submitted to the County for review includes a new 3,500 SF restaurant and 2,400 SF of existing retail space. Upon aerial review, additional existing retail space and an out building appear to be within property boundaries but are omitted from the conceptual plan. Site plan and building permit submittal would be necessary to determine full compliance with County land development regulations.

The Subject Properties have environmental impacts from Leaking Underground Storage Tanks (LUSTs) associated with the site's former use as EZ Auto Sales. Natural Resources Management Department (NRM) review of the sites found two previous discharges and documented soil and groundwater contamination, including petroleum-based contaminants. Remediation is necessary for site closure. Environmental rehabilitation is consistent with the County's initiative to improve the water quality of the Indian River Lagoon, which is in close proximity to the subject properties. Brownfield Area designation provides the project with access to regulatory and economic incentives necessary to achieve environmental restoration in an economically viable way. To be eligible for a Brownfield Area designation, the applicant must demonstrate compliance with five (5) specific statutory criteria:

- Agreement to redevelop the site
- Economic productivity of the project
- Consistency with the local comprehensive plan and land use
- Public notification of designation application
- Financial ability to complete project



BOARD OF COUNTY COMMISSIONERS

Compliance with Statutory Criteria:**Criterion #1: Agreement to redevelop the site, FS 376.80 (2)(c)(1)***STATUS: CONFIRMED*

SBJB Merritt, LLC has submitted a copy of Special Warranty Deed, recorded December 20, 2017, as evidence of applicant's ownership and LLC operating agreement excerpts. Additionally, they have submitted a conceptual site design outlining proposed redevelopment. Documents have been reviewed by the County Attorney's Office.

Criterion #2: Economic productivity (creation of not less than five jobs), FS 376.80 (2)(c)(2)*STATUS: CONFIRMED, AS PROPOSED*

When developed, the project proposes to create no less than five full-time restaurant associated positions including manager(s), cook(s), server(s), host(s) and dish washer(s). Additionally, the project will create temporary construction jobs during site redevelopment, although these are not considered under applicable Florida Statutes.

Criterion #3: Comprehensive Plan and Land Use Consistency, FS 376.80 (2)(c)(3)*STATUS: CONFIRMED, AS PROPOSED*

Tax Accounts No. 2426763 and 2426764 have Community Commercial Future Land Use designation with BU-2 zoning classification. SBJB Merritt, LLC's proposed redevelopment of these parcels is consistent with Brevard County's local comprehensive plan, provided they submit for and obtain applicable approvals, including but not limited to, site plan and building permits.

Criterion #4: Public Notification, FS 376.80 (2)(c)(4)*STATUS: TO BE COMPLETED BY DECEMBER 4, 2018*

The County has requested copies of the public notices advertised in *Florida Today* and *Al Dia* Spanish Language Newspaper for the scheduled December 4, 2018 neighborhood meeting. Staff has received a copy of the Craigslist community bulletin posting. The neighborhood meeting was announced at the November 13, 2018 BOCC meeting pursuant to FS 376.80 (1)(c)(4)(b). The applicant will provide feedback received at the neighborhood meeting to the BOCC during a short presentation at the second hearing.



BOARD OF COUNTY COMMISSIONERS

Criterion #5: Financial Resources, FS 376.80 (2)(c)(5)*STATUS: CONFIRMED*

The applicant has submitted a Financial Ability Letter from Sooner Investment Group, Inc., the manager of SBJB Merritt, LLC and a financial reference letter from Simmons Bank regarding their 20 year working relationship. Sooner Development has successfully developed Target and Lowes anchored shopping centers and smaller grocery store anchored shopping centers in Oklahoma, North Carolina, Kansas, Missouri, Arizona and Florida. Locally, Sooner Investment Group, Inc. developed the Coastal Commerce Center located at US 192 and I-95, the building now occupied by Intracoastal Brewing and Florida vernacular building renovation in the Eau Gallie area.

SUMMARY:

SBJB Merritt, LLC has largely demonstrated compliance with the statutory requirements. The outstanding neighborhood meeting is to be held on December 4, 2018 at 1:30pm and to be advertised in late November. The applicant has ordered the advertisements from *Florida Today* and *Al Dia* newspaper. As these are future advertisements, not available at the time of this staff report, documentation is not able to be included with the agenda item at this time. The applicant will address these unresolved items and any neighbor feedback at the second public hearing.

If the Subject Properties are designated Brownfield Area, the owner will enter a Brownfields Site Rehabilitation Agreement (BSRA) with the Florida Department of Environmental Protection (FDEP). The BSRA allows the person/entity completing the clean-up access to tax credits, liability protection and loan programs to assist in redeveloping these economically challenging sites. The designation and BSRA must be completed by the end of the calendar year to allow the applicant to qualify for tax credits for environmental assessment, remediation, and legal costs incurred in 2018.

ATTACHMENT B

- (1) A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the Brownfield Area;
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▪ **WHEREAS**, having conducted two public hearings on the application;

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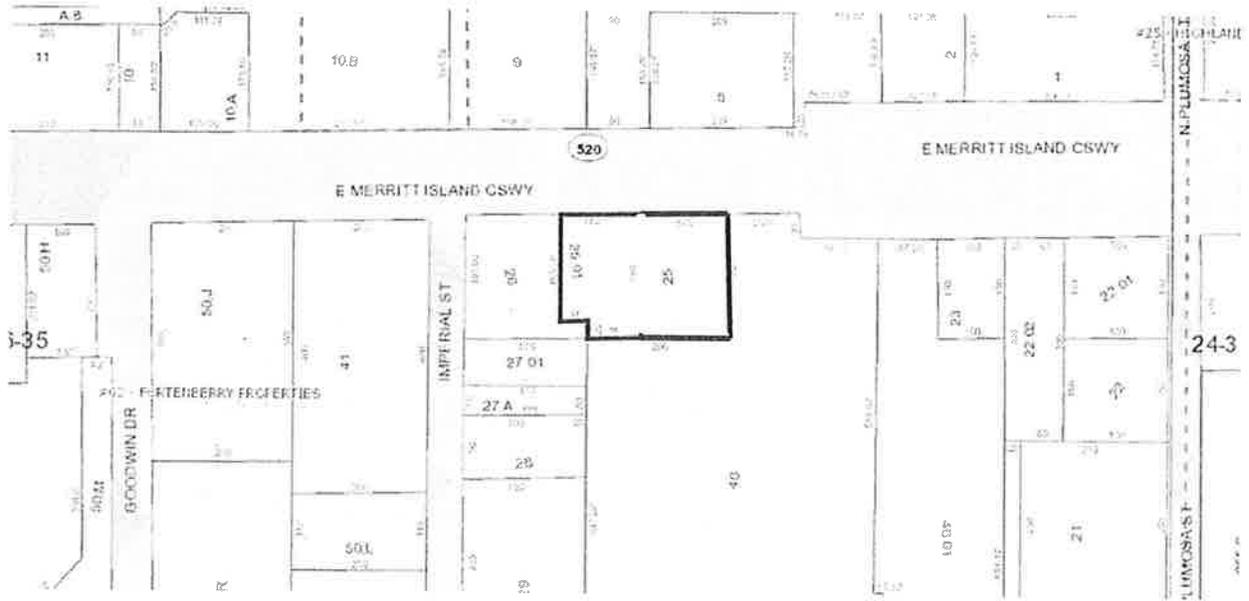
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Exhibit A: Site Location Map





File Number: 10-1371

EXHIBIT "A"

Tract 1:

Parcel No. 25 and that part of Parcel No. 26 according to the Map of Fortenberry Properties as recorded in Survey Book 1, Page 90, Public Records of Brevard County, Florida and being described as follows: Commence at the East 1/4 comer of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West, 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West parallel with said centerline of State Road No. 520 a distance of 670 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 238.10 feet; thence run South 0 degrees 56 minutes 12 seconds East, along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 112 feet; thence run South 0 degrees 32 minutes 34 seconds East 25 feet; thence run North 88 degrees 44 minutes 03 seconds East 125.0 feet; thence run North 0 degrees 32 minutes 34 seconds West 185 feet to the Point of Beginning.

LESS AND EXCEPT any portion thereof lying within the following described parcel as set forth in Warranty Deed recorded in Official Records Book 2357, Page 2503, Public Records of Brevard County, Florida, described as follows:

Part of Parcel No. 26, according to the Map of Fortenberry Properties, as recorded in Survey Book 1, Page 90, of the Public Records of Brevard County, Florida, and being described as follows: Commence at the East 1/4 comer of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West, parallel with said centerline of State Road No. 520, a distance of 795.00 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 113.10 feet; thence run South 00 degrees 56 minutes 12 seconds East, and along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 37.00 feet; thence run South 00 degrees 32 minutes 34 seconds East 25.00 feet; thence run North 88 degrees 44. minutes 03 seconds East 75.00 feet; thence run North 00 degrees 32 minutes 34 seconds West 185.00 feet to the Point of Beginning of this description.

AND

Page 1.....

File Number: 10-1371

Legal Description with Non Homestead

Tract 2:

Part of Parcel No. 26, according to the Map of Fortenberry Properties, as recorded in Survey Book 1, Page 90, of the Public Records of Brevard County, Florida, and being described as follows: Commence at the East 1/4 corner of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West, parallel with said centerline of State Road No. 520, a distance of 795.00 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 113.10 feet; thence run South 00 degrees 56 minutes 12 seconds East, and along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 37.00 feet; thence run South 00 degrees 32 minutes 34 seconds East 25.00 feet; thence run North 88 degrees 44 minutes 03 seconds East 75.00 feet; thence run North 00 degrees 32 minutes 34 seconds West 185.00 feet to the Point of Beginning of this description.

Page 2.....

File Number: 10-1371

Legal Description with Non Homestead

November 20, 2018



Cardno

901 North Point Parkway
Suite 305
West Palm Beach, FL 33407
USA
Phone 772 485 4511
Phone 800 861 8314
Fax 727 539 1294

www.Cardno.com

Mr. Frank Abbate,
County Manager
2725 Judge Fran Jamieson Way
Viera, FL 32940
Brevard County

RE: Updated Request for Designation of the Former EZ Auto Sales Reuse Area for 265 and 267 E Merritt Island Causeway, Merritt Island, Brevard County, FL 32952 Pursuant to §376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act

Dear Mr. Abbate:

On behalf of SBJB Merritt, LLC (SBJB) and pursuant to Chapter 376.80(2)(c), Florida Statutes, we are pleased to submit this Request for Designation of 265 and 267 E Merritt Island Causeway, Merritt Island, FL 32952 ("Subject Properties") as a Brownfield Area. When redeveloped, the Subject Properties are anticipated to include a 3,500 square foot restaurant which will provide employment to no less than five permanent, full time equivalent jobs when fully staffed, a parking lot to accommodate guests, and grassy areas surrounding the property. These will be added to the already existing 2,400 square foot retail building, drawing more attention and business to the area and promoting economic growth. Site maps depicting the location of the Subject Properties and legal descriptions are enclosed herein as Exhibits A and C, respectively. Addresses are shown in the table below.

| Parcel ID | Account Number | Address |
|---|----------------|---|
| 24-36-35-02-00000.0-0025.01 (24-36-35-02-*25.01) | 2426764 | 265 E Merritt Island Causeway Merritt Island, FL 32952 |
| 24-36-35-02-00000.0-0025.00 (24-36-35-02-*25) | 2426763 | 267 E Merritt Island Causeway Merritt Island, FL 32952 |

The Subject Properties have documented environmental contamination of Leaking Underground Storage Tanks (LUSTs) that occurred as a result of its former operation as an auto sales facility. SBJB has agreed to voluntarily rehabilitate the environmental issues at the site to the Florida Department of Environmental Protection's requirements. Due to the costly implications of the environmental impacts, SBJB is applying for a brownfield designation to mitigate expenses and obtain liability protection associated with environmental assessment and remediation of the Subject Properties. Therefore, this brownfields designation is a key component of the fiscal viability of the Subject Properties' redevelopment. Further, the Subject Properties are located within close proximity to the Indian River Lagoon. Improving the environmental quality of this site directly coincides with the County's initiatives to improve Lagoon quality.

Mr. Frank Abbate, County Manager

November 20, 2018

Page 2 of 2

Exhibit D is a Brownfields Statutory Criteria Overview outlining statutory criteria, and SBJB meeting those statutory criteria, that a local government must evaluate pursuant to Chapter 376.80(2)(c), Florida Statutes. We respectfully request that the Office of the County Manager favorably review this Brownfield Area Designation request and recommend it for approval to the Brevard County Commission.

Please feel free to contact Ms. Long with any questions or for additional information.

Sincerely,



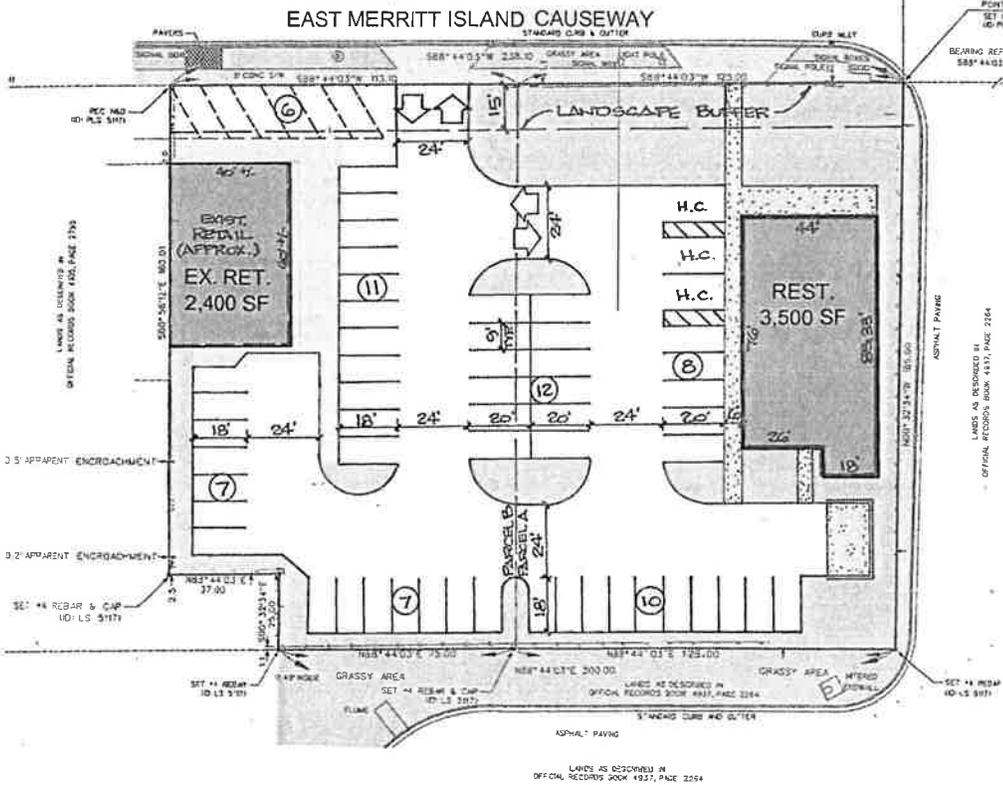
Amy Long, AICP
Regional Services Manager
for Cardno
amy.long@cardno.com
772-485-4511

Attachments:

- Exhibit A: Site Location Map
- Exhibit B: Proposed Site Plan
- Exhibit C: Legal Descriptions
- Exhibit D: Brownfields Statutory Criteria Overview

cc: Chris Challis cchallis@collettre.com, Amanda Elmore Amanda.Elmore@brevardfl.gov

Exhibit B: Proposed Site Plan

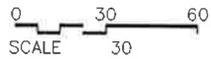


PROPOSED OUTPARCEL REDEVELOPMENT PLAN

INITIAL SITE LAYOUT PRODUCED BY OTHERS

| |
|--------------------------------|
| SHOPS |
| BUILDINGS 200 |
| SF |
| EXISTING RETAIL: 2,400 SF |
| NEW RESTAURANT 3,500 SF |
| TOTAL 5,900 SF |

PARCELS A & B: +/- 0.99 AC
PARKING SHOWN: 55 SPACES



SOONER INVESTMENT

architecture

GOOD

**MERRITT ISLAND
OUTPARCEL REDEVELOPMENT
MERRITT ISLAND, FL
SITE PLAN**

PROJECT NO.
18.005.00

DATE
10-08-18

SHEET
SP-1

Exhibit C: Legal Descriptions

File Number: 10-1371

EXHIBIT "A"

Tract 1:

Parcel No. 25 and that part of Parcel No. 26 according to the Map of Fortenberry Properties as recorded in Survey Book 1, Page 90, Public Records of Brevard County, Florida and being described as follows: Commence at the East 1/4 comer of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West, 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West parallel with said centerline of State Road No. 520 a distance of 670 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 238.10 feet; thence run South 0 degrees 56 minutes 12 seconds East, along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 112 feet; thence run South 0 degrees 32 minutes 34 seconds East 25 feet; thence run North 88 degrees 44 minutes 03 seconds East 125.0 feet; thence run North 0 degrees 32 minutes 34 seconds West 185 feet to the Point of Beginning.

LESS AND EXCEPT any portion thereof lying within the following described parcel as set forth in Warranty Deed recorded in Official Records Book 2357, Page 2503, Public Records of Brevard County, Florida, described as follows:

Part of Parcel No. 26, according to the Map of Fortenberry Properties, as recorded in Survey Book 1, Page 90, of the Public Records of Brevard County, Florida, and being described as follows: Commence at the East 1/4 comer of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West, parallel with said centerline of State Road No. 520, a distance of 795.00 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 113.10 feet; thence run South 00 degrees 56 minutes 12 seconds East, and along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 37.00 feet; thence run South 00 degrees 32 minutes 34 seconds East 25.00 feet; thence run North 88 degrees 44. minutes 03 seconds East 75.00 feet; thence run North 00 degrees 32 minutes 34 seconds West 185.00 feet to the Point of Beginning of this description.

AND

Page 1.....

File Number: 10-1371

Legal Description with Non Homestead

Tract 2:

Part of Parcel No. 26, according to the Map of Fortenberry Properties, as recorded in Survey Book 1, Page 90, of the Public Records of Brevard County, Florida, and being described as follows: Commence at the East 1/4 corner of Section 35, Township 24 South, Range 36 East, Brevard County, Florida and run North 00 degrees 32 minutes 34 seconds West 1006.90 feet to a point located 65.00 feet South of the centerline of State Road No. 520; thence run South 88 degrees 44 minutes 03 seconds West, parallel with said centerline of State Road No. 520, a distance of 795.00 feet to a point on the South right of way line of said State Road No. 520, said point being the Point of Beginning; thence continue South 88 degrees 44 minutes 03 seconds West 113.10 feet; thence run South 00 degrees 56 minutes 12 seconds East, and along the centerline of a party wall, a distance of 160.01 feet; thence run North 88 degrees 44 minutes 03 seconds East 37.00 feet; thence run South 00 degrees 32 minutes 34 seconds East 25.00 feet; thence run North 88 degrees 44 minutes 03 seconds East 75.00 feet; thence run North 00 degrees 32 minutes 34 seconds West 185.00 feet to the Point of Beginning of this description.

Page 2.....

File Number: 10-1371

Legal Description with Non Homestead

Exhibit D - Brownfields Statutory Criteria Overview Proposed Former EZ Auto Sales Reuse Area

The proposed redevelopment of the brownfields area identified by Parcel ID Numbers 24-36-35-02-*-25.01 and 24-36-35-02-*-25, 265 and 267 E Merritt Island Causeway, Merritt Island, FL 32952 (the "Subject Properties") meets the definition of a brownfield and satisfies all five of the applicable brownfield area designation criteria set forth at Section 376.80(2)(c), Florida Statutes, as demonstrated herein. A complete copy of § 376.80, Florida Statutes, can be found as Attachment A to this Brownfields Statutory Criteria Overview.

Section 376.79(3), Florida Statutes, defines "brownfield site" to mean "... real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination." The Subject Properties meet the definition of a "brownfield site" by the known contamination at the Subject Sites from its former use as an auto sales facility. There are two known Leaking Underground Storage Tanks (LUSTs). Groundwater and soil were impacted due to these LUSTs. The discharge associated with a former 750 gallon LUST is awaiting cleanup under the Abandoned Tank Restoration Program (ATRP). The discharge from a former 1,000 gallon LUST is awaiting cleanup. In October, 2017, SBJB Merritt, LLC purchased the Subject Properties and committed to rehabilitating and redeveloping the Subject Properties. The completion of this brownfields area designation will allow SBJB Merritt, LLC to enter into a Brownfields Site Rehabilitation Agreement (BSRA) by the end of 2018.

SBJB Merritt, LLC has demonstrated that it meets the five statutory criteria, as outlined below:

Criteria 1: Agreement to Rehabilitate and Redevelop the Brownfield Site

County Status: Confirmed

As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that "A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site."

SBJB Merritt, LLC satisfies this criterion in that they currently own the Subject Properties and have agreed to redevelop and rehabilitate the Subject Properties. A copy of the Special Warranty Deed, recorded December 20, 2017, evidencing the applicants' ownership of the Subject Properties is enclosed as Attachment B.

Updated Status: SBJB Merritt, LLC submitted a copy of Special Warranty Deed, recorded December 20, 2017, as evidence of ownership and LLC operating agreement excerpts. Additionally, SBJB Merritt, LLC submitted a conceptual site design outlining proposed redevelopment. Documents have been reviewed by the County Attorney's Office and has confirmed compliance with statutory criteria per the November 20, 2018 Staff Report.

Criteria 2: Economic Productivity

County Status: Confirmed, as proposed

As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that "The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks."

SBJB Merritt, LLC satisfies this second criterion in that, when fully developed, the project will create no less than five full time equivalent jobs. The primary source of new jobs will be restaurant employees consisting of management, cooks, servers, hostesses, dish washers, and more. In addition to economic productivity from job creation, the project will support temporary construction jobs which will likely result in workers spending a percentage of their salaries locally. Additionally, the project will result in higher tax revenues for the area.

Updated Status: The County has confirmed compliance with statutory criteria for the proposed development per the November 20, 2018 Staff Report.

Criteria 3: Consistency with Local Comprehensive Plan and Permittable Use**County Status: Confirmed, as proposed**

As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that "The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations."

The applicant proposes to develop a restaurant building with approximately 3,500 square feet of space. A conceptual site plan is included as Exhibit B. This proposed commercial use is consistent with the Brevard County Comprehensive Plan. The Subject Properties are currently within the BU-2 Retail, Warehousing and Wholesale Commercial District. The Retail, Warehousing and Wholesale Commercial District was established and intended to accommodate general retail and wholesale business, contracting and heavy repair services and warehousing activities. The district may also include some uses that are adjunct to retail, warehousing and wholesale commercial development (e.g., dining facilities, aquariums) or provide convenience services to people in the area (e.g., child care facilities, small scale entertainment and amusement enterprises, banks). The proposed use is allowable under the local land development regulations.

Updated Status: The County has confirmed that SBJB Merritt, LLC's proposed redevelopment of these parcels is consistent with Brevard County's local comprehensive plan, provided SBJB Merritt, LLC submits for and obtains applicable approvals, including but not limited to, site plan and building permits. A verification letter dated November 19, 2018, has been completed by Mary Taylor, Land Development Specialist for Brevard County. The County has confirmed compliance with statutory criteria for the proposed development per the November 20, 2018 Staff Report.

Criteria 4: Public Notice and Comment**Status: To be completed by December 4, 2018**

As the fourth requirement for designation, Florida Statutes § 376.80(2)(c)(4) provides that "Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area." Florida Statutes § 376.80(1)(c)(4)(a-b) also requires that (i) a public hearing be conducted as closely as reasonably practicable to the area to be designated; (ii) notice of the public hearing be made in a newspaper of general circulation; (iii) notice of the public hearing be made in ethnic newspapers or local community bulletins; and (iv) must be announced at a scheduled meeting of the local governing body before the actual public hearing.

SBJB Merritt, LLC will satisfy all applicable notice requirements established by Florida Statutes § 376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) by December 4, 2018. SBJB Merritt, LLC, will publish notice of the proposed rehabilitation of the brownfield area in the Florida Today Newspaper, the ethnic Alida Today Spanish Language Newspaper, in the local community bulletin Craigslist, and by posting such notice at the Subject Properties. All forms of notice will occur on or before November 27, 2018. The newspapers and community bulletin contain the following narrative (translated for Alida Today):

"A representative of SBJB Merritt, LLC, will hold a community meeting on December 4, 2018, from 1:30 P.M. to no later than 2:30 P.M. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of the properties identified by Parcel IDs: 24-36-35-02-*-25.01 and 24-36-35-02-*-25, Merritt Island, Brevard County, FL 32952 as a brownfield area pursuant to §376.80(2)(C), Florida Statutes, and about development and rehabilitation activities associated with the potential designation, including public hearings to be held by the Brevard County Commission to consider the request for designation.

The community meeting will be held at 267 E Merritt Island Causeway, Merritt Island, FL 32952, and is free and open to all members of the public.

For more information regarding the community meeting, including directions, or to provide comments and suggestions at any time before or after the meeting date, please contact Amy Long. By telephone: (772) 485-4511; by U.S. Mail: Cardno, Inc., 901 North Point Parkway, Suite 305, West Palm Beach, FL 33407; and/or by email: amy.long@cardno.com.

In accordance with the American Disabilities Act and Section 286.26 Florida Statutes, persons with Disabilities needing special accommodation to participate in this hearing should contact Amy Long at (772) 485-4511 at least forty-eight (48) hours prior to the date of the hearing."

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The onsite signs read the following:

"PUBLIC NOTICE"

An application is being submitted to the Merritt Island Redevelopment Agency and Brevard County to designate this property a Brownfield Area

A Public Meeting will be held for public comment
on the proposed Brownfield Designation

Meeting Date – Tuesday, December 4, 2018

Meeting Time – 1:30 p.m. until no later than 2:30 p.m.
Meeting Location – 267 E Merritt Island Causeway,
Merritt Island, FL 32952

Call Cardno, Inc. at (772) 485-4511 for more information"

We will supplement this application by submitting evidence of actual posting and to the County Manager once the proof of notices have been received.

Updated Status: The County has requested copies of the public notices advertised in Florida Today, Al Dia Spanish Language Newspaper and on Craigslist for the scheduled December 4, 2018 neighborhood meeting. This meeting was announced at the November 13, 2018 BOCC meeting pursuant to FS 376.80 (1)(c)(4)(b). A representative for SBJB Merritt, LLC will provide feedback received at the neighborhood meeting to the BOCC during a short presentation at the second hearing.

Criteria 5: Reasonable Financial Assurance

County Status: Confirmed

As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that "The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan."

SBJB Merritt, LLC satisfies this fifth criterion in that it has the necessary capital to fund the budget for the development as seen in Attachment C. SBJB Merritt, LLC and its affiliates currently have real estate development loans or other financial accounts with the following financial institutions (among many others): BancFirst, Bank of Oklahoma, FNB Community Bank, First State Bank, and BankSNB. Sooner Development has successfully developed Target and Lowes anchored shopping centers and smaller grocery store anchored shopping centers in Oklahoma, North Carolina, Kansas, Missouri, Arizona and Florida. Locally, Sooner Investment Group, Inc. developed the Coastal Commerce Center located at US 192 and I-95, the building now occupied by Intracoastal Brewing and Florida vernacular building renovation in the Eau Gallie area.

Updated Status: The County has confirmed that SBJB Merritt, LLC has met the reasonable financial assurance criteria per the November 20, 2018 Staff Report. Following the October 16, 2018, Request for Brownfields Designation letter, SBJB Merritt, LLC submitted a financial reference letter from Simmons Bank regarding their 20 year working relationship. This letter is included as Attachment E.

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Attachment A for Exhibit D
Copy of § 376.80, Florida Statutes

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. ~~403.182~~, of its decision to designate a brownfield area for rehabilitation for the purposes of ss. ~~376.77-376.86~~. The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. ~~403.182~~, of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. ~~166.041~~, except that the procedures for the public hearings on the proposed resolution must be in the form established in s. ~~166.041~~(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. ~~125.66~~, except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. ~~125.66~~(4)(b).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) Local government-proposed brownfield area designation outside specified redevelopment areas.—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

3. Whether the area has potential to interest the private sector in participating in rehabilitation; and

4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) Local government-proposed brownfield area designation within specified redevelopment areas.—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) Brownfield area designation proposed by persons other than a governmental entity.—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. ~~420.0004~~ or the creation of recreational areas, conservation areas, or parks.

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the

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affected area.

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) Negotiation of brownfield site rehabilitation agreement.—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.86, and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be

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required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

- (12) A local government that designates a brownfield area pursuant to this section is not required to use the term "brownfield area" within the name of the brownfield area designated by the local government.

Attachment B for Exhibit D Warranty Deeds

Prepared by:
Countywide Title & Escrow
Jeanni Brown
275 N. Grove St., # 101
Merritt Island, Fl 32953
10-1371

General Warranty Deed

Made this December 12, 2017 A.D. By KEVIN S. HOOPER and KIM B. HOOPER, as Successor Co-Trustees of the Gertrude K. Hooper Intervivos Revocable Trust dated July 1, 1974, whose address is: P.O. Box 580, Cocoa, Fl 32923, hereinafter called the grantor, to SBBJ Merritt LLC, a Florida limited liability company, whose post office address is: 1825 Riverview Drive, Melbourne, Fl 32901, hereinafter called the grantee:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Brevard County, Florida, viz:

SEE ATTACHED EXHIBIT "A", MADE A PART HEREOF BY THIS REFERENCE

The property being conveyed is not the constitutional homestead of the Grantor and is considered commercial property.

Parcel ID Number: 24-36-35-02-00000.0-0025.00 and 24-36-35-02-00000.0-0025.01

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2016

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

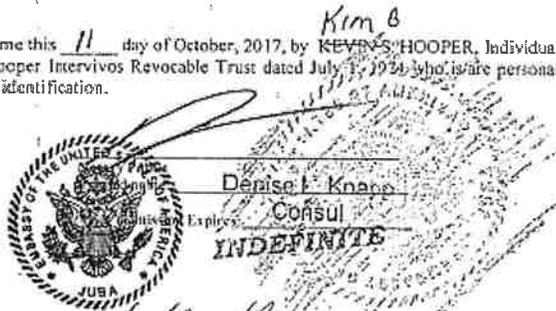
Jean Ann Brown
Witness Printed Name: Jean Ann Brown

Kevin S. Hooper (Seal)
KEVIN S. HOOPER, as Successor Co-Trustee
Address:

Witness Printed Name: _____

State of FLORIDA
County of BREVARD

The foregoing instrument was acknowledged before me this 11 day of October, 2017, by KEVIN S. HOOPER, Individually and as Successor Co-Trustee of the Gertrude K. Hooper Intervivos Revocable Trust dated July 1, 1974, who is/are personally known to me or who has produced valid photo id as identification.



Charles Dent
Witness Printed Name: Charles Dent

Kim B. Hooper (Seal)
KIM B. HOOPER, as Successor Co-Trustee
Address:

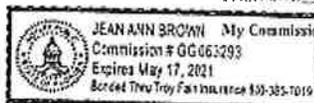
Stephen Donald
Witness Printed Name: Stephen Donald

State of FLORIDA
County of BREVARD

The foregoing instrument was acknowledged before me this 12 day of October, 2017, by KIM B. HOOPER, Individually and as Successor Co-Trustee of the Gertrude K. Hooper Trust dated July 1, 1974, who is/are personally known to me or who has produced valid photo id as identification.

Denise L. Knapp
Notary Public
Print Name: _____

ORFD Individual Warranty Deed - Legal on face



Attachment C for Exhibit D
Brevard County Zoning and Land Use Verification Letter



BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST

Planning & Development Department
Planning & Zoning Office
2725 Judge Fran Jamieson Way, #A-115
Viera, FL 32940

Phone: (321) 633-2070 Ext. 52245
Fax: (321) 633-2087
mary.taylor@brevardfl.gov

November 19, 2018

Ms. Amy Long, AICP
Cardno Regional Services Manager
901 North Point Pkwy., Suite 305
West Palm Beach, FL 33407

**RE: Tax Account #: 2426763; Parcel ID#: 24-36-35-02-00-25
2426764; Parcel ID#: 24-36-35-05-00-25.01**

The above referenced property is currently zoned BU-2 a Retail, Warehousing and Wholesale Commercial zoning classification found in Section 62-1483 of Brevard's County Zoning Regulations. The Future Land Use Map establishes the property as CC (Community Commercial). This parcel's zoning is consistent with the Future Land Use Map series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan.

SBJB Merritt, LLC's proposed redevelopment of these parcels is consistent with Brevard County's local comprehensive plan, provided they submit and obtain the applicable approvals, including but not limited to, site plan and building permits.

Restaurant and retail uses are permitted in the BU-2 (Retail, Warehousing and Wholesale Commercial) zoning classification.

If you need any additional information, please don't hesitate to contact me.

Thank you,

Mary Taylor, Land Development Specialist
Planning & Zoning Office
321-633-2070 Ext. 52245

CC: 62-1483 Retail, Warehousing and Wholesale Commercial

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations.

Attachment D for Exhibit D
Financial Ability Letter

SOONER INVESTMENT

Commercial and Investment Real Estate

October 9, 2018

VIA ELECTRONIC MAIL (Cynthia.Thurman@brevardfl.gov)

Ms. Cynthia Thurman
Land Development Manager
Merritt Island Redevelopment Agency
2575 N. Courtenay Parkway, Suite 207
Merritt Island, FL 32953

Re: Brownfield Financial Ability for Redevelopment of 267 East Merritt Island Causeway,
Merritt Island, FL

Dear Ms. Thurman:

I write on behalf of Sooner Investment Group, Inc., the Manager of SBJB Merritt, LLC, the owner of the above-referenced property. SBJB Merritt is an affiliate of Sooner Investment Group; the two entities shall be collectively referred to here as "Sooner Investment."

Formed in 1992, Sooner Investment is a full service commercial real estate firm located in Oklahoma City, Oklahoma specializing in retail shopping center development. Clients range from small businesses to Fortune 500 companies, and the group has a reputation for providing uncompromised service. Sooner Investment has the experience and resources to handle development opportunities of any size or level of complexity and the team of real estate professionals are committed to satisfying each client that is served.

Sooner Investment has successfully developed several Target and Lowe's-anchored power centers and several smaller grocery anchored shopping centers in Oklahoma, North Carolina, Kansas, Missouri, Arizona, and Florida. In 2007, Bob Stearns established Florida residency and opened Sooner Investment's Melbourne, Florida office. The development group has been successful in developing several retail projects in central Florida. Sooner Investment is well-acquainted with Florida, possessing local knowledge as well as residency.

In addition to our large projects across the county, Sooner Investment has developed the Coastal Commerce Center at the interchange of Interstate 95 and US 192 in Melbourne and the Altamira Village (containing a BJ's Wholesale Club and L.A. Fitness) at the interchange of Interstate 95 and Dunlawton Avenue in Port Orange. In downtown Eau Gallie, Sooner acquired and rehabilitated the buildings now occupied by Intracoastal Brewing, and renovated the Florida vernacular building at Pineapple and Eau Gallie Blvd. (now a yoga studio).

ATTACHMENT C

Sooner Investment and its affiliates currently have real estate development loans or other financial accounts with the following financial institutions (among many others): BancFirst, Bank of Oklahoma, FNB Community Bank, First State Bank, and BankSNB. If necessary, Sooner Investment can provide financial reference letters from these institutions at your request.

Should you have any questions concerning any matters referenced in this letter, please do not hesitate to contact me at 386/316-9837.

Sincerely,



Chris Challis

On behalf of Sooner Investment Group, Inc.
Manager for SBJB Merritt, LLC

cc: Amy Long, Cardno
Bob Stearns, Sooner Investment Group, Inc.
(each via electronic mail)

Attachment E for Exhibit D
Financial Ability Letter

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**Simmons
Bank**
MEMBER FDIC

Ms. Cynthia Thurman
Land Development Manager
Merritt Island Redevelopment Agency
2575 N. Courtenay Parkway, Suite 207
Merritt Island, FL 32953

RE: Brownfield Financial Ability for Redevelopment of 267 East Merritt Island Causeway, Merritt Island, FL

Dear Ms. Thurman:

Bob Stearns of Sooner Investment Group, Inc. ("Sooner") has been a customer/borrower client of mine since 1998 when I was employed with another local Oklahoma City based bank and maintained a significant lending relationship while employed there. Since inception of the relationship, both borrowing and depository activities have been handled in an excellent manner and as agreed.

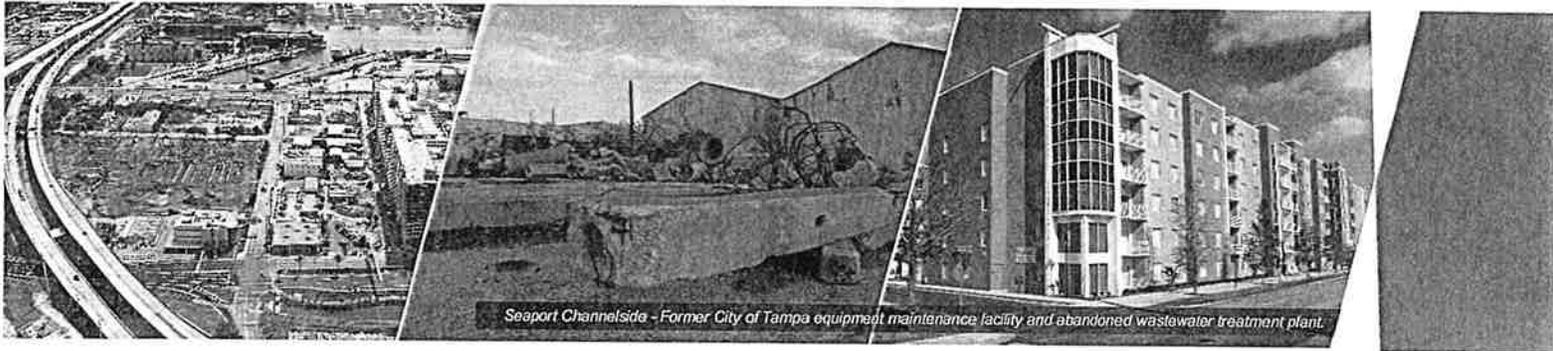
During the time I have managed Sooner's account at my prior and present bank, various credit facilities have been extended to Sooner through closely held borrowing entities in excess of \$75 million. The facilities have ranged from land assembly, development/site work and building improvement construction loans. Sooner has always maintained a high level of management ability and expertise in all areas to successfully execute their business plan to complete the various projects.

Sooner has an excellent track record of performance, constructing viable projects, servicing loans in a timely manner and avoiding default or payment difficulties.

Please do not hesitate to contact me directly with any questions or if you require additional information.

Sincerely,

Bryan G. Geiger
Senior Vice President, Commercial Real Estate
6301 Waterford Boulevard, Suite 101
Oklahoma City, OK 73118
(405) 427-4252
Bryan.geiger@simmonsbank.com



FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM

Brownfield Area Designation (by resolution from local government following § 376.80, Florida Statutes)

- > Loan guarantees for primary lenders
 - Up to 50% on all sites
 - Up to 75% when end use is affordable housing or healthcare
- > The following Brownfield Area benefits are available to sites with a Brownfield Site Rehabilitation Agreement (BSRA) or properties that about a property with a BSRA.
 - Bonus refund for job creation – up to \$2,500 per job
 - Sales tax refund on building materials for affordable housing
 - Brownfield Area benefits administered by Department of Economic Opportunity and Department of Revenue

Brownfield Site Designation

(by entering Brownfields Site Rehabilitation Agreement)

- > All benefits of Brownfield Area
- > Regulatory framework for cleanup (Chapter 62-780, F.A.C.)
- > Dedicated staff – expedited technical review
- > Liability protection
- > Tax credits
 - Florida corporate income tax
 - Credits may be transferred one time
 - BSRA benefits administered by Department of Environmental Protection (DEP)

SUMMARY OF AVAILABLE TAX CREDITS

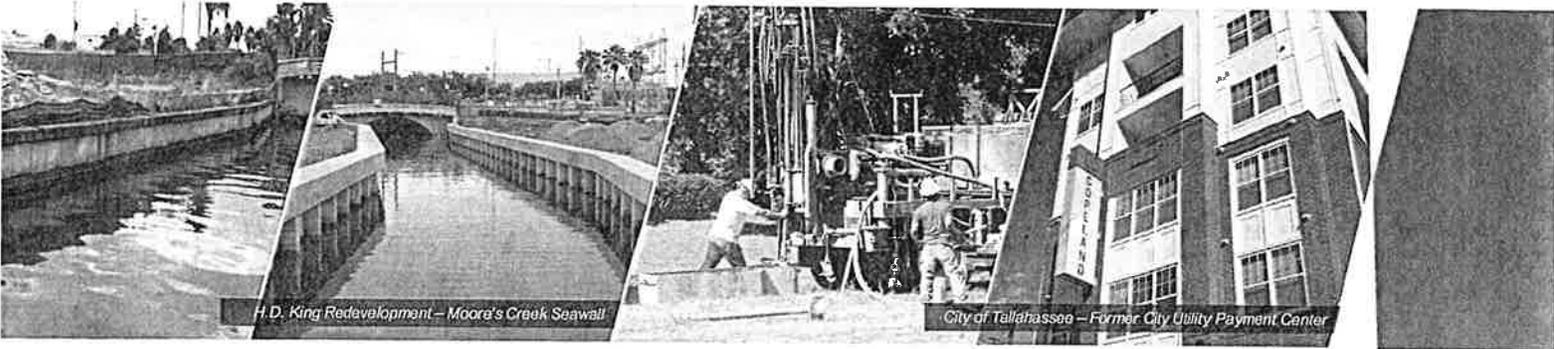
| Tax Credit Type | Application Frequency | Maximum Credit for Costs Incurred after 6/30/2006 | |
|--|-----------------------|---|-----------|
| Site Rehabilitation | Annually | 50% | \$500,000 |
| No Further Action (i.e., SRCO) | Once | 25% | \$500,000 |
| Affordable Housing, Healthcare Facility or Healthcare Provider | Once | 25% | \$500,000 |
| Solid Waste (Removal, Transport, and Disposal) | Once | 50% | \$500,000 |

ABOUT CARDNO

Cardno is a professional infrastructure and environmental services company, with expertise in the development and improvement of physical and social infrastructure for communities around the world. Cardno's team includes leading professionals who plan, design, manage, and deliver sustainable projects and community programs.

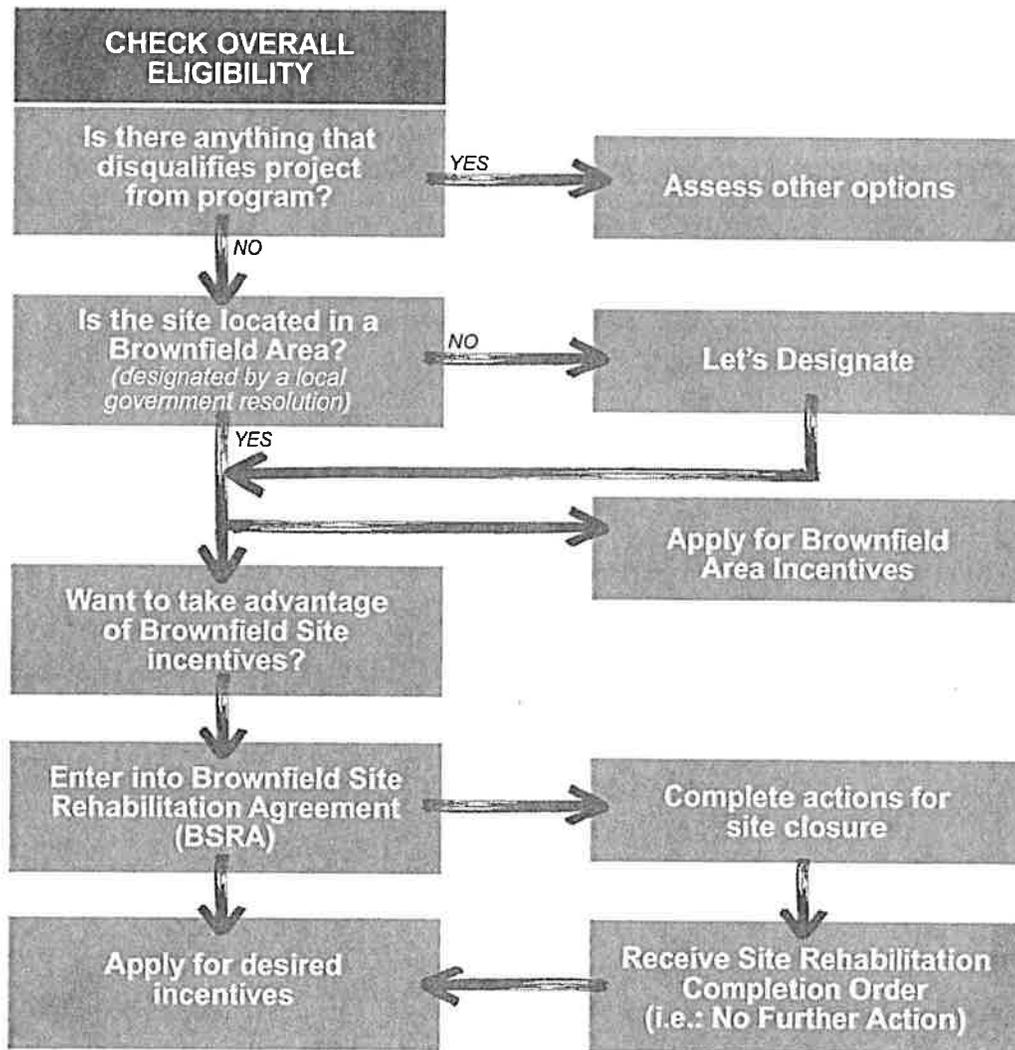
Our thousands of professionals worldwide have supported our clients' local and multi-national projects in countries on six continents.





FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM

BROWNFIELDS PROGRAM PROCESS



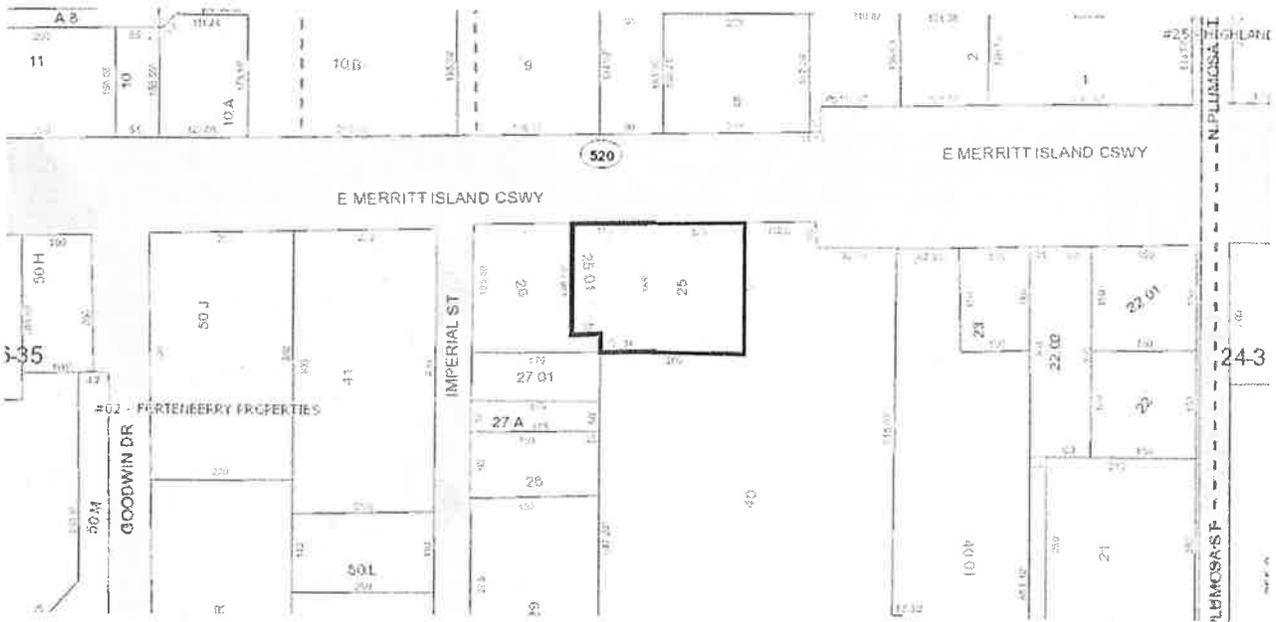
ATTACHMENT E

**Former EZ Auto Sales Reuse Area
Brownfields Area Designation
December 4, 2018**

Amy Long on behalf of SBJB Merritt, LLC



Former EZ Auto Sales Reuse Area



What is a Brownfield?



>**EPA** - A brownfield site is defined as “real property, the expansion, redevelopment, or reuse of which **may be** complicated by the presence or potential presence of hazardous substances, pollutants, contaminants, controlled substances, petroleum or petroleum products, or is **mine-scarred land**.”



>**FDEP** - "Brownfield sites" means “real property, the expansion, redevelopment, or reuse of which may be complicated by actual **or perceived** environmental contamination.”

Benefits of a Brownfields Area Designation

- Job Creation Bonus
- Loan Guarantees
- Ability to Enter into Brownfields Site Rehabilitation Agreement

*There are over 450
Brownfield Areas in
the State of Florida
and 21 in Brevard
County*

Benefits of a Brownfields Site Rehabilitation Agreement

- Tax Credits
- Liability Protection
- Regulatory Framework for Cleanup

Meeting the Criteria

Criteria 1 - Ownership or control of the potential brownfield site and Agreement to Redevelop the Brownfield Site

SBJB Merritt, LLC owns and has agreed to redevelop the potential brownfield site

Criteria 2 -Economic Productivity

Project will create no less than five full time equivalent jobs

Meeting the Criteria Cont.

Criteria 3 -Consistency with Local Comprehensive Plan and Permittable Use Under Local Land Development Regulations

The proposed commercial use is consistent with the Brevard County Comprehensive Plan and Zoning (BU-2 Retail, Warehousing and Wholesale Commercial District)

Criteria 4 – Public Hearing, Public Notice and Comment

Community meeting was held December 4, 2018. Proof of notices have been provided to the County

Criteria 5 -Reasonable Financial Assurance

Letters have been provided to the County

ATTACHMENT E

Questions

Contact:

Amy Long

Cardno
772.485.4511
amy.long@cardno.com



 **Cardno**[®]

Brevard County Commission Public Hearing
Tuesday, December 4, 2018 - 5:00 PM

Brownfields Area FDEP Definition - "Brownfield sites" means "real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination."

Some **benefits of Brownfields Area designation** – 1) Job Creation Bonus; 2) Loan Guarantees; 3) Ability to enter into Brownfields Site Rehabilitation Agreement with FDEP

Some **benefits of a Brownfields Site Rehabilitation Agreement** – 1) Voluntary Cleanup Tax Credits; 2) Liability Protection; and 3) Regulatory framework for cleanup

The **local government** with jurisdiction over a proposed brownfield area shall designate such area pursuant to Section 376.80(2)(c), Florida Statutes.

Meeting the Criteria – Brownfield Area designation proposed by person other than a government entity.

Criteria 1 - Ownership or Control of the Potential Brownfield Site and Agreement to Redevelop the Brownfield Site - SBJB Merritt, LLC has owned the property since December 20, 2017, and has agreed to redevelop the potential brownfield site

Criteria 2 -Economic Productivity - When fully developed, the project will create no less than five full time equivalent jobs. The primary source of new jobs will be restaurant employees.

Criteria 3 -Consistency with Local Comprehensive Plan and Permittable Use Under Local Land Development Regulations- The proposed commercial use is consistent with the Brevard County Comprehensive Plan. The Subject Properties are currently within the BU-2 Retail, Warehousing and Wholesale Commercial District.

Criteria 4 – Public Hearing, Public Notice and Comment - A community meeting was held December 4, 2018 at the site. Proof of public notices were provided to the County.

Criteria 5 -Reasonable Financial Assurance - Sooner Investments have completed several other projects of similar or larger scope within the County. Financial assurance letters have been submitted to the County.

Former EZ Auto Sales Reuse Area Location Map

