



AGENDA REPORT
May 2, 2019

Joseph and Ruth S. Kaplet (Edward Springer, IV) request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. (19PZ00016) (District 2)

SUBJECT:

Joseph and Ruth S. Kaplet (Edward Springer, IV) request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road. (5780 North Courtenay Parkway, Merritt Island) (19PZ00016) (District 2)

FISCAL IMPACT:

None

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial)

SUMMARY EXPLANATION and BACKGROUND:

This request is seeking a change in Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.13 acre parcel of land. This area of Unincorporated Brevard County is comprised of mainly commercial development along the N. Courtenay Pkwy. (SR 3) urban principal north/south arterial roadway with commercial nodes at major intersections.

This section of the N. Courtenay Pkwy (SR 3) intersection is lined with mainly properties with a CC Future Land Use designation. This 1.13 acre parcel is surrounded by CC to the north and west, Residential 1 (RES 1) to the east and NC to the south. This area along N. Courtenay Pkwy. (SR 3) was evaluated within the 2005 North Courtenay Parkway Corridor Study and identified as commercial in nature, intending to serve the surrounding residential and workforce commuter traffic along the corridor. The parcel directly to the south of the subject property is a single-family residence in the Agricultural Residential (AU) Zoning classification, but retains the NC FLU designation.

This parcel is within the boundaries of the 2018 North Merritt Island Small Area Study, but the recommendations for density reductions were related to parcels with residential FLU designations and not related to properties with either the Neighborhood Commercial or Community Commercial FLU designation. The proposed commercial use of this parcel is supported by the Small Area Study's recommendation for the expansion of sewer along SR 3. In 2018, a sewer force main was extended north to Church Road on the west side of N. Courtenay Pkwy. (SR 3). The completed force main extension is now located .28 miles south of the subject parcel.

This 1.13 acre parcel has direct access to N. Courtenay Pkwy. (SR 3) to the west. The additional impact to the roadway resulting from the development of this site would fall within the Level of Service (LOS) standards of C for this urban principle arterial road. A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not cause a deficiency of adopted roadway levels of service. Access management will continue to be evaluated by both Brevard County and the Florida Department of Transportation (FDOT) at site development or redevelopment.

The Board may wish to consider whether the requested CC FLU designation is consistent and compatible with the surrounding CC, NC, and RES 1 FLU designations and with the planned growth for North Merritt Island identified within the Future Land Use Map.

This request is accompanied by a companion proposal for a change of Zoning classification (**19PZ00019**) from Agricultural Residential (AU) to General Retail Commercial (BU-1).

On April 11, 2019, the North Merritt Island Dependent Special District heard the request and unanimously recommended approval.

On April 22, 2019, the Local Planning Agency heard the request and unanimously recommended approval.

ATTACHMENTS:

Description

- ☐ **Administrative Policies**
- ☐ **Staff Comments**
- ☐ **GIS Maps**
- ☐ **Public Comment**
- ☐ **Ordinance**
- ☐ **North Merritt Island Minutes**
- ☐ **Local Planning Agency Minutes**

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 land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

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

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for 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 percent 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 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 of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), 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 services 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, odors, 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 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 M A I 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 35 feet higher than the highest residence within 1,000 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 this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the 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 TPO (Transportation Planning Organization) 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 (CURRENT LOS): The Level of Service at which a roadway is currently operating.

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



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

May 3, 2019

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 19-08, which was filed in this office on May 3, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



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

May 3, 2019

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: George Ritchie

RE: Item H.5., Small Scale Plan Amendment 19S.06

The Board of County Commissioners, in regular session on May 2, 2019, adopted Ordinance 19-08, setting forth Small Scale Plan Amendment 19S.06. Enclosed is a fully-executed copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe

Tammy Rowe, Deputy Clerk

\cw

Encl. (1)

ORDINANCE NO. 19-08

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SIXTH SMALL SCALE PLAN AMENDMENT OF 2019, 19S.06, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2019 as Plan Amendment 19S.06; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 19S.06; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and
Officially filed with the Secretary of State on May 3, 2019.

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on April 11, 2019, the North Merritt Island Dependent Special District held a duly noticed public hearing on Plan Amendment 19S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on April 22, 2019, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 19S.06, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on May 2, 2019, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 19S.06; and

WHEREAS, Plan Amendment 19S.06 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 19S.06 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 19S.06 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 19S.06, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Community Affairs, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 2 day of MAY, 2019.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 
Kristine Isnerdi, Chair

As approved by the Board on MAY 2, 2019.

EXHIBIT A
19S.06 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

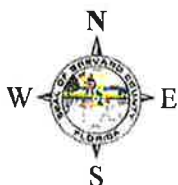
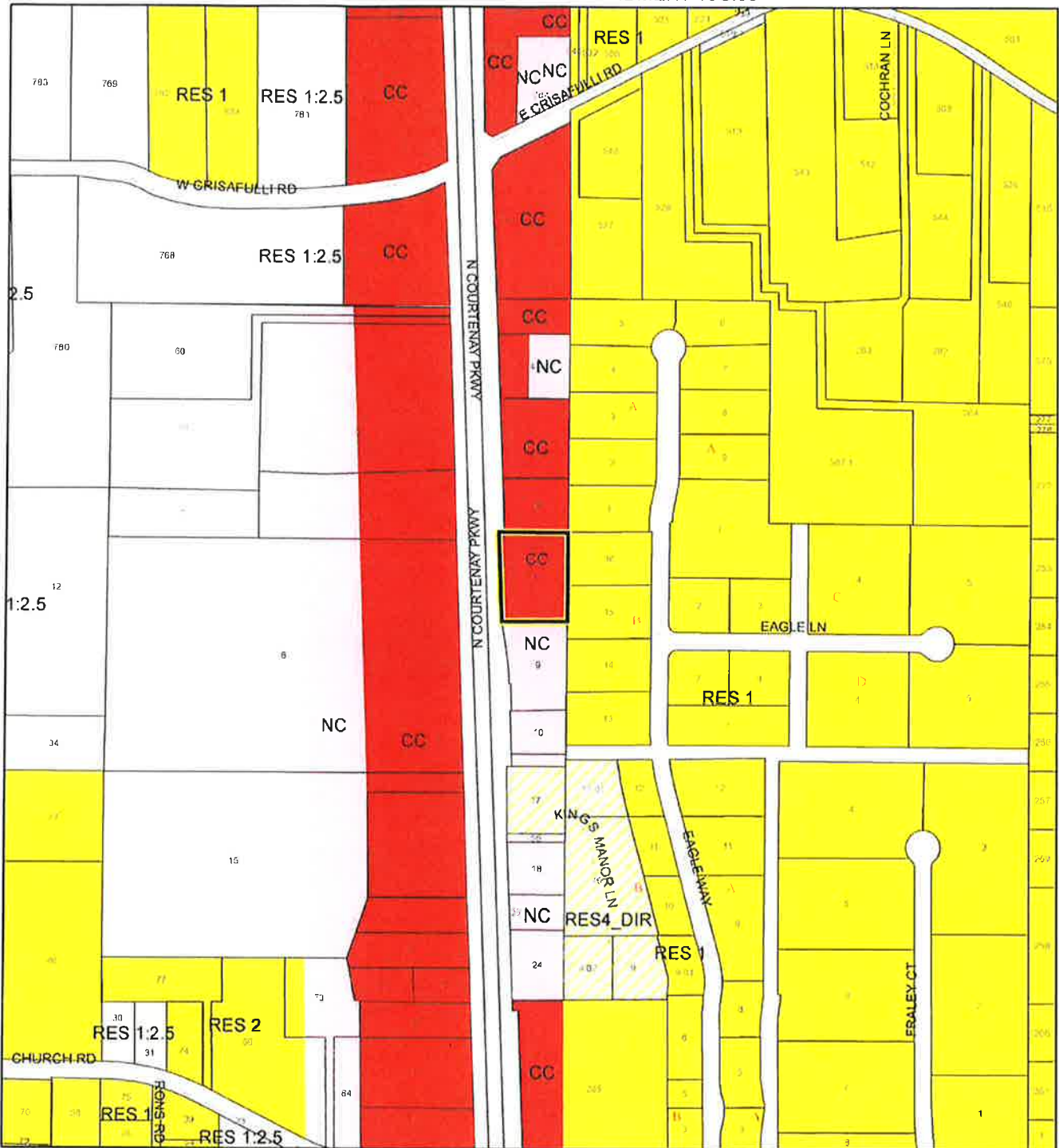
Contents

- 1. Proposed Future Land Use Map**

PROPOSED FUTURE LAND USE MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

— Subject Property
 [] Parcels

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

Produced by BoCC - GIS Date: 2/15/2019

EXHIBIT B

Contents

1. Legal Description

AD83446569, 3/21/2019

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the North Merritt Island Dependent Special District Board, Local Planning Agency, and the Board of County Commissioners will consider the following requests on THURSDAY, APRIL 11, 2019, MONDAY, APRIL 22, 2019 (Item 6 only), and THURSDAY, MAY 2, 2019, DISTRICT 2, 5, (19PZ00016) - JOSEPH AND RUTH S. KAPLET - (Edward Springer, IV) - requests a Small Scale Comprehensive Plan Amendment, 19S.06, from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as follows: A portion of Tax Parcel 8, as described in ORB 2872, Page 1993, of the Public Records of Brevard County, Florida, lying east of N Courtenay Pkwy, and being in the NE 1/4 of Section 27, Township 23S, Range 36E, Brevard County, Florida, being more particularly described as follows: The point beginning being at the NE corner of the south 1/2 of the NE 1/4 of the NE 1/4 of said Section 27, thence south 89deg56'21"W, along the N line of said ORB 2872, Page 1993, a distance of 199.83 ft. to the E right-of-way line of N Courtenay Pkwy, thence S02deg04'39"E, along said east right-of-way line, a distance of 253.80 ft. to the N line of the adjoining lands described in ORB 2872, Page 1994, as excepted Parcel 11, thence S89deg51'36"E along the N line of said adjoining lands, a distance of 190.63 ft. to the E line of said NE 1/4 of Section 27, thence N0deg00'00"E along said section line a distance of 254.32 ft. to the beginning, (1.13 acres) Located on the east side of N Courtenay Pkwy, approx. 0.21 mile south of E Crisafulli Rd (5780 N. Courtenay Pkwy, Merritt Island) 6, (19PZ00018) - JOSEPH AND RUTH S. KAPLET - (Edward Springer, IV) - requests a change of zoning classification from AU (Agricultural Residential) to BU-1 (Retail, Warehousing, and Wholesale Commercial), on property described as follows: A portion of Tax Parcel 8, as described in ORB 2872, Page 1993, of the Public Records of Brevard County, Florida, lying east of N Courtenay Pkwy, and being in the NE 1/4 of Section 27, Township 23S, Range 36E, Brevard County, Florida, being more particularly described as follows: The point beginning being at the NE corner of the south 1/2 of the NE 1/4 of the NE 1/4 of said Section 27, thence south 89deg56'21"W, along the N line of said ORB 2872, Page 1993, a distance of 199.83 ft. to the E right-of-way line of N Courtenay Pkwy, thence S02deg04'39"E, along said east right-of-way line, a distance of 253.80 ft. to the N line of the adjoining lands described in ORB 2872, Page 1994, as excepted Parcel 11, thence S89deg51'36"E along the N line of said adjoining lands, a distance of 190.63 ft. to the E line of said NE 1/4 of Section 27, thence N0deg00'00"E along said section line a distance of 254.32 ft. to the beginning, (1.13 acres) Located on the east side of N Courtenay Pkwy, approx. 0.21 mile south of E Crisafulli Rd (5780 N. Courtenay Pkwy, Merritt Island) Public Hearing before the North Merritt Island Dependent Special District Board will be held at the Merritt Island Service Complex, 2575 N. Courtenay Pkwy, 2nd Floor, Merritt Island, Florida, on THURSDAY, APRIL 11, 2019, at 6:00 P.M. Public hearing before the Planning and Zoning Board/Local Planning Agency will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on MONDAY, APRIL 22, 2019 (Item 6 only), at 3:00 P.M. The final public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MAY 2, 2019, at 5:00 P.M. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department. Per T. Ad Calkins Planning and Development Director. By Jennifer Jones, Special Projects Coordinator II.

FUTURE LAND USE MAP SERIES PLAN AMENDMENT

STAFF COMMENTS

Small Scale Plan Amendment 19S.06 (19PZ00016)
Township 23, Range 36, Section 27

Property Information

Owner / Applicant: Joseph and Ruth S. Kaplet

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 1.13 acres Tax Account #: 2317007

Site Location: East side of North Courtenay Parkway approximately 0.21 miles south of East Crisafulli Road

Current Zoning: Agriculture Residential (AU)

Requested Zoning: General Retail Commercial (BU-1)

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Restaurant/Cafeteria – Bagel World Delicatessen	BU-1	CC
South	Single-Family Residence	AU	NC
East	Two Single-Family Residences	SR	RES 1
West	Vacant	BU-1	CC

Background & Purpose

The applicant is seeking to amend the Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.13 acre parcel of land. Currently, there is an existing Retail Store on the parcel previously selling the agricultural product of the lands across the street, and operating as Policicchio Groves Oranges & Grapefruit, that was built in 1959. The sale of agricultural commodities raised on the premises is consistent with the current FLU of NC and with the Zoning of AU. A companion rezoning application accompanying this request was submitted for a Future Land Use designation change, requesting to change the Zoning classification from Agricultural Residential (AU) to General Retail Commercial (BU-1).

The subject property is immediately adjacent to parcels with a Future Land Use designation of CC to the north and to the west across N. Courtenay Pkwy. (State Road 3). To the north is an existing restaurant (Bagel World Delicatessen) with a FLU designation of CC, to the east are two single-family residences with a Residential 1 (RES 1) FLU designation, to the south is a single-family residence in an Agricultural Residential (AU) Zoning classification with a FLU designation of NC and to the west across North Courtenay Parkway is a vacant parcel of land with a FLU designation of CC.

The subject property originally retained the Mixed-Use FLU designation when Brevard County adopted the Comprehensive Plan in September of 1988, which was converted to the NC FLU designation when Brevard County combined the Future Land Use Map (FLUM) with the Residential Density Map during an Evaluation and Appraisal Review (EAR).

Environmental Resources

No notable natural resource land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

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

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 parcel does have frontage on N. Courtenay Pkwy. (State Road 3), an urban principal arterial roadway.

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

The subject parcel is adjacent to a developed, commercial property with an existing restaurant and does not have inter-connectivity with this parcel. To the south is an existing single-family residence within a NC FLU designation, to which there is no inter-connectivity.

To the west of the subject site, across State Road 3 (SR 3) is a vacant parcel of land with a CC Future Land Use designation that does have future inter-connectivity potential, due to an existing median cut at the ingress/egress of the subject parcel across N. Courtenay Pkwy. (SR 3) to the commercial parcel to the west.

C. Existing commercial development trend in the area;

Approximately .21 miles north of the subject parcel, at the intersection of N. Courtenay Pkwy. (SR 3) and East Crisifulli Road, there is a commercial node with a CC Future Land Use designation on all four (4) corners. On the northwest corner is an existing commercial property with a vehicle repair shop, on the northeast corner is a commercial business operating as an auto-body, auto paint shop. On the southeast corner the commercial property was developed with a single-family residence. On the southwest corner of this intersection is an orchard grove.

Heading southbound on N. Courtenay Pkwy (SR 3) from E. Crisifulli Rd., the corridor is lined mainly by properties with the CC Future Land Use designation. This parcel is the first in that row of CC to transition to NC, which continues for several more parcels on the east side. Heading southbound on N. Courtenay Pkwy. (SR 3) from N. Crisifulli Rd., on the west side of the street to Church Rd. and from N. Crisifulli Rd. (SR 3) to Kings Way on the east side, the corridor is lined with approximately 25.18 acres of CC, 4.38 acres of NC and 4.41 acres of Residential 4 Directive (RES4_DIR).

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

There are fundamental changes in character within this area prompted by County infrastructure improvements. In 2015, the Stormwater Management Program initiated a Task Order with Mead and Hunt, Inc. to survey the drainage area along the west side of N. Courtenay Pkwy. (SR 3) from the north side of W. Crisafulli to the Florida Inland Navigation District (FIND) Dredge Management Material Area sight located to the east of N. Tropical Trail to an existing outfall to the North Indian River Lagoon. The surveying began in 2015, the modeling has been initiated and the design and construction plans are currently near 50% complete.

In 2018 a sewer force main was extended north to Church Road on the west side of N. Courtenay Pkwy. (SR 3). The completed force main extension is now located .28 miles south of the subject parcel.

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

The subject parcel is not served by Brevard County Utilities' Sewer Services. There are existing Brevard County Utilities that run along the west side of N. Courtenay Pkwy. (SR 3) approximately .28 miles south of the parcel near Church Road. The County Utilities at this location are a Force Main and Reclaimed Water. The applicant is not required to tie into these existing services in the CC FLU designation; however, if the applicant elects to tie in, they would need to extend the sewer line to the subject property. Recent residential rezonings north of the subject parcel have included commitments for sewer line extensions in this corridor and there may be cost sharing opportunities, depending on the timing of the development.

This 1.13 acre parcel has direct access to N. Courtenay Pkwy. (SR 3) to the west. The additional impact to the roadway resulting from the development of this site would fall within the Level of Service (LOS) standards of C for this urban principle arterial road.

F. Spacing from other commercial activities;

The subject parcel is located near other commercial activities to the north, south and west of the property with CC to the north and west and NC to the south. There is inter-connectivity to the undeveloped parcel across N. Courtenay Pkwy. (SR 3) to the west via a median cut aligned with the ingress/egress of the existing development on the subject site.

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

Currently there are approximately 43.94 acres of CC property on the east and west sides of N. Courtenay Pkwy. (SR 3) between Church Road and Kings Way to the south of the subject site and N. Crisafulli Road to the north. Of the approximately 43.94 acres there are approximately 28.79 acres that are developed and approximately 15.15 acres that are vacant. Of the developed parcels, there is a Day Care Center, A Retail Store (Tiki Shack) and a property with commercial related amenities such as storage. The remainder of the commercial parcels have Mixed Tropical Fruits with a Residence and six (6) additional parcels with the CC FLU that are developed with a single-family residence only.

The Future Land Use designation change from NC to CC is proposed on a 1.13 acre parcel of land. Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan, community commercial development is intended to serve several neighborhoods and provide an array of retail, personal and professional uses. The strip of commercial land along N. Courtenay Pkwy. (SR 3) was identified within the 2005 North Courtenay Parkway Corridor Study and identified as intending to serve the surrounding residential and workforce commuter traffic along the corridor.

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

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

This portion of the N. Courtenay Pkwy. (SR 3) corridor does have strip commercial development. The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for CC property. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern. The subject property is located between CC to the north and south along the west side of N. Courtenay Pkwy. (SR 3) and could be considered to be infill which is preferable over the extension of the strip commercial pattern.

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).

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 subject parcel is not located at an intersection, but is .21 miles south of the nearest intersection of W. Crisifulli Rd. and N. Courtenay Pkwy. (SR 3) however, when added to the existing CC designated parcels at this intersection, the acreage does exceed ten (10) acres.

Careful consideration to access management along N. Courtenay Pkwy. (SR 3) between parcels should be provided due to the lack of signalization or stop control along the corridor. The intersection .21 miles north of the subject parcel is a principal arterial/rural intersection at Courtenay Pkwy. (SR 3) and E. Crisafulli Rd.

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

The subject parcel is not located at an intersection; however, when combined with the intersection of N. Courtenay Pkwy. and E. Crisafulli Rd. the combined total acreage is over forty (40) 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 subject parcel is not a community cluster located at an intersection.

- 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 the 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 subject site has the potential for a 49,223 square feet of development. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate interchange from N. Courtenay Pkwy. (SR 3).

Policy 2.15

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.

The subject parcel does have frontage on N. Courtenay Pkwy. (SR 3) an urban principal arterial roadway.

To the west of the subject site, across State Road 3 (SR 3) is a vacant parcel of land with a CC Future Land Use designation that does have future inter-connectivity potential due to an existing median cut at the ingress/egress of the subject parcel across N. Courtenay Pkwy. (SR 3) to the commercial parcel to the west. Access management will continue to be evaluated by both Brevard County and the Florida Department of Transportation (FDOT) at site development or redevelopment.

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.

When developed with a community commercial use, the site plan or subdivision will be reviewed for setbacks, landscape and buffering as part of that review to meet the current Land Development Regulations at the time of 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.

Currently there is no sidewalk along this portion of State Road 3 (SR 3) in place today. At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and pedestrian access into the site.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.13 acre parcel of land. This area of Unincorporated Brevard County is comprised of mainly commercial development along the N. Courtenay Pkwy. (SR 3) urban principal north/south arterial roadway with commercial nodes at major intersections.

This section of the N. Courtenay Pkwy (SR 3) intersection is lined with mainly properties with a CC Future Land Use designation. This 1.13 acre parcel is surrounded by CC to the north and west, Residential 1 (RES 1) to the east and NC to the south. This area along N. Courtenay Pkwy. (SR 3) was evaluated within the 2005 North Courtenay Parkway Corridor Study and identified as commercial in nature, intending to serve the surrounding residential and workforce commuter traffic along the corridor. The parcel directly to the south of the subject property is a single-family residence in the Agricultural Residential (AU) Zoning classification, but retains the NC FLU designation.

This parcel is within the boundaries of the 2018 North Merritt Island Small Area Study, but the recommendations for density reductions were related to parcels with residential FLU designations and not related to properties with

either the Neighborhood Commercial or Community Commercial FLU designation. The proposed commercial use of this parcel is supported by the Small Area Study's recommendation for the expansion of sewer along SR 3. In 2018, a sewer force main was extended north to Church Road on the west side of N. Courtenay Pkwy. (SR 3). The completed force main extension is now located .28 miles south of the subject parcel.

This 1.13 acre parcel has direct access to N. Courtenay Pkwy. (SR 3) to the west. The additional impact to the roadway resulting from the development of this site would fall within the Level of Service (LOS) standards of C for this urban principle arterial road. A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation would not cause a deficiency of adopted roadway levels of service. Access management will continue to be evaluated by both Brevard County and the Florida Department of Transportation (FDOT) at site development or redevelopment.

The Board may wish to consider whether the requested CC FLU designation is consistent and compatible with the surrounding CC, NC, and RES 1 FLU designations and with the planned growth for North Merritt Island identified within the Future Land Use Map.

This request is accompanied by a companion proposal for a change of Zoning classification (**19PZ00019**) from Agricultural Residential (AU) to General Retail Commercial (BU-1).

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use Review & Summary
Item # 19PZ00016

Applicant: Joseph and Ruth Kaplet - Edward Springer

Future Land Use Request: NC to CC

Note: Applicant desires to use parcel for business purposes: fitness classes and auto repairs.

NMI Hearing Date: 04/11/19; **LPA Hearing Date:** 04/22/19; **BCC Hearing Date:** 05/02/19

Tax ID No: 2317007

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**
- If the owner/applicant has any questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Notable Natural Resources Land Use Issues:

No notable natural resource land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Summary of Mapped Natural Resources Present on the Subject Property:

- Indian River Lagoon Septic Overlay

Land Use Comments:

Indian River Lagoon Septic Overlay

The site is mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes may be required.

Protected Species Potential

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.

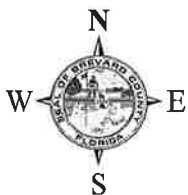
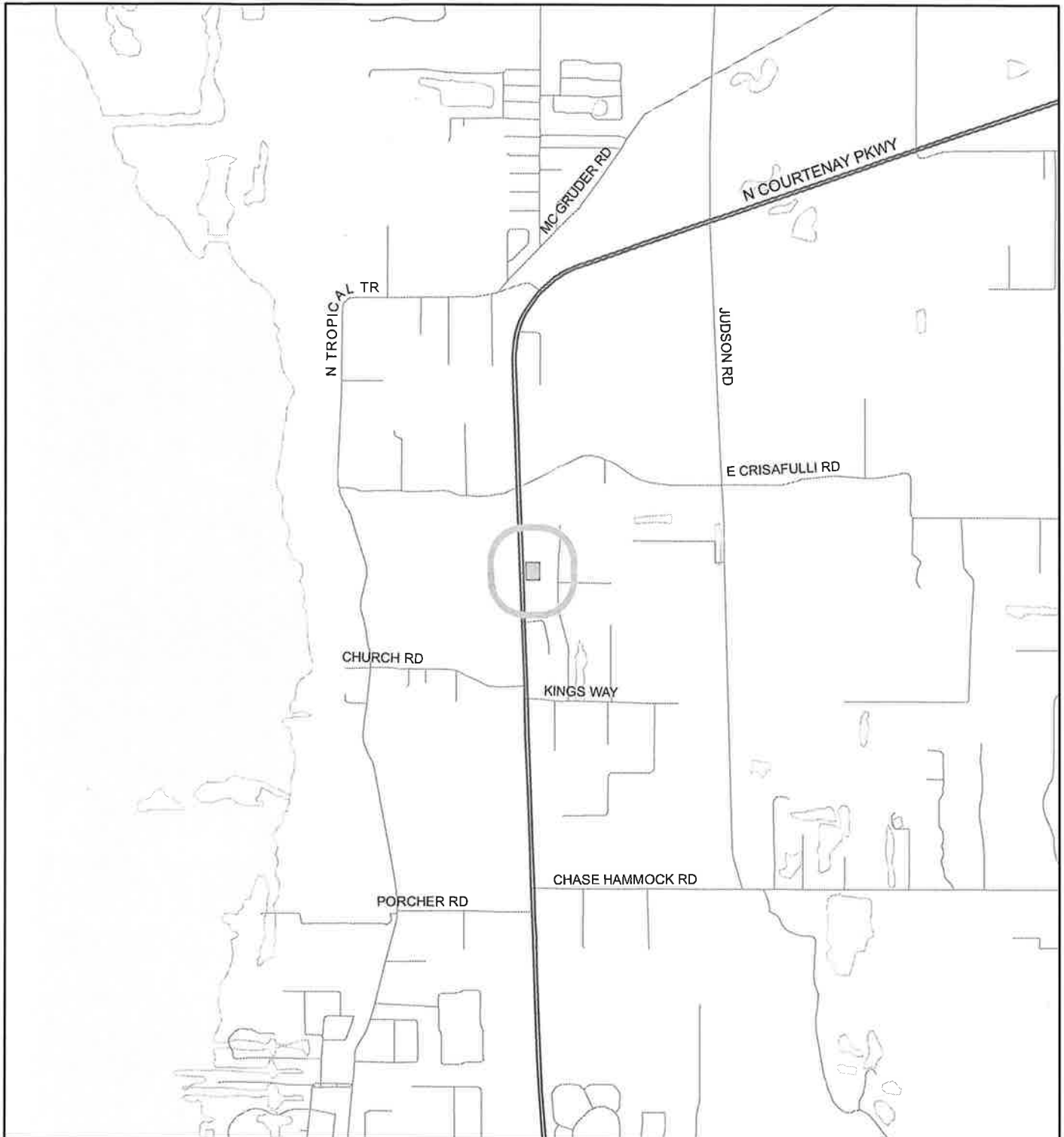
Landscape Requirements

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.

LOCATION MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



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

Buffer Distance: 500 feet

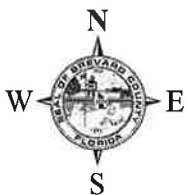
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/15/2019

— Buffer
■ Subject Property

ZONING MAP

KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

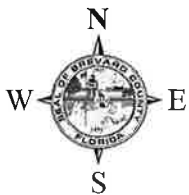
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/15/2019

- Subject Property
- Parcels
- Zoning

AERIAL MAP

KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2018

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

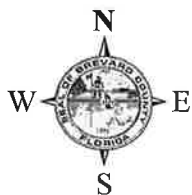
Produced by BoCC - GIS Date: 2/15/2019

— Subject Property
□ Parcels

NWI WETLANDS MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

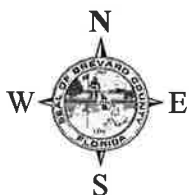
Produced by BoCC - GIS Date: 2/15/2019

National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 2/15/2019

SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

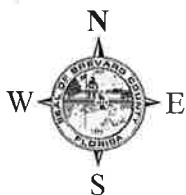
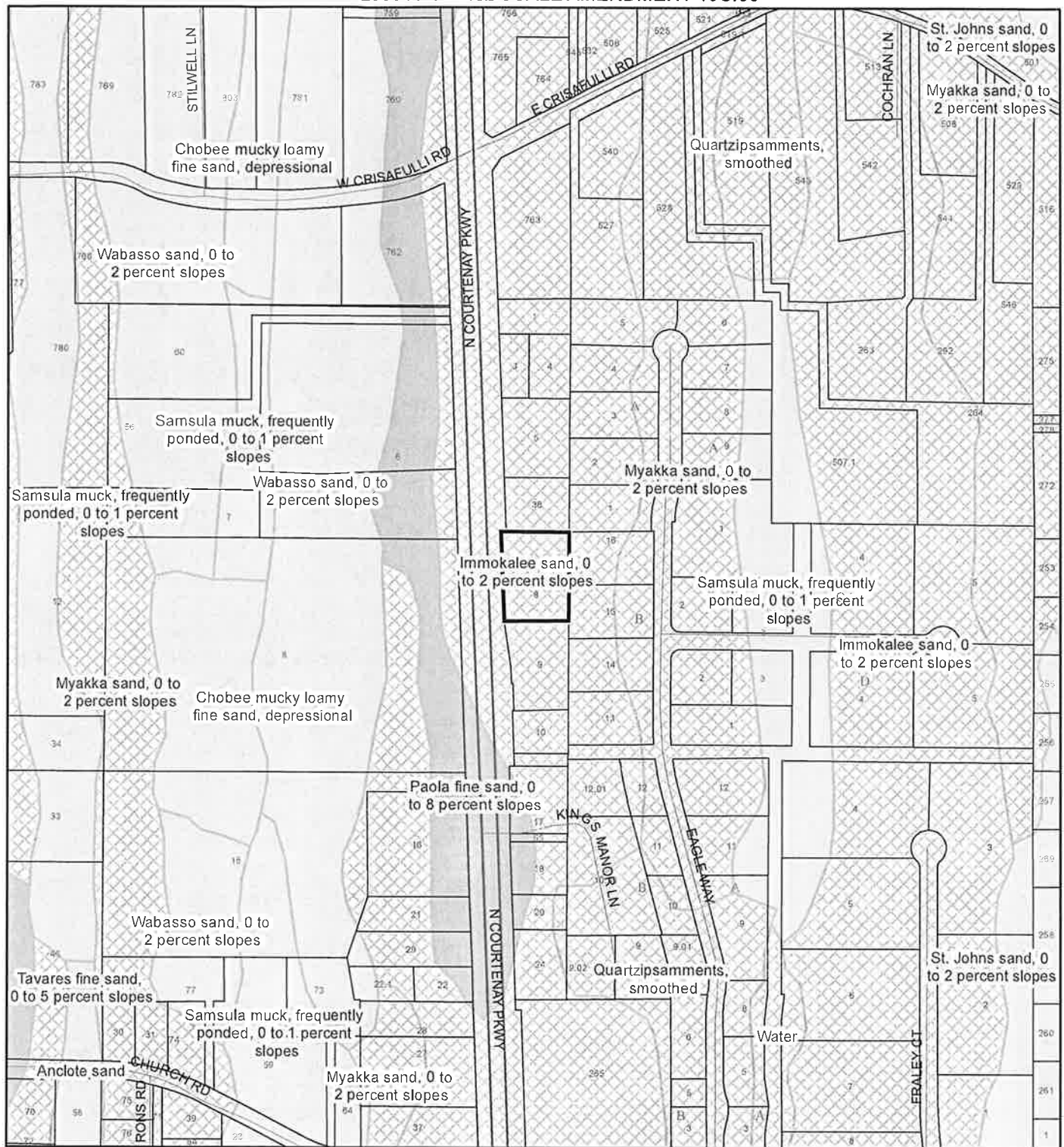
Subject Property

Parcels

USDA SCSSS SOILS MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

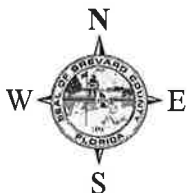
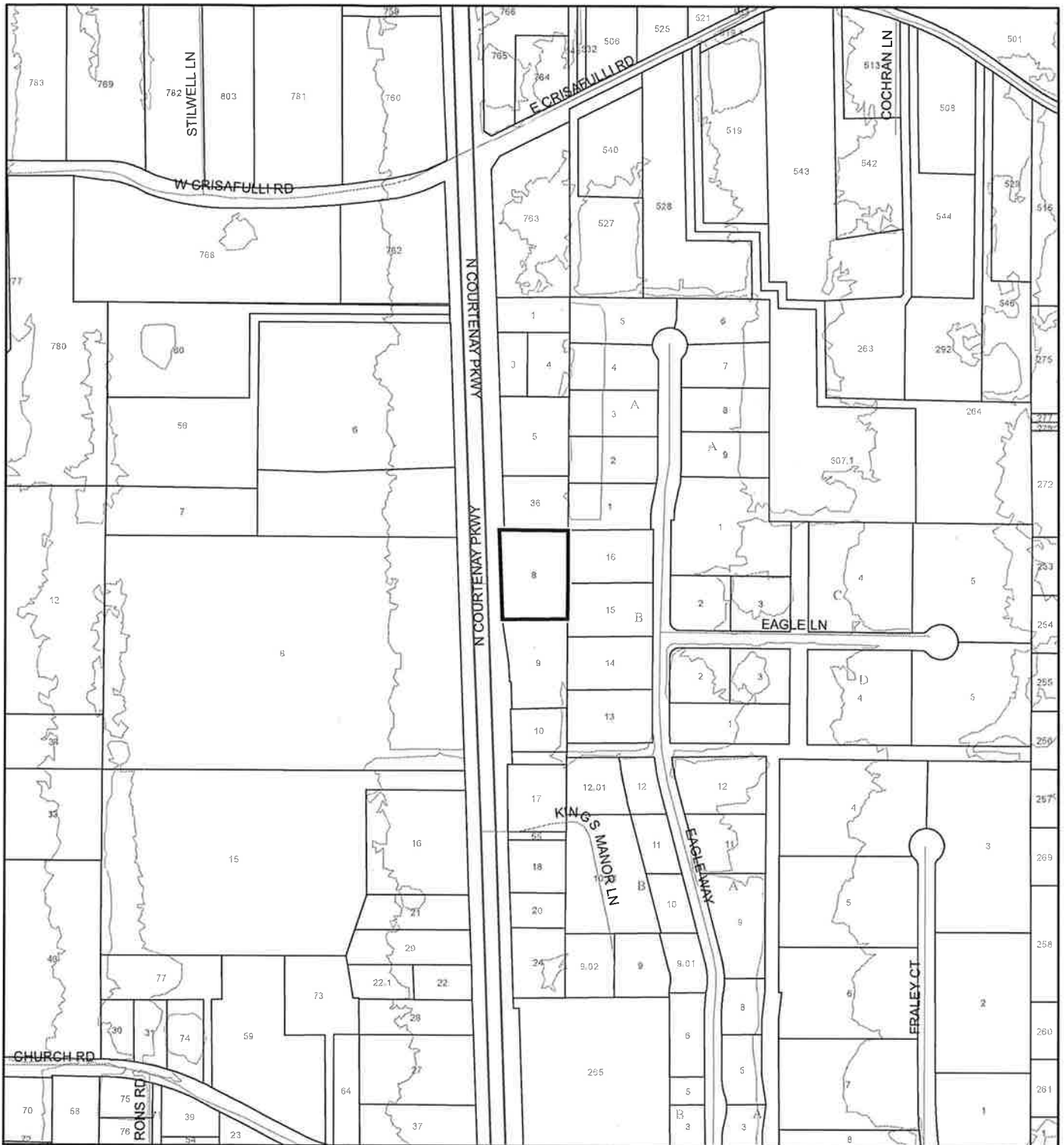
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by BoCC - GIS Date: 2/15/2019

FEMA FLOOD ZONES MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

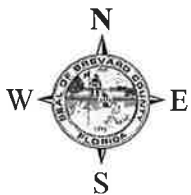
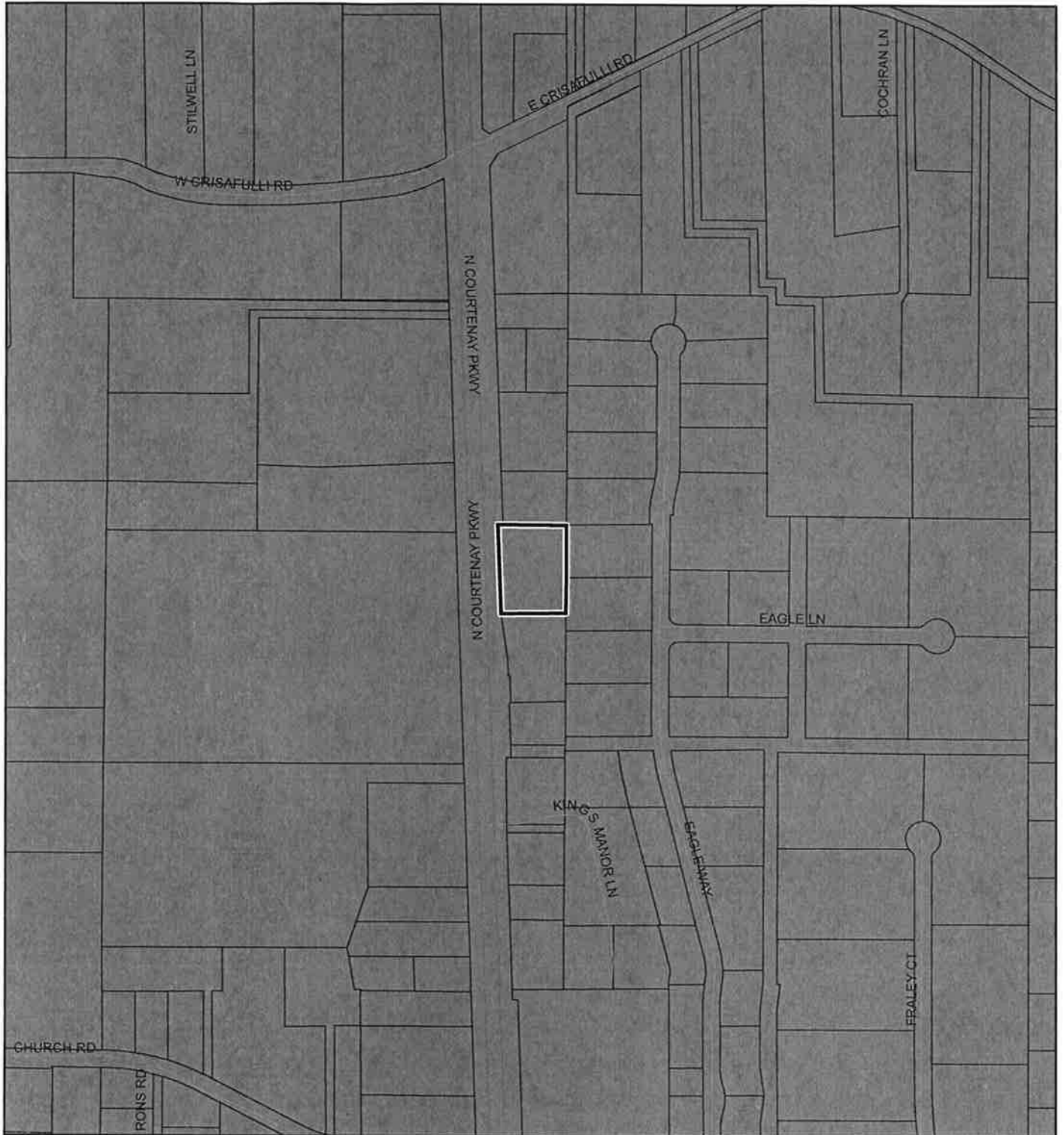
Produced by BoCC - GIS Date: 2/15/2019

FEMA Flood Zones

- | | | |
|----------------------------------------|-------------------------------------------------------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | 0.2 Percent Annual Chance Flood Hazard Contained in Channel | |
| Subject Property | Parcels | |

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 2/15/2019

— Subject Property

□ Parcels

Septic Overlay

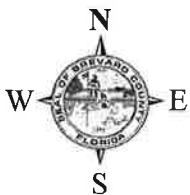
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 2/15/2019

— Subject Property

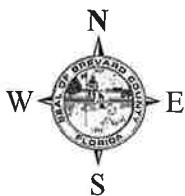
▭ Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




KAPLET, JOSEPH AND RUTH S.
19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

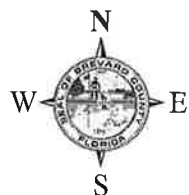
Produced by BoCC - GIS Date: 2/15/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KAPLET, JOSEPH AND RUTH S.

19PZ00016 SMALL SCALE AMENDMENT 19S.06



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 2/15/2019

SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels

In Favor
19PZ00016 &
19PZ00018
Kaplet

From: S & K
To: Jones, Jennifer
Subject: 4/11/19 statement from the NMIHOA to the NMIDSDB regarding 19PZ00016 and 19PZ00018
Date: Thursday, April 11, 2019 11:54:48 AM

Hi Jennifer -

For the Thurs March 11th NMIDSDB meeting, would you please read into the minutes this statement from the NMIHOA?:

"The North Merritt Island Homeowners Association, P.O. Box 542372, Merritt Island, FL 32954-2372, would like to state that, regarding 19PZ00016 and 19PZ00018, the Kaplet and Springer request of a change of zoning from AU to BU-1 and change of FLU from NC to CC, the NMIHOA does not object."

Thank you, Kim Smith, zoning committee member for the NMIHOA

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, April 11, 2019**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, Merritt Island.

Board members present were: Mary Hillberg, Chair; Jack Ratterman, Vice Chair; Gina Lindhorst; Ted Balke; Gina Lindhorst; and Jim Carbonneau.

Planning and Development staff present were: Erin Sterk, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator II.

Excerpt of Minutes

Joseph and Ruth S. Kaplet (Edward Springer, IV)

Requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road. (5780 North Courtenay Parkway, Merritt Island) (District 2) (19PZ00016)

Joseph and Ruth S. Kaplet (Edward Springer, IV)

Requests a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial). The property is 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road. (5780 North Courtenay Parkway, Merritt Island) (District 2) (19PZ00018)

Ed Springer – I'm Ed Springer and I'm authorized on behalf of Joe and Ruth Kaplet to speak on the property. My wife and I are under contract for the property and in order to meet our needs some things needed to happen. We desire BU-1 (General Retail Commercial) zoning and also to change the future use plan from residential commercial to community commercial. My wife is a physical education instructor, as well as an athletic director and certified running coach. Her drive and passion in life is fitness, and we looked down the road at where we want to be, with her having her own business venture, and we looked for property close to where we live. We have been North Merritt Island residents since 2010, and we love the area and intend to stay up there long-term. We've been looking for property along State Road 3 that would meet her needs as well as my desires. My interest in this property is sports cars; I like working on sports cars. I'm an engineer, but as you go higher in engineering you're less hands-on, so this is how I do my hands-on stuff, by tinkering on sports cars. That is our future use as we see it. Also, we think it's a good investment. I think the area is growing and we don't feel like we would stand much to lose by purchasing this property. It is a great area and we want to keep it going, and when this property became available, it felt right, and so we put in a contract. We also like it from a historical perspective; the Kaplet's and extended family have kept it as a citrus business for almost a century. My wife comes from a farming family in Ohio, so that's kind of in her blood, and I just like the history of things. There are some remaining citrus trees on the property and we intend to keep those.

Jim Carbonneau – The existing storefront will be the gym area? And your sports car interest will be in the back?

Ed Springer – Yes, within BU-1 light automotive repair is permitted. Initially, I'm not going to quit my day job to pursue this, so looking down the road I wanted to identify what it could be turned into. It may turn into more business oriented, or more of just a hobby shop, or personal use.

Jack Ratterman – You said your wife is a coach?

Ed Springer – Yes, she is the Athletic Director and Physical Education teacher at Divine Mercy, just down the road, and she's a certified running coach, so right now she does camps for mostly an adult crowd, but anybody is welcome. She gives personalized training programs to meet their objectives and she does other personalized coaching. She wants to expand that with the idea of health and fitness and a holistic approach. She's connected with other folks who do fitness stuff, such as yoga instructors and other types of fitness instruction. She would be here tonight, but she's with the kids, so I'm sure she has other ideas and other types of fitness programs she wants to bring to North Merritt Island. Right now, they meet at various parks and trails. One of the favorites in North Merritt Island is the trail between Hall Road and where we live off of Chase Hammock Trail, to do some running and enjoy Merritt Island.

Jack Ratterman – Are you going to leave most of the inside of the store the way it is, the wood part?

Ed Springer – I don't think we've gotten that far. If we can we'd like to preserve the wooden floors, but down the road if we need to do something with the floors we will, but right now there's no immediate change to that part of the structure. We might do something to more separate the warehouse portion from the storefront.

Joe Kaplet – Joe Kaplet, 5955 North Tropical Trail, Merritt Island. My wife and I are delighted to have this couple because it is the kind of clean business that we want. I've had other offers and I've turned them down. I wanted something that would blend in with the community, something that will help the community, and I believe they are the right people.

Mary Hillberg – I have to say I agree with you, and also that you had a great business with Policciho's.

Joe Kaplet – It was difficult giving it up, but after Hurricane Irma you have to face the facts. The grove in the back was flooded for eight weeks, and it seemed like I pumped for 12 or 13 weeks to dry it out. I decided it was time to go.

Mary Hillberg – Things change, and that was really a nice business. I think this one sounds like a good fit.

Joe Kaplet – These are the kind of people I wanted. Also, I think Cara is going to try to incorporate some of my artifacts into the business, such as old pictures and antiques.

Jack Ratterman – It was a sad day when you woke up on Christmas and you didn't have fresh-squeezed orange juice for a mimosa.

Joe Kaplet – The hardest part was when I sold the juice machines. I sold those to a guy in Thomasville, Georgia who has a grove. You have to move on.

Rebecca Sparks – My name is Rebecca Sparks and I'm at 1210 South Orlando Avenue, in Cocoa Beach. I am the acting real estate broker that put this beautiful match made in heaven together. I also have an opportunity to work with Ed's wife, Cara. We started this venture, Run Club, and it's not my first venture in adult running camps. I started one in 1999, so this is my second venture and she's been great to work with. One of the parks that we work out at is Mitchell Ellington Park. Last year we

coached a little over 50 to 70 adult runners and a majority were on North Merritt Island. This is something that we're bringing to that community. Cocoa Beach already has a group like that, so it's exciting to have this opportunity, and it's very energetic and something fun to do. The group is called Run Club, and we came up with the idea not only because of Rebecca and Cara, but it's also after the movie Fight Club with Brad Pitt, and as we age it becomes more of a struggle to exercise and do the right things because we're dealing with so many things, but we have runners in the ages of 60's to 70's, and our youngest gentleman is 21. You don't have to be a runner, you can be a walker, or you can just come to get the energy. It's a spectrum of all, and we stretch and share information about what everyone does for themselves to stay fit or do the right thing, physically. We get busy in our work schedule and we forget that one thing, which is us, because we're taking care of everyone else.

Mary Hillberg – Thank you. Any questions? Is there a motion?

Jim Carbonneau – I make a motion to approve the Small Scale Plan Amendment.

Jack Ratterman – I'll second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Gina Lindhorst – I'll make a motion to approve the rezoning request.

Jim Carbonneau – I'll second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Upon consensus, the meeting adjourned at 6:16 p.m.

LOCAL PLANNING AGENCY (PLANNING AND ZONING BOARD) MINUTES

The Brevard County Local Planning Agency (Planning & Zoning Board) met in regular session on **Monday, April 22, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales; Brian Hodgers; Scott Langston, Vice Chair; Mark Wadsworth; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; and Jennifer Jones, Special Projects Coordinator II.

Excerpt from complete agenda.

Joseph and Ruth S. Kaplet (Edward Springer, IV)

Request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road. (5780 North Courtenay Parkway, Merritt Island) (District 2) (19PZ00016)

Edward Springer – I'm Edward Springer, IV, 5135 Mallard Lakes Court, Merritt Island, Florida. We are requesting a change to the small scale comprehensive plan from Neighborhood Commercial to Community Commercial, because it is needed in conjunction with a zoning change from agricultural to commercial. We are currently the contracted purchasers for the property for our intended purposes and future use plan, which is in line with BU-1 (General Retail Commercial), hence the need to get the designation changed to Community Commercial.

No public comment.

Henry Minneboo – What did North Merritt Island do with this?

Jennifer Jones – They approved it unanimously.

Rochelle Lawandales – I'll move approval.

Ron Bartcher – Mr. Chairman, I feel that we need to restrict the uses of the BU-1 instead of allowing an entire wide-open BU-1 use, to have it be restricted in some way. For example, fast food restaurants or gas stations, as that kind of use in the future would not really be appropriate for this location. This is not a zoning issue, so we can't ask them to do a BDP (Binding Development Plan) here, but I'd like to, with the motion to approve, recommend that the Board of County Commissioners consider having a BDP added to the zoning request, that there be some kind of restriction on the BU-1 use.

Erin Sterk – Ron contacted me this weekend because he would have those comments associated with the zoning item that this board doesn't have to hear, except that there is no way to communicate that to the Board except for in the minutes, unless it's conveyed in your motion as a concern this board has. One of the things the Community Commercial necessitates, especially for high-trip generating uses, is location at an intersection and this property is not located at an intersection, so some of those highest impact uses have the potential to cause some concern at this location, so I think his concerns are justified, and however you want to communicate that to the board since you're not hearing the rezoning item is up to you.

Henry Minneboo – Ron, I agree, conceptually, but the problem is that in North Merritt Island they are so restrictive that for them to approve something, they have really put a lot of thought into it. In this case I let what I call "north of the Barge Canal" handle it.

Ron Bartcher – I read the minutes of their meeting and they didn't even consider the possibility of a future use, which I thought was surprising because they are usually much better than that. They are usually much more inquisitive about what's going on.

Henry Minneboo – Can we make that part of the record and approve this?

Erin Sterk – It's up to the person who made the motion, if they want to consider adding that detail in there for the Board to consider.

Rochelle Lawandales – I'm sorry, Ron, I don't really feel as strongly about that as you do, for a couple of reasons. It is on North Courtenay and I think the BU-1 uses would generally be appropriate. The North Merritt Island Board are going impose restrictions, or the zoning itself is going to impose restrictions in terms of what happens with concurrency. I'm okay with just dealing with the land use for what it is and let the zoning handle itself.

Scott Langston – I agree with Rochelle and I'll second the motion.

Henry Minneboo called for a vote on the motion as stated and it passed unanimously.