

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 22S.16 (22SS00012)
Township 28, Range 36 Section 01

Property Information

Owner / Applicant: Kanes Furniture, Inc.

Adopted Future Land Use Map Designation: Community Commercial (CC) and Residential 4 (RES 4)

Requested Future Land Use Map Designation: Residential 15 (RES 15)

Acreage: 12.59 acres

Tax Account #s: 2800342 and 2800116

Site Location: South side of W. New Haven Av., approximately 300 feet east of Seminole Blvd.

Commission District: 5

Current Zoning: General Retail Commercial (BU-1) and Single-Family Residential (RU-1-7) with a Binding Development Plan (BDP)

Requested Zoning: Medium-Density Multiple-Family Residential (RU-2-15) with the removal of an existing Binding Development Plan (BDP) (22Z00052)

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on 12.59 acres of land from Community Commercial (CC) and Residential 4 (RES 4) to Residential 15 (RES 15) in order to develop the site as an apartment complex with up to 188 multi-family residential units. The subject property is currently undeveloped and retains CC and RES 4 Future Land Use designations.

A companion rezoning application was submitted accompanying this request to change the zoning classification from BU-1 (General Retail Commercial) and RU-1-7 (Single-Family Residential) to RU-2-15 (Medium-Density Multiple-Family Residential) with the removal of an existing Binding Development Plan (BDP) (22Z00052).

The proposed RU-2-15 zoning may not be considered consistent with the existing RES 4 FLU; however, the proposed RU-2-15 zoning can be considered consistent with the proposed RES 15 FLU, as provided in Sec. 62-1255.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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.

Policy 1.2

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

This Future Land Use Amendment request to change from CC and RES 4 to RES 15 will require a connection to a centralized water and sewer service.

- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

This Future Land Use Amendment request to change from CC and RES 4 to RES 15 will require a connection to a centralized water and sewer service.

Residential 15 (maximum of 15 dwelling units per acre)

Policy 1.4

The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre, except as otherwise may be provided for within the Future Land Use Element. The Residential 15 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas located east of Interstate-95, except in instances where they are adjacent to existing or designated residential densities of an equal or higher density allowance; and

The subject site is located 1.2 miles east of Interstate-95 (I-95).

- B. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 15 area;

The subject site is not located immediately adjacent to an incorporated area; however, the City of West Melbourne's municipal boundary is located approximately 525 feet to the east of the subject property. There is a strip of CC and RES 4 that buffers the subject site and the municipal boundary.

- C. Areas adjacent to an existing Residential 15 land use designation; and

The subject site is not adjacent to an existing RES 15 land use designation. This request can be considered an introduction of RES 15 to the south side of W. New Haven Avenue. The closest RES 15 FLU designation is located approximately 415 feet north of the subject property on Gray Road (north of W. New Haven Avenue). W. New Haven Avenue can be considered a dividing line between the north and south area.

- D. Areas which have access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. West New Haven Avenue (US 192) is classified as an Urban Principal Arterial roadway.

- E. Up to a 25% density bonus to permit up to 18.75 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development.

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:

C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

The character of the area is commercial along West New Haven Avenue (US 192) with residential land uses in the surrounding areas. There are five (5) FLU designations within 500 feet of the subject site: CC, NC, RES 4, RES 6 and RES 15. The predominant FLU designation along this section of W. New Haven Avenue is CC.

This request can be considered an introduction of RES 15 into the area along West New Haven Avenue (US 192). The closest RES 15 FLU designation is located approximately 415 feet north of the subject property on Gray Road, north of W. New Haven. That parcel is currently undeveloped.

The most recent FLU amendment (14S.08) in this area was adopted February 5, 2015 by Ordinance 15-01 to change the FLU designation from NC and RES 4 to CC on 3.44 acres 375 feet to the west of the subject property on West New Haven Avenue.

2. actual development over the immediately preceding three years;
and

Two single-family residences were developed within one-half mile of the subject property in the preceding three (3) years: a SFR (20BC23362) was constructed adjacent to the west of the subject property on the west side of Seminole Boulevard; and a SFR (18BC25010) was constructed on the east side of Seminole Boulevard adjacent to south of the subject property.

3. development approved within the past three years but not yet constructed.

While there has not been any actual development within this area in the preceding three (3) years, three zoning actions have been approved within one-half mile.

22Z00044, approved by the Board on November 3, 2022, was a request to rezone from RU-1-7 (Single-Family Residential) to RU-1-11 (Single-Family Residential) on 1.76 acres located approximately 1,945 feet south of the subject property.

21Z00040, approved by the Board on February 2, 2022, was a request to rezone from BU-1 (General Retail Commercial) to BU-2 (Retail,

Warehousing and Wholesale Commercial) on 2.11 acres located approximately 2,015 feet northwest of the subject property.

21Z00010, approved by the Board on May 26, 2021, was a request to rezone from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential) on 0.67 acres located approximately 2,325 feet southeast of the subject property.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

No material violation of relevant policies has been identified.

Administrative Policy 4

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The developed character of the area is commercial along West New Haven Avenue (US 192) which transitions to residential zoning towards the back half of the property. The residential zoning in the area is RU-1-7 single-family residential which allows one quarter (1/4) acre lots; however, rural residential and agricultural residential zoning classifications are also located in the vicinity.

There is one multi-family zoning classification within a one-half mile radius of the subject property: a vacant 6.08-acre parcel with RU-2-6 zoning located approximately 420 feet to the northwest. This request can be considered an introduction of RU-2-15 zoning classification into the area.

As provided in FLUE Policy 2.10, residential development or the integration of residential development with commercial development can be permitted in the Community Commercial (CC) land use designation, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and area designated for residential use on the Future Land Use Map, as provided in FLUE Policy 2.10. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street.

The existing FLU CC and RES 4 designations would allow for 58 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request actually represents an increase of approximately 130 units.

The City of West Melbourne's municipal boundary is located approximately 525 feet to the east of the subject property.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Retail	BU-1	CC
South	Single-family residences	RU-1-7; AU	RES 4
East	Retail; Single-family residences	BU-1; RU-1-7	CC; RES 4
West	Single-family residences	BU-1; RU-1-7; RR-1	CC; RES 4

To the north, across W. New Haven Avenue, is a 0.96-acre parcel and a 0.73-acre parcel, each designated as CC FLU and developed as retail commercial.

To the south is a 0.42-acre parcel developed as a single-family residence with RES 4 FLU; a 2.0-acre undeveloped parcel with RES 4 FLU; and a 5.69-acre parcel developed as a single-family residence with RES 4 FLU.

To the east, across Seminole Boulevard, is a 1.09-acre parcel designated as CC FLU and developed as retail commercial; a 0.38-acre vacant commercial lot with CC FLU; a 1.09-acre parcel with CC FLU developed as a single-family residence with BU-1 zoning. Additionally, there are six (6) parcels with RES 4 FLU developed as single-family residences on lots greater than 1-acre in size.

To the west are single-family residences with RES 4 FLU on lots 0.25-acre or greater in size. A 3.93-acre parcel with CC FLU developed as commercial retail (Kane's Furniture) is immediately west of the subject site on West New Haven Avenue.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Melbourne's service area public water. The closest centralized sewer line (City of West Melbourne) is located on the north side of W. New Haven

Avenue. The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Constraints

- Wetlands
- Protected and Specimen Trees
- Protected Species
- Indian River Lagoon Nitrogen Reduction Septic Overlay

Per the applicant-provided Environmental Impact Report (EIR), the property contains approximately 0.75 acres of Freshwater Forested Wetlands. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). West New Haven Avenue is designated as an MQRs in this location.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

According to information provided by the Florida Master Site File of the Florida Division of Historic Resources, there are no recorded cultural resources associated with the subject site.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area and the comprehensive plan.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22SS00012

Applicant: Bruce Moia for Kanes Furniture

Zoning Request: CC and RES 4 to RES 15

Note: Current zoning and land use does not fit with the intended desired use of property by the developer.

LPA Hearing Date: 01/09/23; **BCC Hearing Date:** 02/02/2023

Tax ID Nos: 2800342 & 2800116

- 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.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Protected and Specimen Trees
- Protected Species
- Indian River Lagoon Nitrogen Reduction Septic Overlay

Per the applicant-provided Environmental Impact Report (EIR), the property contains approximately 0.75 acres of Freshwater Forested Wetlands. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). West New Haven Avenue is designated as an MQRs in this location.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Land Use Comments:

Wetlands

The subject property contains hydric soils (Hydric soils Malabar sand, high; Malabar, Holopaw, and Pineda soils; and Pineda sand, 0 to 2 percent slopes), an indicator that wetlands may be present on the property. The southern one-third of the property has mapped hydric pine flatwoods. The applicant provided a wetlands delineation depicting 0.75 acres of Freshwater Forested Wetlands on the southwestern portion of the property. The wetland delineation will require agency verification.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along MQRs. West New Haven Avenue is designated as an MQRs in this location.

Wetlands proposed for impact shall be assessed using methodologies established in the Countywide Wetlands Study, prepared BKL, Inc. Consulting Ecologists (September 30, 2013), to determine if they meet the criteria of High Functioning Wetlands or Landscape Level Wetlands. Impacts to high functioning and/or landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or of overriding public benefit. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. Any unpermitted wetland impacts may result in Code Enforcement action. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Per the applicant-provided Environmental Impact Report (EIR), the property contains Gopher Tortoises. 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.

Indian River Lagoon Nitrogen Reduction Overlay

A very small portion of the northeast corner of the property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. Should this area be utilized for septic, and if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.