

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 23S.11 (23SS00011)
Township 23, Range 35, Section 13

Property Information

Owner / Applicant: **3955 King's Hwy, LLC**

Adopted Future Land Use Map Designation: Residential 8 Directive (RES 8 DIR) and Community Commercial (CC)

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

Acreage: 3.46

Tax Account #: 2301890

Site Location: Southeast corner of Kings Highway and Florida East Coast Railway

Commission District: 1

Current Zoning: Agricultural Residential (AU) and Retail, Warehousing and Wholesale Commercial (BU-2)

Requested Zoning: Retail, Warehousing and Wholesale Commercial (BU-2) (23Z00049)

Background & Purpose

The applicant is requesting a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map from Residential 8 Directive (RES 8 DIR) on 0.47 acres which allows 8 units per acre and Community Commercial (CC) on 2.99 acres to all CC for the proposed BU-2 zoning to be consistent with the Future Land Use Element. This request will permit the entire parcel to be rezoned to BU-2 to build a mini warehouse. The subject parcel is located on the south side of Kings Highway, a County maintained roadway.

On August 6, 1992, the Port St. John Directives were an adopted designating a portion this area as Residential 8 Directive (RES 8 DIR).

The applicant has a companion rezoning application, **23Z00049**, requesting a change from AU (Agricultural Residential) and BU-2 (Retail, Warehousing and Wholesale Commercial) to all BU-2 (Retail, Warehousing and Wholesale Commercial).

The western portion of parcel retains a zoning classification of BU-2. On September 24, 1998, The Board approved rezoning action **Z-10150**, changing the zoning from BU-1 to BU-2.

The original zoning of the AU zoned portion of the parcel was GU (General Use). On August 7, 2003, zoning action **Z-10827** rezoned the GU portion to AU (Agricultural Residential).

On October 12, 2023, the parcel was combined with the west parcel as one parcel per Quit Claim Deed recorded in Official Records Book 9907, Pages 2243 thru 2245 in order to support the proposed development.

Comprehensive Plan Policies/Comprehensive Plan Analysis

The BU-2 zoning classification may not be considered consistent with the existing RES 8 Directive Future Land Use designation; however, the proposed BU-2 zoning classification may be considered consistent with the requested Community Commercial (CC) Future Land Use Map designation.

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.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE 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 is located on the south side of Kings Highway, a County maintained roadway. The applicant has not provided a proposed site plan. This is not a requirement for rezoning nor Future Land Use Map change and the site plan has not been reviewed for compliance with the land development codes and other County departments.

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

With the adjacent residential to the east, there is no interconnectivity as there is a separate development along with the Florida East Coast Railway to the west.

- C. Existing commercial development trend in the area;

This area can be characterized as a commercial corridor with several CC FLU designations. Existing commercial development includes an automotive shop, dumpster roll off location and a dog groomer on the northeastern parcels. Additional commercial uses are located east along Kings Highway.

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

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

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

The preliminary concurrency analysis did not indicate that the maximum development potential from the proposed Future Land Use Map change would cause a deficiency in the transportation adopted level of service. The subject property has access to City of Cocoa potable water and septic. Concurrency will be reviewed during the site plan process.

- F. Spacing from other commercial activities:

The closest Community Commercial activities are located on the west portion of subject parcel with frontage on Kings Highway. Additional commercial activities can be found 660 feet east along the south of Kings Highway. Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart.

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

A market study was not provided nor required.

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

The applicants will work with Natural Resources to ensure conformance with the Conservation Element. No noteworthy land use issues were identified.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

The applicant is proposing to develop a mini warehouse facility. Kings Highway is an existing commercial corridor, the proposal would not extend strip commercial development, which is discouraged within the Future Land Use element of the Comprehensive Plan. This request could be considered infill development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations FLUE 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 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant's proposed use can be considered consistent with these uses.

Locational and Development Criteria for Community Commercial Uses FLUE 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 site is not located within an existing commercial cluster but, rather along an existing commercial corridor along Kings Highway, which functions as an Urban Major Collector Road. The use of infill development maybe considered the best use of resources, and it provides an alternative to new development by reducing loss of critical and resource lands to new development by focusing on strengthening older areas.

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

The subject site is not located at an intersection and will not exceed 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.

Kings Highway, is a major arterial roadway, is an existing commercial corridor serving the community and the surrounding region.

- 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 unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

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

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.

- 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.

The request is not for a recreational vehicle park.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

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;

The applicant proposes to utilize subject parcel for parking and a stormwater retention pond accessory to a mini warehouse. The hours of operation, lighting and traffic is not anticipated to affect the quality of life in the existing neighborhood. There is no anticipation of odor, noise level or site activity more so than already exists. However, CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may. This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- 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;

There are undeveloped and developed single-family residential and commercial parcels along the Kings Highway corridor from the Railroad tracks to S. Highway 1. The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east. To the west is the Florida East Coast Railway. West of the East Coast Railway is a parcel with Planned Industrial uses. To the south of the subject property is a single-family mobile home. To the north across Kings Highway is Electric Utility.

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

There has been one recent zoning action within 0.5 miles of the subject property within the last three years.

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

There has not been any approved development within this area in the preceding three (3) years that has not been constructed.

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

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

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.

Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential surrounding the property to the east and south. The subject property is also abutting the Florida East Coast Railway property along the west.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, and contractor storage yards). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposed rezoning increases the percentage of MAV by 0.12%.

- 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.

The area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor.

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.

Staff analysis indicates that the surrounding area to the east is residential in character.

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.

The subject parcel is located along corridor of commercial and residential uses further east. The subject parcel is proposed to be rezoned from BU-2 and AU to all BU-2. As the immediate area is commercially and single-family zoned, the proposed uses maintain the commercial integrity of the area.

The closest BU-2 zoning classification is located approximately 815-feet east of the subject property, along the south side of Kings Highway.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Electric Utility, across Kings Highway	IU	PUB
South	Single-family mobile home	RRMH-1	RES 8 DIR
East	Single-family residence	GU, AU & RU-1-7	RES 8 DIR
West	Planned Industrial uses west of the Florida East Coast Railway	PIP	PI

The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east with GU, AU, and RU-1-7 (single-family residential) zoning. To the west is the Florida East Coast Railway. To the south of the subject property is a single-family mobile home with RRMH-1 zoning.

The current AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The RU-1-7 zoning classification allows one single-family residence on minimum 5,000 square foot lots. The minimum floor area is 700 sq. ft.

The RRMH-1 zoning classification permits one single-family mobile home or detached dwelling unit of spacious character. It requires a minimum lot size of one (1) acre with a width and depth of no less than 125-feet. It requires a minimum living area of 600 sq. ft.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Kings Highway, between Grissom Pkwy. and Highway 1, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 34.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 34.41% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject property has access to the City of Cocoa potable water and on sewer.

Environmental Constraints

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

Historic Resources

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

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item # 23SS00011**

Applicant: Tannath Design (Owner: Zinser Properties LLC)

Land Use Request: RES 8 to CC

Note: Consistent zoning with surrounding property and allowance of parking

PSJ Board: 8/9/2023; **BCC Hearing Date:** 9/7/2023

Tax ID No: 2323666

- 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:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

This entire parcel contains mapped aquifer recharge soils (Pomello Sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~22 to 26 feet NAVD) indicate the soils may consist of Type 2 or Type 3 Aquifer Recharge soils, which have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. Per Section 62-4341(18) of the Brevard County Landscaping, Land Clearing, and Tree Protection ordinance, 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. There is a large area of mapped Florida Scrub Jay habitat west of the property, and there is potential for existence of Gopher Tortoises on site. 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.