

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 25S.15 (25SS00009)
Township 28, Range 36, Section 24

Property Information

Owner / Applicant: **Laughing Clown LLC**

Adopted Future Land Use Map Designation: Residential 2 (Res 2)

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

Acreage: 0.63 acres

Tax Account # 2806925

Site Location: 4030 Minton Rd., Melbourne, FL 32904

Commission District: 5

Current Zoning: RP (Residential Professional)

Requested Zoning: BU-1-A (25Z00028)

Background & Purpose

The applicant requests a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map (FLUM) from Residential 2 (RES 2) to Community Commercial (CC) on the 0.63-acre subject property to allow an existing professional doctor's office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification. The applicant has a companion rezoning application, **25Z00026**, requesting a change from RP (Residential Professional) to BU-1-A (Restricted Neighborhood Retail Commercial).

The subject property is located within the Lund Gardens Subdivision and records indicate that on December 14, 1998, the property was put into its current configuration as recorded in **ORB 3938, Pages 1758-1759**, of the Public Records of Brevard County, Florida.

The subject property retains its original Future Land Use (FLU) designations established in 1988 by the Brevard County Comprehensive Plan: RES 2. The RES 2 land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element of the Brevard County Comprehensive Plan.

The proposed CC FLU designation, is established in the area surrounding the subject property and is primarily located along the Minton Road corridor. 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.

The subject is located adjacent to Minton Road, a county-maintained roadway. City of Melbourne public water and sewer may currently service the surrounding area.

There are currently no active code enforcement complaints on the property.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	RP	RES 2
South	Single-family residence	C-1A West Melbourne	COM West Melbourne
East	Roadway, Multi-family residential	R-2 West Melbourne	MD RES West Melbourne
West	Single-family residential	RU-1-13	RES 2

Abutting the subject property to the north of the subject property is a 0.81-acre lot developed with a single-family home with an RP zoning designation and a RES 2 FLU designation.

Abutting the property to the south is a 0.62-acre parcel developed with a single-family home and located within jurisdiction of the City of West Melbourne.

The subject property is bordered to the east by the right-of-way for Minton Road, a county-maintained arterial roadway. A multi-family apartment complex is located on the 32.18-acre on the east side of Minton Road.

There are two (2) properties abutting the subject property to the west. The first property is a 0.42-acre lot improved with a single-family residence. The second parcel is a 1.19-acre lot developed with a single-family residence. Both lots are zoned RU-1-13 with a RES 2 FLU designation.

The Residential 2 (RES 2) land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within this element.

Future Land Use

The subject property's RP zoning classification is not considered consistent with the RES 2 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed BU-1-A zoning classification is not consistent with the RES 2 FLUM designation. A companion application to amend the FLUM designation from RES 2 to CC is pending approval.

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.

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 has direct access to Minton Road, a county-maintained roadway.

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

The adjacent area is characterized by single-family residential, as well as mixed-use commercial development south of the subject property. The subject property abuts single-family residential properties to the north, south, and west. There is no interconnectivity as this is a separate development with direct access to Minton Rd.

- C. Existing commercial development trend in the area;

Additional commercial uses are located to the south of the subject property along Minton Road, including a trailer service and supply store, and a bridal shop. Commercial activities of increasing intensity can be found further south of the subject property.

- 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 indicates that the proposed development would not cause a deficiency in the transportation adopted level of service.

The subject property is located within the service area of centralized potable water and sanitary sewer service provided by the City of Melbourne. Concurrency will be reviewed during the site plan process.

- F. Spacing from other commercial activities:

Community Commercial activities are located along Minton Road approximately 200' south of the subject parcel. The commercial development on the east side of Minton Road approximately 1,500' south of the subject property and within the jurisdiction of West Melbourne continuing east along Palm Bay Road is over 40 acres in size. The commercial property at the northwest corner of Minton and Palm Bay Roads is approximately 8 acres in size.

- 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 entire subject parcel contains mapped hydric soils, an indicator that wetlands may be present on the property. Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR in this location. If wetlands are found, the applicant shall

complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Protected and Specimen Trees may exist on the parcel.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan review stage, if required.

- J. Impacts upon strip commercial development.

FLUE Policy 2.12 discourages strip commercial development. This request is not an extension of strip commercial development.

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 proposed CC encompasses approximately 0.63 acres. The subject property abuts Minton Road which is classified as an arterial roadway.

Approximately 400' to the south of the subject property at the southwest corner of Hield and Minton Roads, 24SS00001 was approved to amend four properties with a combined total area of 4.58 acres from NC and RES 2 to CC FLU. Additional nearby southern parcels totaling 2.62 acres have an established commercial use with a CC FLU.

Approximately 1,500' to the south, a retail shopping center with additional independent commercial uses including banks and fast food service restaurants is located on a 13.06-acre parcel at the northeast intersection of Minton and Palm Bay Roads within the jurisdiction of the City of West Melbourne.

A 6.6-acre retail shopping center with independent retail and restaurant uses is located on Minton Road at the northwest corner of Palm Bay Road NE, within the jurisdiction of the City of Palm Bay, approximately 1,200 feet south of the subject property.

- 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.

This is a renovation of existing office uses, and not considered a commercial cluster.

- 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 area of the subject property is less than 10 acres.

- 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.

This application does not accompany a PUD zoning request, therefore the FAR will be limited to 1.00. Existing structures currently located on the subject property have less than a 1.00 FAR.

- 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 applicant has not proposed a recreational vehicle park on the subject property.

FLUE 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;

The rezoning would permit an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification. Current and future development is subject to compliance with Brevard County's Performance Standards defined within Sections 62-2251 through 62-2272 of the Brevard County Land Development Code regarding hours of operations, lighting, odor, noise levels, traffic, or site activity.

- 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 appraisal can determine if material reduction has or will occur due to the proposed use.

- 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 four (4) different FLUM designations within a half-mile radius of the subject property. They include Residential 1:2.5 (RES 1:2.5), Residential 2 (RES 2), Community Commercial (CC), and Neighborhood Commercial (NC). The subject property is surrounded by RES 2 FLU to the north and west. CC FLU development occurs on the property located 200' to the south, and on the existing commercial uses further south along Minton Road.

Within the past three years, there has been one (1) FLUM change within a half-mile radius. 24SS00001 was approved to change the property's FLU from Res 2 on 3.58 acres and NC on 1 acre to all CC.

Please note that this analysis only includes unincorporated areas of Brevard County.

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

Within a half-mile radius, there has been no development within County jurisdiction. Staff analysis indicates recent multi-family and residential neighborhood development within the jurisdiction of the City of West Melbourne.

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

Within the preceding three years, there have been two (2) approved rezonings within 0.50 mile of the subject property, but not yet constructed.

24Z00004 changed a 4.58-acre site from RP and AU to all BU-2 with a binding development plan limiting the rezoned property to mini-warehouse storage and other BU-1 allowable uses and was approved in August 2024. 22Z00006 rezoned a 17.5-acre parcel from GU to BU-2 with a binding development plan limiting the property's use to boat and RV storage, and was approved in May 2022.

- 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.

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.

The request is not located within an established residential neighborhood. Minton Road is classified as an arterial roadway. The proposed request will introduce commercial activity not already present within the immediate area. However, a preliminary concurrency evaluation indicated that the proposal does not have the potential to cause a deficiency in the transportation adopted level of service. At the time of submittal, the applicant had not provided a concept plan for the conversion of the property for general retail sales use.

- 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 is not considered an established residential neighborhood.

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.

The subject property has historically been used as a doctor's office located within an existing single-family residential area.

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.

Within the previous five years, two rezonings were approved within one-half mile of the subject property. 24Z00004 changed a 4.58-acre site to BU-2 with a binding development plan limiting the rezoned property to mini-warehouse storage and other BU-1 allowable uses. 22Z00006 rezoned a 17.5-acre parcel to BU-2 with a binding development plan limiting the use of the property to boat and RV storage.

Both zoning actions were accompanied with a small-scale comprehensive plan amendment that were approved to allow for an FLU change to Community Commercial.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Rd from Palm Bay Rd. to Hield Rd., which has a Maximum Acceptable Volume (MAV) of 36,600 trips per day, a Level of Service (LOS) of E, and currently operates at 61.20% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.39%. The corridor is anticipated to operate at 61.59% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

Please refer to the complete report provided by the Natural Resource Management Department on the following page.

For Board Consideration

The Board should consider if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 25SS00009

Applicant: Clayton Bennett (Owner: Laughing Clown LLC)

Land Use Request: RES 2 to CC

Note: to allow for the permitted use for the subject business

LPA Hearing: 01/12/2026; **BCC Hearing:** 02/05/2026

Tax ID No.: 2806925

- 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:

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

Land Use Comments:

Hydric Soils

The entire subject parcel contains mapped hydric soils (Malabar sand, high; Eau Gallie sand); an indicator that wetlands may be present on the property. **A wetland delineation may be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR in this location. If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval 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 no net loss mitigation in Brevard County in accordance with Section 62-3696.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the

protection of Specimen Trees. 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.**