

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 22S.05 (22SS00002)*  
**Township 25, Range 37, Section 35**  
LPA 5/9/2022 BoCC 5/26/2022

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**Property Information**

**Owner / Applicant:** OBC Realty, LLC

**Adopted Future Land Use Map Designation:** Residential 15 (RES 15)

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

**Acreage:** 0.52 acres

**Tax Account #s:** 2521003, 2521005

**Site Location:** Northwest corner of S. Atlantic Avenue (SR A1A) and 35<sup>th</sup> Street

**Commission District:** 2

**Current Zoning:** General Retail Commercial (BU-1)

**Background & Purpose**

The applicant is requesting to amend the Future Land Use designation from Residential 15 (RES 15) to Community Commercial (CC) on 0.52 acres to allow for redevelopment of the subject property with a 3-story mixed use building (including commercial retail, resort dwellings, and a restaurant). The applicant has provided a concept plan which has not been vetted by staff for meeting Land Development Regulations and is for discussion purposes only.

The subject property currently has a Future Land Use designation of RES 15 and is developed with one structure (built in 1958) that was formerly utilized as a nightclub/bar (a non-conforming use). The original future land use that was adopted with the Comprehensive Plan in September of 1988 was Residential land use and Urban residential density (30 dwelling units per acre maximum) which did not take into account the existing development on the subject property.

The current zoning of the subject property (BU-1) was established prior to the adoption of the 1988 Comprehensive Plan and is not consistent with the adopted Future Land Use designation (RES 15). BU-1 zoning is consistent with Community Commercial (CC) Future Land Use. There is no companion rezoning application accompanying this request as it is not required.

## Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Multi-Family	RU-2-15	RES 15
<b>South</b>	Multi-Family	RU-2-15	RES 15
<b>East</b>	Multi-Family, Motel/Motor Lodge	RU-2-15, RU-2-30	RES 15
<b>West</b>	Multi-Family, Single-Family Residence	RU-2-15	RES 15

The subject property is surrounded by multi-family development to the north, south, east and west. In addition to multi-family development, a motel/motor lodge is located to the east and a single-family residence is located to the west.

## 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.

### 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 foresee ably be affected by the proposed use;

**The applicant intends to redevelop the subject property as a 3-story mixed use building (to include commercial retail, resort dwellings, and a restaurant). The effects of lighting, site activity and traffic will be evaluated at the time of site plan review.**

- 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;

**While this segment of S. Atlantic Avenue (State Road A1A) has a historical pattern of mostly urban density residential land use, the intersection where the subject property is located (S. Atlantic Avenue and 35<sup>th</sup> Street) has historically been utilized as commercial since the mid-1970s and is currently commercial on three corners of the intersection.**

**Specifically, at the northwest corner of the intersection, the subject property retains BU-1 zoning (approved February 1976, Z-4020) and was formerly utilized as a commercial nightclub/cocktail lounge. A commercial retail store with BU-1 zoning (approved September 1976, Z-4116) is located at the southeast corner, and a commercial motel/motor lodge (structure built in 1956) is located at the northeast corner.**

**The proposed mixed use commercial and residential use of the subject property (including retail, resort dwellings, and a restaurant) can be considered consistent with the historical and existing pattern of surrounding development.**

**Mixed use commercial and residential use is regulated under Section 62-2106 of the Brevard County Code of Ordinances and caps density of the residential component based on the Future Land Use designation as described in Policy 2.10 of the Future Land Use Element of the Comprehensive Plan.**

**FLUE Policy 2.10 states that the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. In the Coastal High Hazard Area (CHHA), residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street.**

**The subject property is located within the CHHA, and therefore the density of the residential component of the proposed project would be limited to 15 dwelling units per acre as RES 15 is the closest FLU designation on the same side of the street.**

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

**There has not been any actual development within 0.2 miles of the subject property in the preceding three (3) years.**

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

**There has been one (1) development approval within 0.2 miles of the subject property for a new single family residential duplex within the past three (3) years that has not yet been constructed (20BC09547).**

## **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 0.52 acre parcel has frontage on S. Atlantic Avenue (SR A1A) to the east and frontage on 35<sup>th</sup> Street to the south.**

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

**The subject property is adjacent to RES 15 to the north, south (across 35<sup>th</sup> Street), east (across S. Atlantic Avenue), and west. Inter-connectivity to the adjacent properties should be considered in the site design phase and reviewed at site plan.**

- C. Existing commercial development trend in the area;

**Existing commercial development at the intersection where the subject property is located includes a retail store at the southeast corner and a motel/motor lodge at the northeast corner. These existing commercial uses are considered non-conforming to the Future Land Use, as is the subject property.**

**Additional commercial activity along S. Atlantic Avenue (SR A1A) within one-half (1/2) mile of the subject property includes mixed use commercial residential (approximately 843 ft north), a restaurant approximately 1,564 ft north), and another restaurant (approximately 2,455 ft north).**

- 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 have been prompted by infrastructure improvements undertaken by the County.**
- E. Availability of required infrastructure at/above adopted levels of service;
- The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.**
- The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service.**
- F. Spacing from other commercial activities;
- This closest commercial activity along this segment of S. Atlantic Avenue (SR A1A) is a motel/motor lodge adjacent to the subject property to the east (across S. Atlantic Avenue) and a retail store located approximately 125 ft southeast of the subject property, across S. Atlantic Avenue. Additional commercial activity along S. Atlantic Avenue (SR A1A) within one-half (1/2) mile of the subject property includes mixed use commercial residential (approximately 843 ft north), a restaurant (approximately 1,564 ft north), and another restaurant (approximately 2,455 ft north).**
- G. Size of proposed commercial designation compared with current need for commercial lands;
- The subject parcel is 0.52 acres. Within one-half (1/2) mile of the subject property there are approximately 0.4 acres designated as CC and 5.3 acres designated as NC along S. Atlantic Avenue (State Road A1A).**
- 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.

**Redevelopment of the subject 0.52 acre site would not extend strip commercial development which is discouraged within the Future Land Use element of the Comprehensive Plan.**

## **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 0.52 acre subject parcel is located at an urban principle arterial and local road intersection.**

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

**Currently there is no Community Commercial (CC) Future Land Use designated at the intersection of S. Atlantic Avenue (SR A1A) and 35<sup>th</sup> Street. The applicant's request is for 0.52 acres of CC and would not exceed 40 acres at this intersection.**

- 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 next nearest CC cluster is approximately 0.8 miles north of the subject property along S. Atlantic Avenue (SR A1A).**

- 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 and will be reviewed at the time of site plan.**

- 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 overall subject site has the potential for a twenty-two thousand six hundred fifty one square foot (22,651 s.f.) building based on allowances in the comprehensive plan. The FAR of up to 1.00 is permitted for CC designated sites unaccompanied with a PUD zoning classification. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.**

## **Concurrency**

The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service.

A School Impact Analysis was not required for this application as this proposed project is not residential.

## **Environmental Resources**

Preliminary review of mapped resources indicates the following land use issues:

- Aquifer Recharge Soils
- Coastal High Hazard Area

- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing & Landscape Requirements

Please refer to the attached comments provided by the Natural Resources Management Department.

### **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.

### **For Board Consideration**

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



**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use (FLU) Review & Summary**  
**Item #22SS00002**

**Applicant:** Allen Engineering for OBC Realty

**FLU Request:** RES-15 to CC

**Note:** Applicant wants multi-use building: retail, resort dwelling, & restaurant.

**P&Z Hearing Date:** 5/9/22; **BCC Hearing Date:** 5/26/22

**Tax ID Nos:** 2521003 & 2521005

- 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
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing & Landscape Requirements

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**

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach-Urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. The project provides an opportunity to re-establish recharge of the aquifer. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Coastal High Hazard Area**

The entire project area is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation

as defined in Chapter 163, Florida Statute. The applicant may wish to incorporate aspects of resiliency/LID strategies at time of site plan design. Please feel free to contact NRM to discuss potential opportunities.

### **Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is located within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer 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.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. 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.

### **Land Clearing & Landscape Requirements**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.