

ORDINANCE NO. 22- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE TENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.05, 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 163.34 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 2022 as Plan Amendment 22S.05; 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 22S.05; 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

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 May 9, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.05, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on May 26, 2022, 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 22S.05; and

WHEREAS, Plan Amendment 22S.05 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.05 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 22S.05 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 22S.05, 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 Economic Opportunity, 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 ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Kristine Zonka, Chair

As approved by the Board on _____, 2022.

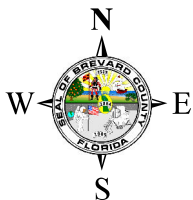
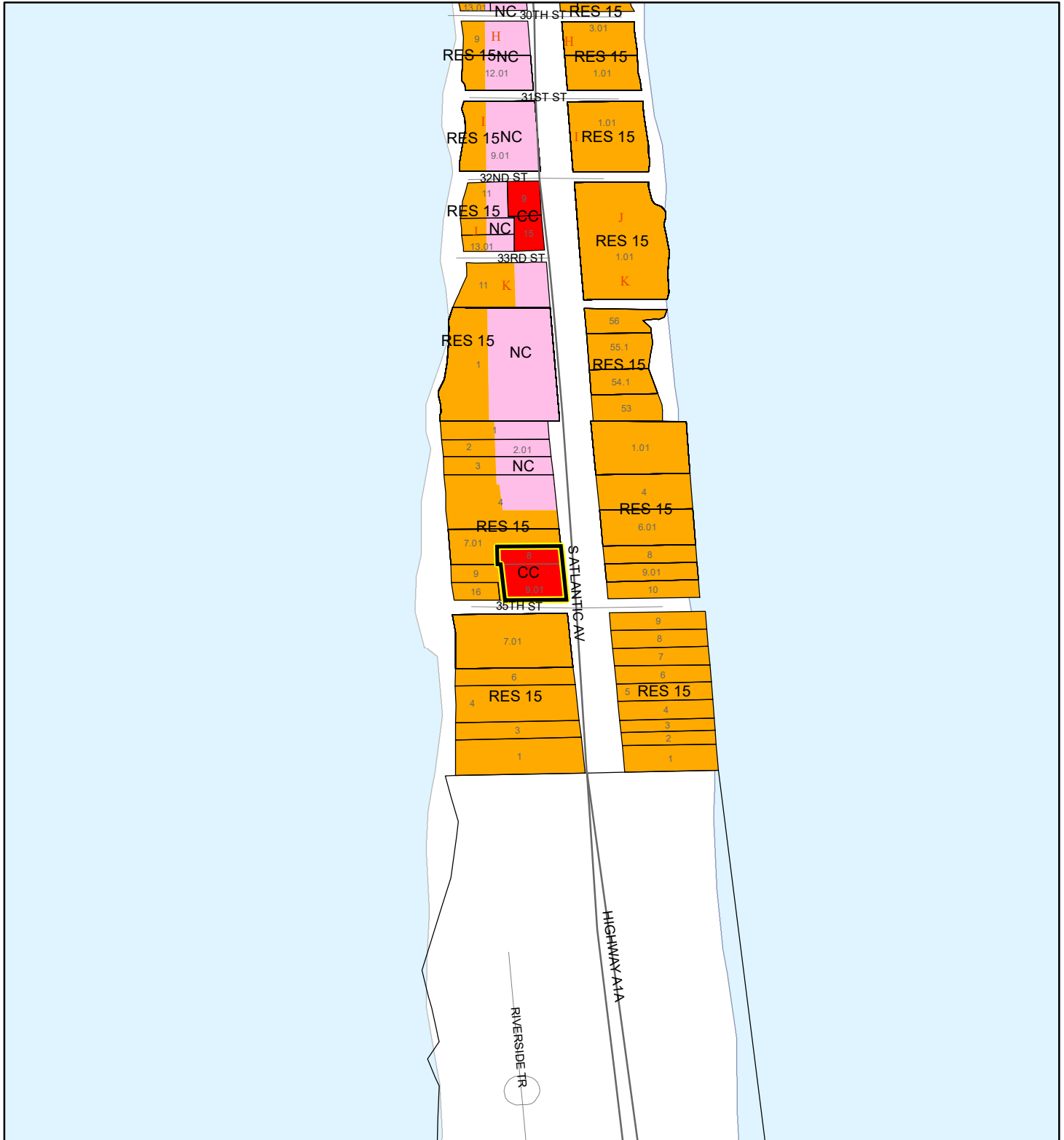
EXHIBIT A
22S.05 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents



1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

OBC REALTY, LLC
22SS00002 SMALL SCALE AMENDMENT 22S.05



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: 3/7/2022

EXHIBIT B

Contents

1. Legal Description

AD#5224435 04/21/2022

A PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on **MONDAY, MAY 9, 2022, and THURSDAY, MAY 26, 2022. DISTRICT 2 (225500001) CHARLES K. DONALDSON** requests a Small Scale Comprehensive Plan Amendment (225.04) to change the Future Land Use designation from RES 1 (Residential 1) to RES 4 (Residential 4), on property described as that portion of the following described parcel of land that lies west of Tropical Trail, the same being more particularly described as follows: A parcel of land lying in Section 22, Township 24S, Range 36E, Brevard County, Florida, being more particularly described as follows: Commence at the NE corner of the NW 1/4 of the NE 1/4 of said Section 22 (as established by "Croton River Estates", recorded in Plat Book 25, Page 10 of the Public Records of Brevard County, Florida), and run 500deg23'34"E, along the east line of said NW 1/4 of the NE 1/4 and along the east line of the SW 1/4 of the NE 1/4 a distance of 1,773.42 ft. to the SE corner of lands described in ORB 2246, Page 2437, of said public records, the point of beginning; thence continue 500deg23'34"E, along said east line, a distance of 238.92 ft. (or 3 chains/62 links as stated in Deed Book "X", Page 457); thence N89deg56'46"W, parallel with the north line of said Section 22 and along the north line of lands described in ORB 3151, Page 4903 of said public records, a distance of 1,237.47 ft. to the NW corner of said lands (said corner being located 400 ft. east of the "mean water level" for the Indian River as measured along the westerly extension of said line); thence perpendicular to said north line of Section 22, a distance of 109 ft. to the SW corner of said lands described in ORB 3151, Page 4903; thence N89deg56'46"W, parallel with said north line of Section 22, a distance of 345.41 ft. to a point on the aforementioned "mean water level" for the Indian River; thence return to the point of beginning, and run N89deg56'46"W, parallel with said north line and along the south line of lands described in ORB 2246, Page 2437, a distance of 583.31 ft. to a point on the centerline of pavement of 1 for N. Tropical Trail (a prescriptive right of way), said point being on a 404.40-ft. radius curve to the left having a radial bearing of N53deg41'59"E; thence southeasterly, along the arc of said curve and along said centerline and along said south line of lands of ORB 2246, Page 2437, thru a central angle of 15deg53'14", a distance of 112.13 ft. to a point of tangency; thence S50deg35'38"E, along said centerline and said south line, a distance of 11.06 ft.; thence departing said centerline, run N89deg56'46"W, parallel with said north line of Section 22 and along said south line of ORB 2246, Page 2437, a distance of 1,110.48 ft. to a point on the aforesaid "mean water level" off the Indian River; thence southeasterly, meandering said "mean water level", to an intersection with the fourth course of this description; less and except east 20 ft. thereof for right of way for Hill Avenue. Subject to right of way of N. Tropical Trail. (5.51 acres +/-) Located on the west side of N. Tropical Trail, approx. 500 ft. northwest of Easy Street. (1605 N. Tropical Trail, Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.04: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. (225500002) OBC REALTY, LLC requests a Small Scale Comprehensive Plan Amendment (225.05), to change the Future Land Use designation from RES 15 (Residential 15) to CC (Community Commercial), on property described as Lots 8 and 9.01, as recorded in ORB 8301, Pages 891 - 892, of the Public Re-

cords of Brevard County, Florida. Section 35, Township 25S, Range 37E. (0.52 acres) Located on the northwest corner of S. Atlantic Ave. and 35th St. (Lot 8 = No assigned address. Lot 9.01 = 3466 S. Atlantic Ave., Cocoa Beach) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.05: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. **DISTRICT 3 (22200012) CLIFTON THOMAS** (Clayton Bennett) requests a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) to RU-1-13 (Single-Family Residential), with a BDP (Binding Development Plan) limited to 1 unit, on property described as Lot 1, Block 9, Melbourne Shores First Addition, according to Plat Book 10, Page 87, of the Public Records of Brevard County, Florida. Section 14, Township 38S, Range 14E. (0.20 acres) Located on the west side of Highway A1A, approx. 170 ft. south of Ibis Dr. (5930 Hwy A1A, Melbourne Beach) **DISTRICT 1 (22200010) WILLIAM L. (JR.) AND SHARON R. FEAGAN** request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Tax Parcel 293, as recorded in ORB 8988, Pages 22 - 23, of the Public Records of Brevard County, Florida. (1 +/- acre) Section 24, Township 21S, Range 34E. Located on the east side of Turpentine Rd., approx. 550 ft. south of Wherry Rd. (No assigned address. In the Mims area.) **DISTRICT 5 (22200011) HEATH AND SHANNON MORGAN** request a change of zoning classification from RU-1-9 (Single-Family Residential) to SR (Suburban Residential), on property described as Lot 51.01, Block 14, City Acres, as recorded in ORB 5504, Pages 7196 - 7197, of the Public Records of Brevard County, Florida. Section 02, Township 28S, Range 36E. (0.69 acres) Located on the north side of Miami Ave., approx. 200 ft. east of City Acres Rd. (No assigned address. In the West Melbourne area.) **DISTRICT 1 (22200013) PR CORPORATE HOLDINGS, LLC, AND AKBLUE HOLDINGS, LLC** (Kim Fischer) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 253, as recorded in ORB 9419, Pages 1819 - 1820, of the Public Records of Brevard County, Florida. Section 29, Township 21S, Range 35E. (4.36 acres) Located on the north side of Diamond Rd., approx. 0.25 miles west of Old Dixie Hwy., Titusville. (3080 Diamond Rd., Titusville) **DISTRICT 2 (22PUD00001) HEALTH FIRST, INC., AND HEALTH FIRST SHARED SERVICES, INC.** (Kim Rezanka) requests a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to PUD (Planned Unit Development), with waivers, on property described as Tax Parcel 250.1, as recorded in ORB 3627, Pages 4856 - 4857, of the Public Records of Brevard County, Florida; Tax Parcels 251.2 & 258, as recorded in ORB 4651, Pages 1560 - 1562, of the Public Records of Brevard County, Florida; and Tax Parcel 276, as recorded in ORB 9414, Pages 1608 - 1610, of the Public Records of Brevard County, Florida. Section 36, Township 24S, Range 36E. (15.05 +/- acres) Located on the southwest corner of E. Merritt Ave., and Borman Dr. (255 Borman Dr., Units 100, 101, 200-202; 756 E. Merritt Ave., and 625 E. Merritt Ave., Merritt Island) 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, Bldg. C, Viera, Florida on **MONDAY, MAY 9, 2022, at 3:00 p.m.** A 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 26, 2022, at 5:00 p.m.** All interested parties can be heard at said time and place. If a person desires to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding 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. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. 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 needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.