

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 FIFTEENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.11, 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.11; 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.11; 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 August 15, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.11, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on September 1, 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.11; and

WHEREAS, Plan Amendment 22S.11 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.11 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.11 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.11, 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.

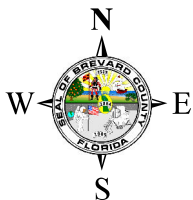
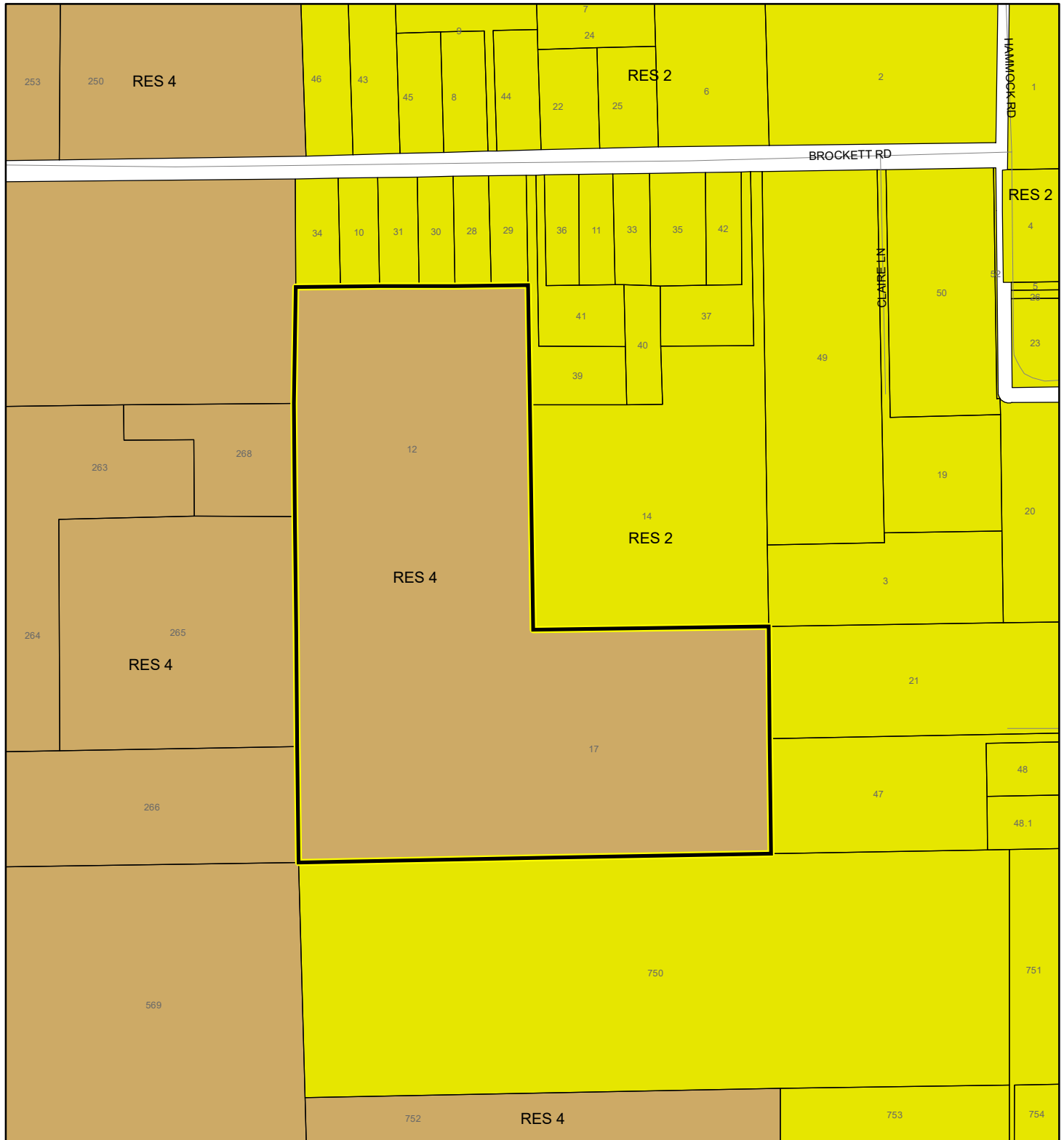
EXHIBIT A
22S.11 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents



1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert
22SS00008 Small Scale Amendment 22S.11



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: 6/13/2022

EXHIBIT B

Contents

1. Legal Description

Public Notice

Originally published at floridatoday.com on 07/28/2022

AD#5353656 7/28/2022 APUBLIC 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, AUGUST 15, 2022, and THURSDAY, SEPTEMBER 1, 2022. DISTRICT 1 1. (22Z00028) 2354 TALMADGE DRIVE, LLC (Aldon Bookhardt) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 5, as recorded in ORB 9500, Pages 2859 - 2860, of the Public Records of Brevard County, Florida. Section 17, Township 21, Range 35. (7.68 acres) Located on the north side of E. Main St., approx. 0.32 mile east of Harry T. Moore Ave. (No assigned address. In the Mims area.) 2. (22Z00032) CARLA THEADORA REECE requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 757, as recorded in ORB 6028, Pages 1817 - 1819, of the Public Records of Brevard County, Florida. Section 11, Township 24, Range 35. (7.21 acres) Located on the north side of James Rd., approx. 0.4 mile west of Cox Road. (4050 James Rd., Cocoa) DISTRICT 2 3. (22Z00033) DAREN T. AND REGINA M. DEMPSEY request a change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential), on property described as Tax Parcel 8, as recorded in ORB 9453, Pages 917 - 919, of the Public Records of Brevard County, Florida. Section 34, Township 23, Range 36. (1.41 acres) Located on the east side of N. Tropical Trail, approx. 120 ft. north of Citrus Club Dr. (4850 N. Tropical Trail, Merritt Island) DISTRICT 1 4. (22SS00007) ROBERT CLAY AND ETHYL MAY KIRK (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.10), to change the Future Land Use designation from REC (Recreation) to RES 4 (Residential 4), on property described as Tax Parcel 270, as recorded in ORB 8232, Pages 2256 - 2261, of the Public Records of Brevard County, Florida. Section 08, Township 21, Range 35. (2.12 acres) Located approx. 0.18 mile west of U.S. Highway 1, and approx. 0.37 mile south of Brockett Rd. (No assigned address. In the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.10: 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. 5. (22SS00008)

LYNN RIPPER; AND ROBERT CLAY KIRK AND ETHYLMAY KIRK (Chad Genoni) requests a Small Scale Comprehensive Plan Amendment (22S.11), to change the Future Land Use designation from RES 2 (Residential 2) to RES 4 (Residential 4), on property described as follows: Being a part of the NE 1/4 of Section 8, Township 21S Range 35E, Brevard County, Florida, being more particularly described as follows: beginning at the center of said Section 8, thence north 89deg21'19"E along the south line of the NE 1/4 of said Section 8, a distance of 1,345.23 ft.; thence departing said south line N01deg25'55"W along the east line of the SW 1/4 of the NE 1/4 of said Section 8, a distance of 647.91 ft. to an intersection with the north line of the south 1/2 of the SW 1/4 of the NE 1/4 of said Section 8; thence S89deg21'19"W along said north line, a distance of 674.19 ft. to an intersection with the east line of the NW 1/4 of the SW 1/4 of the NW 1/4 of said Section 8; thence N01deg03'27"W along said east line, a distance of 647.90 ft. to an intersection with the SE corner of the south 1/2 of the SW 1/4 of the NW 1/4 of the NE 1/4 of said Section 8; thence N01deg25'55"W along the east line of the south 1/2 of the SW 1/4 of the NW 1/4 of the NE 1/4 of said Section 8, a distance of 349.91 ft. to an intersection with the north line of the south 1/2 of the SW 1/4 of the NW 1/4 of the NE 1/4 of said Section 8; thence south 89deg06'25"W along said north line, a distance of 672.11 ft. to an intersection with the west line of the NE 1/4 of said Section 8; thence S01deg19'21"E along said west line, a distance of 1,642.81 ft. to an intersection with the south line of the NE 1/4 of said Section 8 and the point of beginning. (35.36 acres +/-) Located approx. 385 ft. south of Brockett Rd., and approx. .72 mile east of U.S. Highway 1. (No assigned address. In the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.11: 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. 6. (22Z00029) PAUL J. MARION, KIMBERLY ANN LAMATTINA, KAYLA MARIE LOSAT, AND JESSICA LYNN RIPPER; AND ROBERT CLAY KIRK AND ETHYLMAY KIRK (Chad Genoni) request a change of zoning classification from AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-Family Residential), and GML (Government Managed Lands), with an existing BDP (Binding Development Plan) on SR and RU-1-11 portions, to RU-1-7 with removal of existing BDP and adding a new BDP, on property described as Tax Parcels 12 & 265, as recorded in ORB 8804, Pages 1941 - 1943, of the Public Records of Brevard County, Florida; Tax Parcel 266, as recorded in ORB 5356, Page 1441, of the Public Records of Brevard County, Florida; Tax Parcel 17, as recorded in ORB 5379, Pages 3457 - 3459, of the Public Records of Brevard County, Florida; Tax Parcel 270, as recorded in ORB 8232, Pages 2256 - 2261, of the Public Records of Brevard County, Florida; Tax Parcel 109, as recorded in ORB 7325, Pages 1959 - 1960, of the Public Records of Brevard County, Florida. Section 08, Township 21, Range 35. (76.52 acres) Located on the south side of

an existing BDP (Binding Development Plan), in an AU (Agricultural Residential) zoning classification, on property described as follows: From the intersection of the centerline of Fleming Grant Rd. and the westerly boundary line of Sebastian River Estates, as recorded in Plat Book 11, Page 23, of the Public Records of Brevard County, Florida, and located in Section 20, Township 30S, Range 38E, run N.02deg15'54"W, along said westerly line, a distance of 1,388.70 ft.; thence run S89deg58'43"W, a distance of 2,678.00 ft. to a 5" x 5" concrete monument No. "Cramer 4094", said point being the point of beginning of the herein described parcel of land; thence run N.89deg58'43"E, a distance of 977.70 ft.; thence run S.02deg15'34"E, parallel with said westerly line, a distance of 398.47 ft.; thence run S.89deg58'42"W, parallel with the north line of said described parcel, a distance of 2,178.81 ft. to the easterly right-of-way line of Fleming Grant Rd.; thence N.12deg39'38"W, along said easterly right-of-way line, a distance of 408.05 ft. to a 1/2 " Rebar No. 3863 "Mott" at the SW corner of Lot 1, Kinney's Unrecorded Subdivision of Fleming Grant; run thence, departing said right-of-way line, S.89deg58'42"E, a distance of 1,274.88 ft., more or less, to the point of beginning of the herein described parcel of real property. Recorded in ORB 5855, Pages 1341 - 1342, of the Public Records of Brevard County, Florida. Section 20, Township 30G, Range 38. (20.25 acres) Located on the northeast corner of Fleming Grant Rd. and Hitchin Post Lane (9385 Fleming Grant Rd., Micco)

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, AUGUST 15, 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, SEPTEMBER 1, 2022, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides 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.