

ORDINANCE NO. 23- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SECOND SMALL SCALE PLAN AMENDMENT OF 2023, 23S.02, 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 2023 as Plan Amendment 23S.02; 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 23S.02; 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 April 17, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on May 4, 2023, 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 23S.02; and

WHEREAS, Plan Amendment 23S.02 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.02 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 23S.02 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 23S.02, 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 _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2023.

EXHIBIT A
23S.02 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

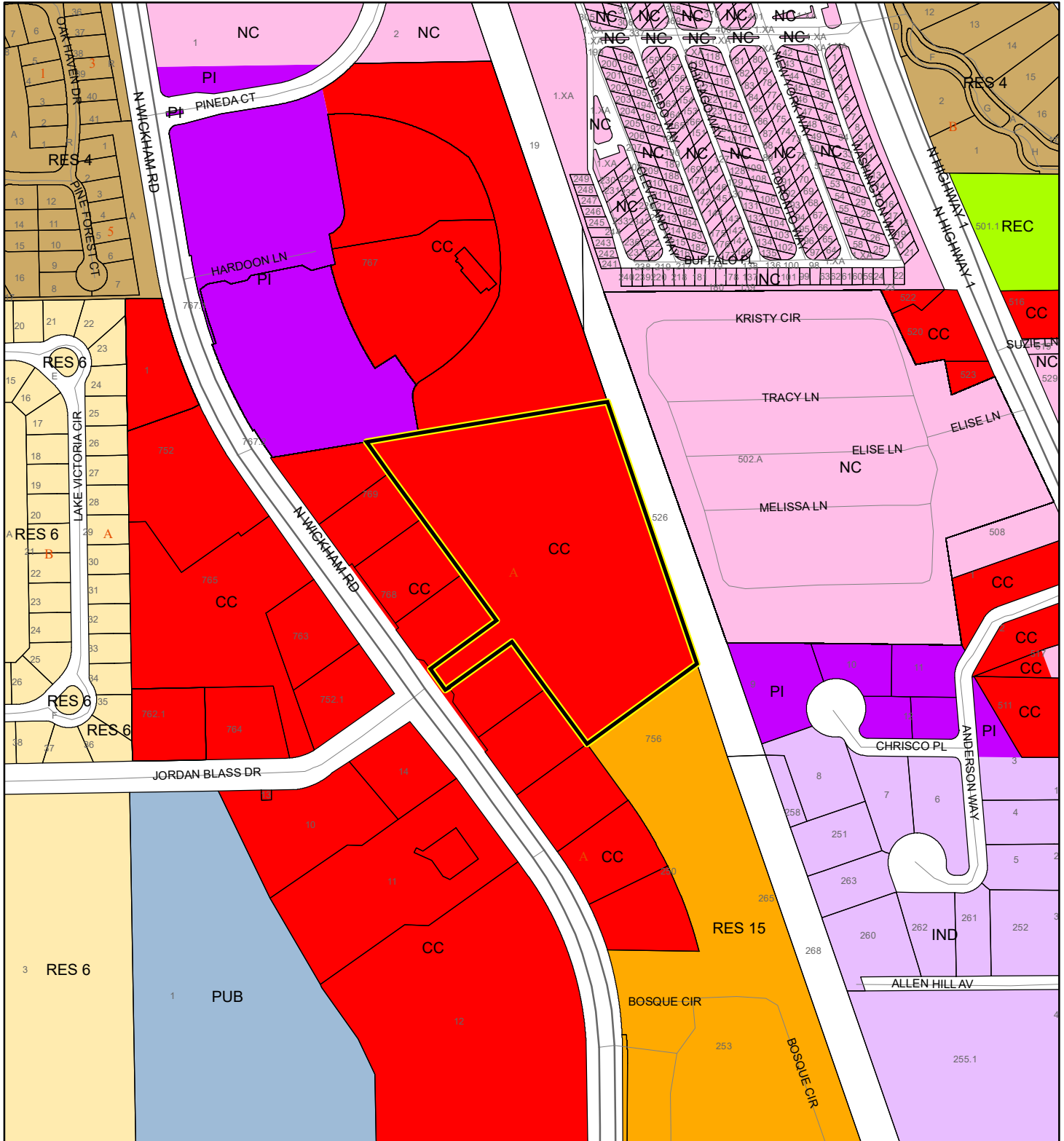
Contents

1. Proposed Future Land Use Map



PROPOSED FUTURE LAND USE MAP

FMKT MEL OWNER LLC

23SS00002



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: 3/24/2023

EXHIBIT B

Contents

1. Legal Description

 / View News

Public Hearing - Planning and Zoning Board / Local Planning Agency Meeting - April 17, 2023

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, APRIL 17, 2023, and THURSDAY, MAY 4, 2023.

DISTRICT 1

(22SS00013) Austin A. and Kailey R. Mahan request a Small Scale Comprehensive Plan Amendment (22S.15), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Tax Parcel 289, as recorded in ORB 9744, Pages 1859 - 1860, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35.** (.77 acres) Located on the north corner of U.S. Highway 1 and E.R. Smyth Dr., Mims. (No assigned address. In the Mims area.)

DISTRICT 1

(22Z00054) Austin A. and Kailey R. Mahan request a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 289, as recorded in ORB 9744, Pages 1859 - 1860, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35.** (.77 acres) Located on the north corner of U.S. Highway 1 and E.R. Smyth Dr., Mims. (No assigned address. In the Mims area.)

DISTRICT 1

(23Z00010) Matthew and Christine Morak request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as Lot 7, Block 3, Indian River Park, as recorded in ORB 9527, Pages 442 - 443, of the Public Records of Brevard County, Florida. **Section 20, Township 20G, Range 35.** (2.22 acres) Located on the north side of Burkholm Rd., approx. 0.38 mile east of U.S. Highway 1 (3660 Burkholm Rd., Mims)

DISTRICT 3


(23Z00011) Rebecca and Allen Potter request a change of zoning classification from RR-1 (Rural Residential) and AU (Agricultural Residential) to all AU, on property described as Tax Parcel 265, as recorded in ORB 9676, Pages 823 - 825, of the Public Records of Brevard County, Florida. **Section 11, Township 30, Range 38.** (3.53 acres) Located on the east side of U.S. Highway 1, approx. 0.24 mile north of Barefoot Bay Blvd. (7660 U.S. Highway 1, Micco)

DISTRICT 1

(22Z00056) Melanie Rondeau and Zackry Corter request a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as the north 100 ft. of the south 290 ft. of the west 413 ft. of Tract 4, Block 7, Section 3, Township 20S, Range 34E, of Indian River Park, according to the Plat thereof, as recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida. (1 acre) Located on the east side of Blounts Ridge Rd., approx. 835 ft. north of Patty Ln. (No assigned address. In the Mims area.)

DISTRICT 1

(22SS00017) Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) requests a Small Scale Comprehensive Plan Amendment (22S.20), to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC (Community Commercial), on property described as Lots 10 - 13, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Pages 292 - 293, of the Public Records of Brevard County, Florida; Lot 14, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 289, of the Public Records of Brevard County, Florida; and Lot 16, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 288, of the Public Records of Brevard County, Florida. **Section 01, Township 24, Range 35.** (8.89 +/- acres) Located on the east side of Grissom Parkway, approx. 0.68 miles south of Canaveral Groves Boulevard. (No assigned address. In the Cocoa area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.20: 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.

(22Z00073) Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) requests a change of zoning classification from GU (General Use) to BU-2 (Retail Warehousing, and Wholesale Commercial), on property described as Lots 10 - 13, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Pages 292 - 293, of the Public Records of Brevard County, Florida; Lot 14, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 289, of the Public Records of Brevard County, Florida; and Lot 16, Block 12, Canaveral Groves Subdivision, as recorded in ORB 9653, Page 288, of the Public Records of Brevard County, Florida. 

the Public Records of Brevard County, Florida. **Section 01, Township 24, Range 35.** (8.89 +/- acres) Located on the east side of Grissom Parkway, approx. 0.68 miles south of Canaveral Groves Boulevard. (No assigned address. In the Cocoa area.)

DISTRICT 1

(22S500014) Norman Leigh Sherman, Jr., and Karen Denise Turowski request a Small Scale Comprehensive Plan Amendment (22S.17) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1:2.5 (Residential 1:2.5), on property described as Lot 4.02, Block 2, Indian River Park, as recorded in ORB 9701, Pages 600 - 603, of the Public Records of Brevard County, Florida (3.53 +/- acres); and AGRIC to RES 1 (Residential 1), on property described as Lot 4.03, Block 2, Indian River Park, as recorded in ORB 9701, Pages 604 - 607, of the Public Records of Brevard County, Florida (1 acre). Section 22, Township 20G, Range 34. (4.53 +/- acres total) Located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 22S.18: 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 1

(23Z00016) Norman Leigh Sherman and Karen Denise Turowski request a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to AU (Agricultural Residential), on property described as Lot 4.02, Block 2, Indian River Park, as recorded in ORB 9701, Pages 600 - 603, of the Public Records of Brevard County, Florida. **Section 22, Township 20G, Range 34.** (3.53 +/- acres) Located on the south side of Pine Needle St., approx. 300 ft. east of Hog Valley Rd. (4791 Pine Needle St., Mims)

DISTRICT 1

(23Z00006) David C. Ramage and Cynthia R. Ramage Trust (Jack Kirschenbaum) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 298, as recorded in ORB 8486, Pages 1787 - 1791, of the Public Records of Brevard County, Florida. **Section 17, Township 21, Range 35.** (4.83 acres) Located on the east side of U.S. Highway 1, approx. 0.23 mile north of E. Main St. (2615 U.S. Highway 1, Mims)

DISTRICT 4

(23Z00009) Ranger Storage, LLC (Jim Trauger) requests an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Lots 1 - 6, Block 20, plus the N ½ of the vacated streets on the south, Plat of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida. AND Lots 7 - 16, inclusive, Block 20, Plat of Town of Pineda, as per plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida. **Section 12, Township 26, Range 36.** (2.21 +/- acres) Located on the south side of Freeman Lane, approx. 480 ft. east of Waelti Dr. (3335 Freeman Lane, Melbourne)

DISTRICT 4

(23S500002) FMKT Mel Owner, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment (23S.02), to change the Future Land Use designation from PI (Planned Industrial) and CC (Community Commercial), to all CC, on property described as a part of Lot 7, Pineda Landings, according to the Plat thereof, as recorded in Plat Book 61, Pages 45 - 48, of the Public Records of Brevard County, Florida, more particularly described as follows: commence at the intersection of the NW corner of Lot 6 of said Plat of Pineda Landings and the easterly right-of-way line of Wickham Rd.; thence run N80deg32'04"E along the north line of said Lot 6, a distance of 278.20 ft. to the NW corner of said Lot 7 for the point of beginning; thence the next 10 courses and distances run along the boundary of said Lot 7; run N80deg32'04"E, a distance of 699.66 ft.; thence run S18deg50'32"E, a distance of 792.27 ft.; thence run S53deg54'42"W, a distance of 390.59 ft.; thence run N36deg05'18"W, a distance of 362.50 ft.; thence run S53deg54'52"W, a distance of 223 ft.; thence run N36deg05'18"W, a distance of 1.29 ft.; thence run S53deg54'42"W, a distance of 12 ft.; thence run N36deg05'18"W, a distance of 73.71 ft.; thence run N53deg54'42"E, a distance of 235 ft.; thence run N36deg05'18"W, a distance of 632.68 ft. to the point of beginning. **Section 13, Township 26, Range 36.** (11.48 acres) Located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.)

DISTRICT 4

(23Z00008) FMKT Mel Owner, LLC (Bruce Moia) 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) on property described as a part of Lot 7, Pineda Landings, according to the Plat thereof, as recorded in Plat Book 61, Pages 45 - 48, of the Public Records of Brevard County, Florida, more particularly described as follows: commence at the intersection of the NW corner of Lot 6 of said Plat of Pineda Landings and the easterly right-of-way line of Wickham Rd.; thence run N80deg32'04"E along the north line of said Lot 6, a distance of 278.20 ft. to the NW corner of said Lot 7 for the point of beginning; thence the next 10 courses and distances run along the boundary of said Lot 7; run N80deg32'04"E, a distance of 699.66 ft.; thence run S18deg50'32"E, a distance of 792.27 ft.; thence run S53deg54'42"W, a distance of 390.59 ft.; thence run N36deg05'18"W, a distance of 362.50 ft.; thence run S53deg54'52"W, a distance of 223 ft.; thence run N36deg05'18"W, a distance of 1.29 ft.; thence run S53deg54'42"W, a distance of 12 ft.; thence run N36deg05'18"W, a distance of 73.71 ft.; thence run N53deg54'42"E, a distance of 235 ft.; thence run N36deg05'18"W, a distance of 632.68 ft. to the point of beginning. **Section 13, Township 26, Range 36.** (11.48 acres) Located on the east side of N. Wickham Rd., approx. .20 miles south of Pineda Ct. (In the Melbourne area.)

DISTRICT 5

(23Z00007) Mehran Ghaeenezadeh (Scott Glaubitz) requests a change of zoning classification from BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of the existing BDP, on property described as Tax Parcel 750, as recorded in ORB 8423, Pages 2213 - 2214, of the Public Records of Brevard County, Florida. **Section 02, Township**

28, Range 36. (8.87 acres) Located on the south side of W. New Haven Ave., approx. 250 ft. east of New York St. (3865 W. New Haven Ave., Melbourne)

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, APRIL 17, 2023, 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 4, 2023, 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.

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Brevard County Board of County Commissioners

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Viera, FL 32940

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