

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 20S.03 (20PZ00031)
Township 26, Range 37, Section 32

Property Information

Owner / Applicant: 4090 US 1, LLC

Adopted Future Land Use Map Designation: Residential 15 (RES 15) and
Neighborhood Commercial (NC)

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

Acreage: .68 acres **Tax Account #:** 2611636

Site Location: West side of U.S. Highway 1, approximately 430 feet north of Post Road.

Current Zoning: Single-Family Residential (RU-1-7), Medium-Density Multiple-Family
Residential (RU-2-10), and General Retail Commercial (BU-1)

Requested Zoning: General Retail Commercial (BU-1)

Background & Purpose

The applicant is seeking to amend two (2) portions of an overall parcel of .92 acres from the Future Land Use designations of Residential 15 (RES 15) and Neighborhood Commercial (NC) to Community Commercial (CC). The western portion of the overall parcel is .42 acres with a Future Land Use designation of RES 15 and the northeast portion is .26 acres with a Future Land Use of NC. The remainder of the property has a CC Future Land Use designation.

The subject property currently has three (3) Future Land Use designations of RES 15, NC and CC. This occurred as a result of the widening of U.S. Highway 1 and taking of said property.

At the time of the widening of this segment of U.S. 1, the Board of County Commissioners directed Planning and Zoning staff to complete an examination of both the existing and future land uses within the unincorporated areas along this section of U.S. 1. The request was to evaluate a Future Land Use change from RES 15 to CC or NC.

Because of the diverse nature of the area, the two (2) focal points of the study were to examine compatibility issues between existing commercial lands and established residential areas and to address the depth of commercial lands along the west side of U.S. 1.

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. Highway 1. Because of the right-of-way (ROW) acquisition, the current CC and NC designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use. The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The CC Future Land Use designation provides an array of retail, personal and professional uses intended to serve several neighborhoods, sub-regional and regional areas.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change from Single-Family Residential (RU-1-7), Medium-Density Multiple-Family Residential (RU-2-10), and General Retail Commercial (BU-1).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Dog Kennel	RU-1-7 & BU-1	RES 15 & CC
South	Three (3) Single-Family Residences	RU-1-7 & BU-1	RES 6 & CC
East	Across Highway 1, four (4) Single-Family Residences	RU-1-9 & BU-1	RES 6 & CC
West	One (1) Single-Family residence	AU, GU	RES 15

To the north of the subject property is a commercial building that has an existing dog kennel, to the east across U.S. 1, are four (4) single-family residences, to the south are three (3) single-family residences and to the west is one (1) single-family residence.

Environmental Resources

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

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.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

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 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 .68 acre portion of the overall .92 acre parcel has frontage on U.S. Highway 1, an urban principal arterial roadway which runs north and south.

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

The subject .68 acre portion of the overall .92 acre parcel is adjacent to Community Commercial (CC) land to the north, south and east across U.S. Highway 1. To the west of the subject parcel there is a Residential 15 (RES 15) Future Land Use designation.

The parcel to the north has an existing dog kennel. Inter-connectivity could be provided between the subject parcel to the commercial parcel to the north. The parcels to the east, south and west have existing single-family residences. No inter-connectivity could be provided to the parcel to the south which has a NC Future Land Use designation.

- C. Existing commercial development trend in the area;

The existing commercial uses have been in existence since as early as 1979. There are no established trends for this area.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

- E. Availability of required infrastructure at/above adopted levels of service;

The subject parcel can be served by potable water and sewer by the City of Melbourne.

The .68 acre portion of the overall .98 acre parcel has direct access to U.S. Highway 1. Approximately 430' of the subject parcel is the intersection of U.S. Highway 1 and Post Road. U.S. Highway 1 is an urban principal arterial roadway and Post Road is an urban major collector roadway. Currently this section of U.S. Highway 1 is operating at a level of service (LOS) of C. The additional impact to the roadway resulting from this development would lower the acceptable level of service to E.

- F. Spacing from other commercial activities;

The segment of U.S. Highway 1 was designated as a commercial corridor through the Future Land Use Map that was adopted in September of 1988.

- G. Size of proposed commercial designation compared with current need for commercial lands;

The FLU designation change from RES 15 and NC is proposed on a .68 acre portion of the overall .98 acre parcel of land is Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan. Community commercial development is intended to serve several neighborhoods and provide commercial uses.

- 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.

The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for property with a FLU designation of CC. Infill within established strip commercial areas is preferred over the extension of a strip commercial pattern. The subject property would be considered infill within an established strip commercial area and would not be considered an extension of the strip commercial pattern and not contiguous to existing CC.

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;

This segment of U.S. Highway 1 serves as a commercial corridor along this urban principal arterial roadway. This commercial corridor serves several neighborhoods, sub-regional and regional areas.

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.

This commercial corridor along U.S. Highway 1 is not located at an arterial/arterial intersection and is not considered a commercial cluster. This is commercial corridor intended to serve neighborhoods, sub-regional and regional areas with commercial services.

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

The subject site is not located at an 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 subject site is 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.

The gross floor area is regulated through the land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for a 40,075 square foot building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

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) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
1. historical land use patterns;

There is a historical land use pattern of commercial along this section of U.S. Highway 1 from Post Road to Pineda Causeway to the north. The majority of Future Land Use designations are NC and CC with some intermittent Residential 6 (RES 6) to the east across U.S. Highway 1.

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

There has not been any actual development within the preceding three (3) years.

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

There have been no development approvals within the past three (3) years that have not yet been constructed.

- B. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

The proposed use would not result in a material violation of the relevant policies in any elements of the Comprehensive Plan.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from RES 15 and NC to CC on a .68 acre portion of an overall .92 acre parcel of land. This area of Unincorporated Brevard County is comprised of mainly commercial development along the U.S. Highway 1 corridor between Palm Shores to the north and the City of Melbourne to the south.

On December 6, 2005, the Board of County Commissioners adopted Comprehensive Plan Amendment 2005A.5. The amendment proposed to maintain at least a two hundred feet (200') deep strip of CC and NC land uses on the western side of U.S. Highway 1. Because of the right-of-way (ROW) acquisition, the current CC and NC

designations needed to be extended westward approximately one hundred (100) to two hundred (200) feet to preserve the pre-widening depth of commercial land use. The amendment area was designated for commercial uses since the inception of the Future Land Use Map (FLUM) in 1988.

The Board may wish to consider adopting the requested Future Land Use designation of CC on the entire .68 portion of the total .92 acre parcel in order to be consistent with the adopted Comprehensive Plan Amendment 2005A. This amendment proposes to maintain a 200' deep strip of CC or NC land uses on the western side of U.S. Highway 1. This land use change to CC would extend approximately seventy-one (71') feet into the portion of the parcel that has a Future Land Use designation of RES 15. The RES 15 portion would be reduced to a size not suitable for residential use.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use Review & Summary
Item # 20PZ00031

Applicant: Scott Lamb

Future Land Use Request: RES-15, NC to CC

Note: Applicant wants BU-1 zoning

P&Z Hearing Date: 06/15/20; **BCC Hearing date:** 07/09/20

Tax ID No: 2611636

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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:

- Wetlands
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

Information available to NRM indicates that impacts to previously existing wetlands may have occurred between 2003 and 2004 when the site was filled. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands

Information available to NRM indicates that wetlands may be present on the property. Aerials indicate the site was filled in 2003 and 2004, and may have impacted wetlands. A wetland determination/delineation will be necessary prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR. 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 wetland impact avoidance, minimization and mitigation requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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.

Protected and Specimen Trees

Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A landscape plan and mitigation requirements will be required at time of site plan permit application submittal. 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. Land clearing is not permitted without prior authorization by NRM.