

ORDINANCE NO. 21- \_\_\_\_

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2021, 21S.03, 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 2021 as Plan Amendment 21S.03; 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 21S.03; 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 July 12, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 21S.03, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 5, 2021, 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 21S.02; and

WHEREAS, Plan Amendment 21S.03 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 21S.03 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 21S.03 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 21S.03, 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 \_\_\_\_\_, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk

By: \_\_\_\_\_  
Rita Pritchett, Chair

As approved by the Board on \_\_\_\_\_, 2021.

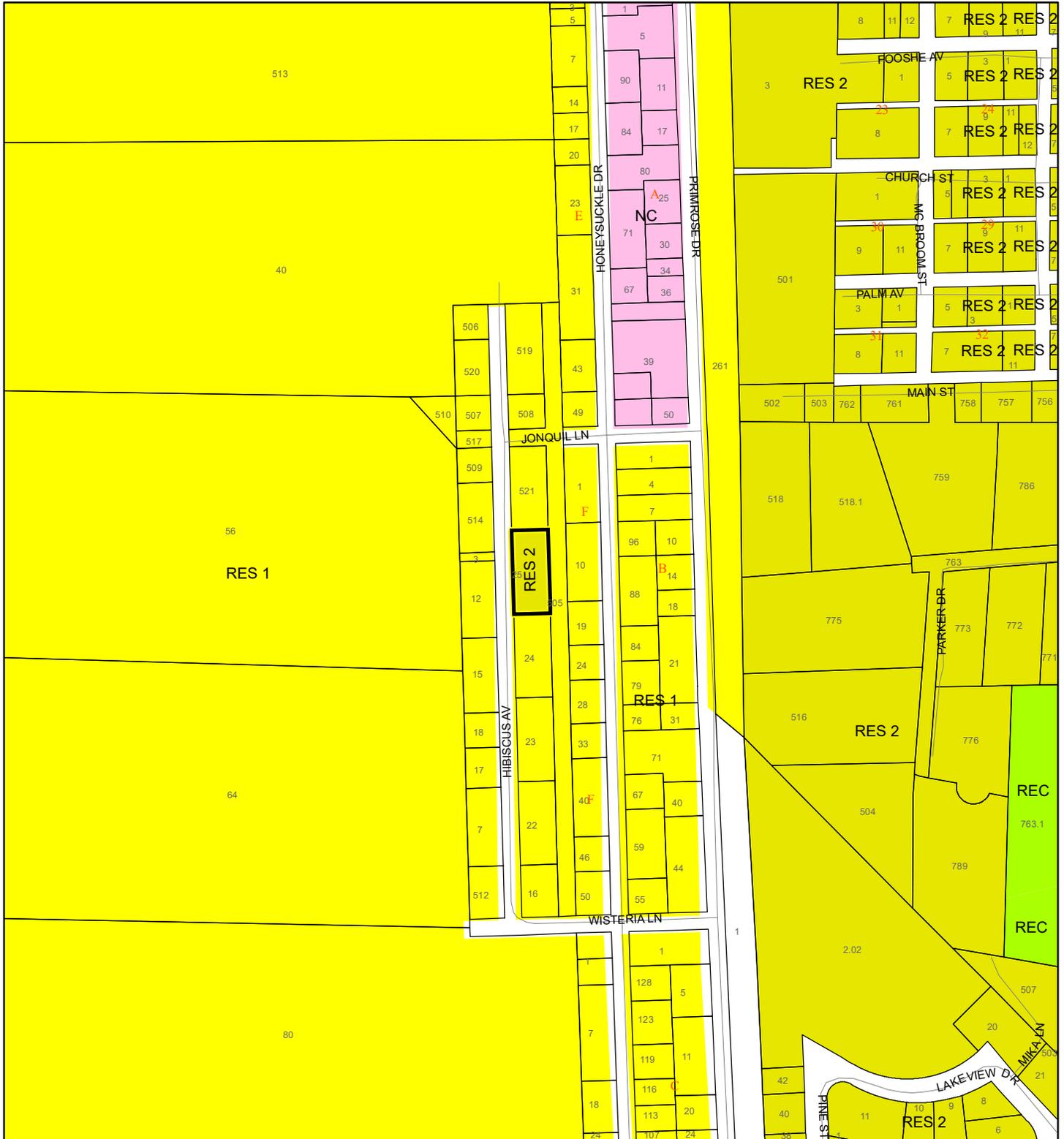
**EXHIBIT A**  
**20S.03 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**

**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

LYSTLUND, TIMOTHY AND DIANE  
21PZ00026 SMALL SCALE AMENDMENT 21S.03



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: 4/21/2021

## **EXHIBIT B**

### **Contents**

#### **1. Legal Description**

## 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, JULY 12, 2021, and THURSDAY, AUGUST 5, 2021.**

**DISTRICT 4 1. (21Z00012) CBH PROPERTIES MELBOURNE, LLC** (Bruce Moia) requests a change of classification from BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and an amendment to the existing BDP, on property described as Lot 1, Block A, Oakwood Landing Commercial, according to the Plat thereof, as recorded in Plat Book 68, Page 27, of the Public Records of Brevard County, Florida. **Section 19, Township 26, Range 37** (1.15 acres) Located on the east side of N. Wickham Rd., approx. 0.13 mile south of Jordan Blas Dr. (6315 N. Wickham Rd., Melbourne) **DISTRICT 1 2. (21Z00017) JOSHUA E. MOTTA AND VIRGINIA L. RYMER** request a change of zoning classification from GU (General Use) to AU (Agricultural Residential), on property described as Lot 11, Block 12, Canaveral Groves Subdivision, as recorded in ORB 8990, Pages 300 - 301, of the Public Records of Brevard County, Florida. **Section 33, Township 23, Range 35** (2.23 acres) Located on the west side of Fishtail Palm Ave., approx. 181 feet north of Cabbage Palm St. (5340 Fishtail Palm Ave., Cocoa) **DISTRICT 3 3. (21PZ00026) TIMOTHY AND DIANE LYSTLUND** request a Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 1 (Residential 1) to RES 2 (Residential 2), on property described as Lot 25, Block HM, Camerons 500 A Tract, as recorded in ORB 8669, Page 2237, of the Public Records of Brevard County, Florida. **Section 20, Township 30G, Range 38** (0.55 acres) Located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Mico) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 21S.03: 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. **4. (21Z00014) TIMOTHY AND DIANE LYSTLUND** request a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) on property described as Lot 25, Block HM, Camerons 500 A Tract, as recorded in ORB 8669, Page 2237, of the Public Records of Brevard County, Florida. **Section 20, Township 30G, Range 38** (0.55 acres) Located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Mico) **DISTRICT 2 5. (21Z00015) SCHWAB CONSTRUCTION GROUP, INC.** (Daniel Lee Schwab) requests a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential), on property described as Tax Parcel 9, as recorded in ORB 8937, Pages 407 - 408, of the Public Records of Brevard County, Florida. **Section 35, Township 24, Range 36** (0.94 acres) Located on the southeast corner of Palmetto Ave. and Burnwood Dr. (141 Burnwood Dr., and 165 Palmetto Ave., Merritt Island) **6. (21Z00018) 395 EAST, LLC** (Alex Berkovich) requests a change of zoning classification from SEU (Suburban Estate Use Residential) to EU (Estate Use Residential), on property described as Tax Parcel 31, as recorded in ORB 8888, Page 1802, of the Public Records of Brevard County, Florida. **Section 24, Township 25, Range 36** (6.33 acres) Located on the southwest corner of Curry Dell Ln., and S. Courtenay Pkwy. (No assigned address. In the Merritt Island

area.) **DISTRICT 5 7. (21PZ00030) 4090 AURORA PINES, LLC** (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6), on property described as Lots E, F, and I, Mosley Gardens, a subdivision according to the plat thereof, recorded in Plat Book 10, Page 40, of the Public Records of Brevard County, Florida. **Section 14, Township 27, Range 36** (6.21 acres) Located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 21S.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.

**8. (21Z00016) 4090 AURORA PINES, LLC** (Bruce Moia) requests a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home), on property described as Lots E, F, and I, Mosley Gardens, a subdivision according to the plat thereof, recorded in Plat Book 10, Page 40, of the Public Records of Brevard County, Florida. **Section 14, Township 27, Range 36** (6.21 acres) Located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) **DISTRICT 1 9. (21Z00013) GARY E. AND JOANNA L. MILLS** request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as follows: Part of Tracts 2 & 3, Block 7, Section 21, Indian River Park, as recorded in Plat Book 2, Page 33, Public Records of Brevard County, Florida; being more particularly described as follows: Commence at the northwest corner of said Tract 2; thence N78deg58'29"E, along the north line of said Tract 2, also being the south right-of-way line of a 30-ft. road right-of-way as shown on said Plat of Indian River Park and being vacated in Deed Book 428, Page 539 of the Public Records of Brevard County, Florida, a distance of 8 ft. to the point of beginning of this description and the NW corner of property described in ORB 4193, Page 2777, Public Records of Brevard County, Florida; thence S17deg01'31"E, along the west line of said property described in ORB 4193, Page 2777, 173 ft.; thence S1deg19'29"W, 54 ft.; thence S39deg39'01"W, 124.31 ft. to the former easterly right-of-way line of the FECRR branch line (A 100-ft. right-of-way); thence S73deg30'29"W along said right-of-way line, 17.84 ft.; thence N34deg09'31"W, along said railroad right-of-way (A 66-ft. right-of-way), 348.28 ft. to the center line of said vacated 30-ft. road right-of-way; thence N78deg58'29"E, along said center line, 242.64 ft.; thence S17deg01'31"E, 15.08 ft. to the point of beginning. **Section 21, Township 20G, Range 34**. Containing 1.26 acres, more or less. Located on the south side of Arlington Ave., approx. 0.25 mile west of Cushman Dr. (4257 Arlington Ave., Mims) 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, JULY 12, 2021, 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, AUGUST 5, 2021, 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 with respect to any matter considered at these meetings or hearings, such a person will need a record of the proceedings 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



## Legal Notices

accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director, By: Jennifer Jones, Special Projects Coordinator.