



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00065

Jerry W. Solomon and Violet S. Solomon Revocable Trust

BU-1 (General Retail Use) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2102130
Parcel I.D.: 21-35-06-00-774
Location: East side of Highway 1 and approx. 0.21 miles north of Brockett Rd.
(District 1)
Acreage: 2.88 acres

Planning & Zoning Board: 2/13/2023

Board of County Commissioners: 3/2/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1	BU-2
Potential*	125,452.8 square feet	125,452.8 square feet
Can be Considered under the Future Land Use Map	Yes Community Commercial	Yes Community Commercial

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing and Wholesale Commercial) to build a boat, vehicle and RV outdoor storage facility. The BU-2 zoning classification requires a building of at least 300 sq. ft. as their principle structure.

The applicant is proposing both open storage bays as well as under roof storage areas. Subject property is between Old Dixie Highway to the east and US Highway 1 to the west. This would be an introduction of the BU-2 zoning classification in the immediate area which is the highest intensity of commercial zoning.

The subject parcel has gone through two zoning classification changes. It was rezoned through Zoning Resolution **Z-5947** in March 1982 from AU to TR-1 and AU. Then per Zoning Resolution **Z-10456** it was rezoned from TR-1 and AU to BU-1 on September 21, 2000.

Land Use

The subject property contains the Community Commercial (CC) FLUM designation. Both the existing BU-1 and proposed BU-2 zoning classifications are consistent with the CC FLUM designation.

Applicable Land Use Policies

Role of Zoning Regulations in the Designation of Commercial Lands

FLU Policy 2.2

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;
The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chainlink fence.
- B. Existing commercial zoning trends in the area;
There have not been any commercial zoning trends in the immediate area
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
This zoning classification change could be considered to be consistent with the immediate surrounding area as this is along a commercial and residential corridor. The primary zoning classification in the surrounding area is BU-1 which is the current zoning classification of the subject property.
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property has access to County potable water and sewer directly to the northeast side on Old Dixie Highway. It is not anticipated to have an impact on the LOS for potable water service, sanitary sewer or solid waste disposal due to the proposal being for a storage facility.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

The following land use issues were identified:

- **Aquifer Recharge**
- **Protected and Specimen Trees**
- **Protected Species**

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations FLUE 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;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant's proposed use can be considered consistent with these commercial and residential uses.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

This request proposes a outdoor storage of boats, vehicles and RV's which may be in operation 24 hours a day, 7-days a week. Hours of operation, noise levels, and traffic operations will need to be addressed through site planning to minimize the potential effects upon the neighborhood and adjacent commercial activities.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. 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;

Over the past 20 years this area has been historically commercial. Prior to 2000 the area was mainly zoned for single-family mobile homes.

- 2. actual development over the immediately preceding three years; and

There has been development within the Indian River Preserve PDP (22PUD00005) area for dwelling units in the preceding three (3) years.

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

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

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

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The subject property is not located in a residential neighborhood. It is located between US Highway 1 and Old Dixie Highway.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

- a. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area does have development of roads, open spaces, and similar existing features.

- b. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

Neighborhood commercial uses will not have an impact as the subject property is not located in a neighborhood.

- c. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The area surrounding the subject parcel is considered transitional as there are commercial and other non-residential uses.

The subject parcel is proposed to be rezoned from BU-1 to BU-2. As the immediate area is commercial, the proposed uses maintain the commercial integrity of the area. The difference in the current zoning to the requested change of zoning is due to the ability to have outdoor storage. The existing abutting commercial development to the south include a 2,440 square foot fabrication facility.

The closest BU-2 zoning classification is located approximately 920-feet north off Roosevelt Road and Old Dixie Highway. In the current zoning classification, you are not able to conduct commercial business having outdoor storage.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SFR	AU	NC
South	Commercial Bldg.	BU-1	CC
East	Old Dixie Hwy.	N/A	N/A
West	Highway 1	N/A	N/A

The developed character of the surrounding area is a mixture of commercial, single-family mobile homes and a single-family residence. To the north of the subject property is a single-family residence with the AU (Agricultural Residential) zoning classification. To the west is US Highway 1; across the ROW is a mobile home park zoned TR-1 (Single-family Mobile Home). To the east is Old Dixie Highway; across the ROW is a single-family residence with a large metal building and cell phone tower with an AU zoning classification.

The current BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling and outdoor storage.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities (auto-repair facilities, paint and body shops, and contractor storage yards).

The AU classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

There have been three recent zoning actions within a half-mile of the subject property within the last three years.

- **20Z00026** was approved November, 4, 2021 to rezone a parcel from AU (Agricultural Residential) to SR (Suburban Residential).
- **21Z00025** was to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) approved on March 3, 2022.
- **Then 21Z00035** was a rezoning from RRMH-1 to TR-1 also approved on March 3, 2022.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between SR 46 and Lionel Rd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.93% of capacity daily. The maximum

development potential from the proposed rezoning increases the percentage of MAV utilization by 0.24%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 25.18% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The parcels have access to potable water as well as sewer from Brevard County off of Old Dixie Highway which is to the east.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary

Item #22Z00065

Applicant: Richard B. Spangler

Zoning Request: BU-1 to BU-2

Note: Applicant wants to offer boat/RV outdoor and a third of the area will be covered storage.

Zoning Hearing Date: 02/13/23; **BCC Hearing Date:** 03/02/2023

Tax ID Nos: 2102130

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

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Land Use Comments:

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Tavares fine sand, 0 to 5 percent slopes, and Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area

restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. 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.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. 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.