



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00036

Judith Baker

GU (General Use) to BU-2 (Retail, warehousing and wholesale commercial) with BDP

Tax Account Number: 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413, 3000414

Parcel I.D.: 30-37-09-01-*-32, 30-37-09-01-*-33, 30-37-09-01-*-34, 30-37-09-01-*-39, 30-37-09-01-*-40, 30-37-09-01-*-41, 30-37-09-01-*-53, 30-37-09-01-*-54, 30-37-09-01-*-55, 30-37-09-01-*-56, 30-37-09-01-*-57, 30-37-09-01-*-58, 30-37-09-01-*-59, 30-37-09-01-*-60, 30-37-09-01-*-61, 30-37-09-01-*-62

Location: North side of Willowbrook Street approximately 400 feet west of Babcock Street (District 5)

Acreage: 14.14 +/- acre

Planning & Zoning Board: 9/16/2024
 Board of County Commissioners: 10/03/2024

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	GU	BU-2***
Potential*	0	FAR 1
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES** CC

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

**Approval is pending approval of companion request 24SS00011 which proposes to amend the Future Land Use designation from Residential 1 per 2.5 (RES1:2.5) acres to Community Commercial (CC).

*** Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act)

Background and Purpose of Request

The applicant is requesting a change of zoning classification from GU to BU-2 with a Binding Development Plan (BDP) limiting the BU-2 uses to self-storage mini-warehouse and outdoor storage of RV and boats on 16 lots totaling approximately 14.14 acres. The BDP would effectively only allow two (2) uses.

The subject property includes smaller vacant lots platted in 1967 as Plot Plans of Sunshine Grove in Plat Book 21 and Page 78, agricultural plats restricted to agricultural use only, noting all lots depicted are sub-standard for residential purposes.

The configuration of the 16 lots is U-shaped; four (4) parcels of which are in the middle of the subject property and abuts another parcel to the south. The four (4) properties in the middle and north of the assemblage has a different property owner; therefore, any development of the 16 parcels included in this request, may create an enclave of land-locked lots and disjointed development.

Within the County limits, this area is under significant development pressures to transition from rural to urban with no or inadequate infrastructure (roadway, sewer and water) in place to handle the current trends.

The subject parcel is located on the northside of Willowbrook Street, a County maintained roadway. The applicant will need to demonstrate Willowbrook Street right-of-way meets county standards to support any commercial development during the site plan process. There are other planned developments such as a residential subdivision and potential future school, that may be accessing off of this road. If the right-of-way width for Willowbrook is not the minimum of 50-feet, the applicant/owner will need to dedicate sufficient right-of way to make it 50 feet wide. Additionally, Willowbrook Street is classified as a local road. Babcock Street SE, located approximately 400 feet to the east, is classified as a major collector roadway.

South of the subject property is a pending rezoning application on approximately 1,109 acres which includes 3,246 residential units and 27 acres of commercial accessing off of Babcock Street. Current infrastructure is not in place to support commercial development along this roadway segment.

Additional commercial zoning of BU-1 is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The property is undeveloped with approximately 7 acres of the 74.86 acres having commercial zoning.

Approximately 0.5 mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another 13 approximate acres on the eastside.

The applicant has a companion Small Scale Comprehensive Plan Amendment application, **24SS00011**, requesting a FLUM change from Residential 1:2.5 (RES 1:2.5) to Community Commercial (CC).

Approval of the CC and BU-2 zoning would also allow the applicant or their successors to develop affordable housing residential units, up to 30 units per acre, under **BCC Policy-100 (Live Local Act)**.

Previous zoning actions applicable to the subject property include:

On July 3, 1989, zoning action **Z-8432** approved a Conditional Use Permit (CUP) for a Commercial Borrow Pit with a Binding Concept Plan in GU zoning.

On May 22, 2003, zoning action **Z-10817(24)** approved removal of the previously approved CUP for Commercial Borrow Pit under zoning action **Z-8432**.

At this time, there are no active code enforcement issues associated with the subject property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	PUD	RES 4
South	Undeveloped/ROW	GU	RES 1:2.5
East	Undeveloped	GU	RES 1:2.5
West	Undeveloped	AU, GU	RES 1:2.5

North is 41.39-acre undeveloped parcel with PUD (Planned Unit Development) zoning with a gross density cap of three (3) dwelling units per acre and RES 4 FLU designation approved under application # **23PUD00002** on July 11, 2024.

South is undeveloped land with pending actions under **23LS00001 & 23PUD00005** (September 5, 2024 BOCC hearing) from RES 1:2.5 to RES 4 & CC and GU & AU to PUD zoning on approximately 1,100 acres. Approved pending recording of BDP.

East are 2 properties 0.86 acres (undeveloped) and 14.86 acres (classified by the BCPAO as a Bee (honey) Farm) with GU zoning. Both properties are under the same ownership.

West are 2 properties, 1.02 acres and 0.86 acres, both undeveloped with AU and GU zoning classifications, respectively.

There is a mixture of residential zoning classifications in the surrounding area and the following provides a brief description:

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

Planned Unit Development (PUD) encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification. The purpose of a PUD is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses.

Future Land Use

The subject property's GU zoning classification (requires lot sizes of 5 acres) is consistent with the RES 1:2.5 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The BU-2 zoning classification is not consistent under the current FLUM designation.

Applicable Land Use Policies

Per **FLUM 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;

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).

- B. Existing commercial zoning trends in the area;

Within the County limits, this area is under significant development pressures from development occurring in the City of Palm Bay to transition from rural to urban with smaller residential lots and commercial uses.

There is no existing commercial development in this area. However, a pending application for the property located to the south with access off of Babcock Street includes over 3,200 residential units and 27 acres of commercial development with BU-2 uses permitted. Specific commercial uses were not indicated.

Additional commercial zoning of BU-1 is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The property is undeveloped with approximately 7 acres of the 74.86 acres having commercial zoning.

Approximately 0.5 mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another approximate 13 acres on the eastside.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;**

The applicant's request is the third (3rd) rezoning in the area in the past year. The Board shall consider if the proposed may be considered compatible with the area.

This request includes sixteen parcels which surrounds four parcels, owned by a different owner, which is not included with this request. The four parcels have GU zoning classification. A zoning enclave would result upon approval of this request. A zoning enclave contain parcels that are zoned in a manner that is not currently compatible with the adjacent zoning classifications which may result in disjointed development.

The applicant will need to demonstrate Willowbrook Street right-of-way meets county standards to support any commercial development during the site plan process.

Abutting the north is an approved residential PUD with single family lots. The subject property will have GU and AU zoning to the east and west. The pending PUD zoning to the south proposes to have residential lots along will Willowbrook, although separated by a wide ditch and spite strip of land.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal; and**

The applicant has submitted a letter from the City of Palm Bay stating it is the intent of the City to serve the subject property in the future. At this time, there is not sufficient capacity.

Roadway LOS for the proposed will increase the percentage of MAV utilization by 0.03%. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

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

The subject property contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, indicators that wetlands may be present on the property.

Portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Federally and/or state protected species may be present on properties with wetlands. There is a large area of mapped Florida Scrub Jay occupancy within a mile of the property, and there is potential for existence of Gopher Tortoises on site.

- 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.

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;

The applicant proposes to develop the site with self-storage mini-warehouse and outdoor storage of recreational vehicles. Staff analysis indicates the request is not located within an existing neighborhood; but rather a mostly undeveloped rural area with single family residential. There is currently no commercial development in this area. With the approval of BU-2, where the property abuts any other land located in the GU and AU zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet. Pursuant to Sec. 62-1837.5 Approval of BU-1 zoning structural

heights shall be further limited by the heights of adjacent off-site buildings to the side or rear of the property. Where only one structure is contemplated on site, height is limited to the height of the lowest principle structure on any adjacent parcel. Where more than one structure is proposed on site, the height of each structure is limited to the height of the lowest principle structure on the closest parcel. Where the adjacent parcel is vacant, the height of the proposed structure shall be limited to one story. Additionally, landscaping and screening, architectural and a maximum structural coverage of forty percent of total lot area would be required.

The proposed use will be evaluated pursuant to performance standards during site plan review. Specifically, performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage.

- 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;

Historically, this area is mostly undeveloped with some residential development on large lots of 2.5 acres or greater. There are three (3) zoning classifications within 500 feet of the subject site: PUD, GU, AU.

Emerging pattern of the surrounding proposed development is residential with a development cap of three (3) units per acre. Additionally, south of the subject property is pending action for residential development, capped at three (3) units per acre with commercial uses. Please note, this analysis only includes unincorporated areas of Brevard County.

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

There has been no new development within half miles, under County jurisdiction, of the subject property within the last three years.

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

23PUD00002 and 23SS00022, approved a request to rezone the property from GU to PUD for residential development with a companion FLUM from RES 1:2.5 and RES 1 to RES 4 approved on July 11, 2024; and

23PUD00005 and 23LS00001, a request to rezone the property from GU and AU to PUD for residential and commercial development with a companion FLUM amendment from RES 1:2.5 to RES 4 and CC pending approval, September 5, 2024 BOCC hearing.

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

FLUE Policy 2.8, Criteria A and C, regarding locational criteria for CC land uses greater than 10 acres in size; The Board shall make this determination.

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

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

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.

Staff analysis indicates the request is not located within an existing neighborhood; but rather a mostly undeveloped area with single family residential on 2.5 acres or larger.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, contractor storage yards restaurants, fast food restaurants and coffee shops). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. BU-2 also permits single-family residence or a Mixed Use of commercial and single-family of multi-family use.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:
- 1) The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

Located south of the subject property, the Deer Run subdivision is the only established residential neighborhood in the area. Staff analysis indicates the subject property is not located in an established residential neighborhood.

- 2) 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.

Staff analysis indicates the subject property is not located in an established residential neighborhood.

- 3) 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.

There has been one (1) request for commercial use, pending approval, in this area during the previous five (5) years within the County's jurisdiction. Application 23PUD00005, a request to rezone the property from GU and AU to PUD for residential with commercial component. Pending approval, September 5, 2024 hearing. Development activity has occurred within the City of Palm Bay approximately half-mile away to the north.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Babcock Street, between Micco Road and Grant Road which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of D, and currently operates at 40.99% of capacity daily. The proposed rezoning increases the percentage of MAV utilization by 6.28%. The corridor is anticipated to operate at 47.27% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The concurrency analysis was only for a mini self storage facility as proposed. Any other future commercial development was not part of this analysis and will be reviewed under a separate site plan application.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

Centralized potable water service is not available to this property.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along “Mitigation Qualified Roadways” (MQRs). However, Willowbrook Street is not a MQR at this location. An amendment to the Comprehensive Plan would be required to add this section of Willowbrook Street to the MQR map and the associated MQR table.

Additionally, if wetlands are found, 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 the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area recognizing existing development trends. Board may also consider if the proposed will BDP mitigate potential impacts to the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00036

Applicant: Judith A. Baker (Owner: Judith A. Baker Revocable Living Trust)

Zoning Request: GU to BU-2 with BDP

Note: for construction of mini storage and outdoor parking

Zoning Hearing: 09/16/2024; **BCC Hearing:** 10/03/2024

Tax ID No.(s): 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413, 3000414

- 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.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, Willowbrook Street is not a MQR at this location. An amendment to the Comprehensive Plan would be required to add this section of Willowbrook Street to the MQR map and the associated MQR table.

Additionally, if wetlands are found, 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 the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. Section 62-3694(c)(3)b also provides

that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Land Use Comments:

Wetlands and Hydric Soils

The subject property contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils (EauGallie sand; and Pineda sand, 0 to 2 percent slopes), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, Willowbrook Street is not a MQR at this location. MQRs are depicted and identified in a table on map 8 of the comprehensive plan conservation element. An amendment to the comprehensive plan shall be required to add a mitigation qualified roadway to map 8 and the associated table.

Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

Additionally, if wetlands are found, 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 the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

Portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment

processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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. 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 and buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on properties with wetlands. There is a large area of mapped Florida Scrub Jay occupancy within a mile of the property, and there is potential for existence 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.