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To: [Kim Rezanka <krezanka@llr.law>](#)
Cc: [Prasad, Billy](#); [Esseesse, Alexander](#)
Subject: Merritt Bidco LLA application
Date: Wednesday, April 22, 2026 4:58:07 PM
Attachments: [image001.png](#)

Good evening,

Brevard County has completed its review of the application submitted under the Live Local Act for the above-referenced property, consisting of approximately 11.24 acres located on Merritt Island.

Based on our review of the application materials, applicable statutory provisions, and the zoning history of the subject property, the County has determined that the request does not meet the eligibility criteria for administrative approval under the Live Local Act.

The Live Local Act, as codified in Section 125.01055, Florida Statutes, provides for administrative approval of qualifying affordable "multifamily or mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use, and in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use." Section 125.01055(7)(a), Florida Statutes. The subject property is currently zoned AU (Agricultural Residential), which is a single-family residential zoning classification. As such, it does not fall within the eligible zoning categories identified in the statute.

The County also reviewed the historical approvals associated with the property, including the 1983 Conditional Use Permit with BSP (Zoning Action Z-6584) for a clinic and hospital. Even if these CUPs were valid and active, it is the County's position that the parcel is not zoned for commercial purposes as a conditional use *permit* would not convert the property's zoning to meet the criteria under the Live Local Act. More to the point, the Live Local Act definition of "commercial use" found in Section 125.01055(7)(n)1., Florida Statutes, specifically provides that said use should be by right. ("... A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. . . ."). Here, the very uses the applicant relies upon to justify the site being zoned for "commercial use" required Board action, as evidenced by Zoning Action Z-6584 and the resulting CUPs; neither the clinic use nor hospital use were by right.

Furthermore, while clinics and hospitals were, at various times, listed as conditional uses within the AU zoning classification, since approximately April 2003, these uses have not been permitted, permitted with conditions, or allowable as conditional uses within the AU zoning classification. Pursuant to Section 62-1901(d)(3), Brevard County Code, those conditional use permits which have been removed from the applicable zoning classification (as here) are "subject to revocation" and "such uses constructed or under construction at the time of the amendment shall be considered nonconforming uses." Therefore, *at best*, the hospital and clinic uses are nonconforming uses. A nonconforming use alone certainly cannot qualify a parcel as "zoned for commercial" use.

The subject property is currently vacant/undeveloped, and no evidence has been provided to indicate that the previously approved conditional use was ever established or exercised. To the extent the prior approval could be interpreted as conferring an entitlement to such use, the lack of any development or operational activity over an extended period tends to support a finding that any such entitlement has been discontinued or abandoned pursuant to Section 62-1183, Brevard County Code, which states in relevant part that "if any nonconforming use of land or structures is abandoned or discontinued for a period of 180 consecutive days or for 18 cumulative months during any three-year period, the land or structure shall thereafter only be put to a use specifically in conformity with the provisions of the applicable zoning classification and any other provision of this article or amendment to this article, and the privileges of this subdivision shall be deemed forfeited for the land or structures."

For the foregoing reasons, the property's eligibility under the Live Local Act must be evaluated based solely on its current zoning designation of AU (Agricultural Residential), which is a residential zoning classification, rather than a commercial zoning classification. As a result, the subject property does not meet the statutory criteria for administrative approval under Section 125.01055, Florida Statutes, and the application submitted under the Live Local Act is hereby denied.

This determination does not preclude the applicant from pursuing other development options, including rezoning or other applicable land use approvals through the public hearing process.

Best regards,

Trina Gilliam, MSURP
Planning and Zoning Manager
Brevard County Planning & Development Department
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Phone # (321-350-8273)

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.



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Registered users with an approved contractor license added, can apply for building permit applications, make payments and upload documents directly to your permit by using the [online public portal](#).

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