

**RESOLUTION NO. 26-\_\_\_\_\_**

**A RESOLUTION SETTING FORTH THE FINDINGS OF FACT AND CONCLUSIONS OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PERTAINING TO THE DENIAL OF THE REQUEST FOR REZONING FROM AGRICULTURAL RESIDENTIAL, AU, WITH A BINDING SITE PLAN (BSP) TO MEDIUM-DENSITY MULTIPLE-FAMILY RESIDENTIAL, RU-2-15, AND HIGH-DENSITY MULTIPLE-FAMILY RESIDENTIAL, RU-2-30, WITH REMOVAL OF THE BSP ON PROPERTY OWNED BY MERRITT BIDCO SPV, LLC.**

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, as follows:

**STATEMENT OF THE CASE AND FACTS**

This request was brought before the Merritt Island Redevelopment Agency (“MIRA”) on December 11, 2025, where it was unanimously denied by the MIRA Board of Directors. The item then went before the Planning & Zoning Board (the “P&Z Board”) on January 12, 2026. The P&Z Board made two competing motions – one to approve the rezoning and one to deny the rezoning – resulting in 7:7 tied votes. On February 5, 2026, the Board of County Commissioners of Brevard County, Florida (the “County Commission”), continued the hearing on the rezoning request to April 2, 2026, because the applicant, Merritt Bidco SPV, LLC (“Merritt Bidco” or the “Applicant”), submitted new information, such as a traffic impact study, to the County Commission that had not previously been provided to the P&Z Board for consideration. On March 16, 2026, the request was reheard by the P&Z Board, again resulting in 7:7 tied votes. On April 2, 2026, at the request of Merritt Bidco, the County Commission continued the hearing to May 7, 2026, to allow the Applicant the opportunity to modify its development plan and potentially obtain additional property located adjacent to the site, Tax Account 2412106 (the “Property”). At the public hearing on May 7, 2026, the County Commission reviewed evidence, heard comments and testimony from Merritt Bidco and its legal counsel, members of the public, and Brevard County staff, and ultimately denied the request in a unanimous vote.

The record is attached hereto as Exhibit “A.” It consists of documents maintained by the Brevard County Planning and Development Department as part of the official application file and provided to the P&Z Board and the County Commission, relevant sections of the Brevard County Code of Ordinances, relevant provisions of the Brevard County Comprehensive Plan, and a transcript from the County Commission’s public hearing on May 7, 2026. The pages will be referred to as “R- \_\_\_\_\_”.

Description	Page Numbers
Records Certification	R-1

Administrative Policies of the Future Land Use Element of the Brevard County Comprehensive Plan	R-2
Aerial Maps and GIS Maps	R-10
Amended Application for Zoning Action	R-23
Special Warranty Deed to Merritt Bidco SPV, LLC (OR Book 10286, Page 665)	R-35
Authorization to Act on Behalf of Merritt Bidco SPV, LLC	R-41
ALTA/NSPS Land Title Survey	R-45
Zoning Action Z-6584	R-47
Zoning Action Z-10781	R-52
Brevard County Public School Concurrency Analysis	R-57
Amended and Restated Limited Liability Company Agreement of Merritt Bidco SPV, LLC	R-61
Brevard County Property Appraiser's Office Real Property Details	R-65
Zoning Classification Tax Account 2412106	R-66
Staff Comments 25Z00054	R-67
Merritt Island Redevelopment Agency Rezoning Agenda Item (December 11, 2025) and Inter-Office Memorandum	R-82
Draft P&Z Board Meeting Minutes (January 12, 2026)	R-86
Brevard County Staff Addendum #1 to Merritt Bidco Statements/Information Presented before the P&Z Board on January 12, 2026	R-99
Clerk to the Board – Board Action Item dated February 6, 2026	R-101
Draft P&Z Board Meeting Minutes (March 16, 2026)	R-104
Brevard County Staff Addendum #2 to Merritt Bidco Statements/Information Presented before the P&Z Board on March 16, 2026	R-127
Merritt Bidco's Response to Staff Addendum dated April 24, 2026	R-128
Transcript of Hearing before the County Commission (May 7, 2026)	R-137
Zoning & Future Land Use Map	R-187
Merritt Bidco Proposed Development Plan	R-188

Merritt Bidco Boundary Survey	R-189
Zoning & Future Land Use Map	R-190
ALTA/NSPS Land Title Survey Coversheet	R-192
Zoning Action Z-6584	R-193
Zoning Action Z-10781	R-198
Bowman Rezoning Traffic Analysis dated January 20, 2026	R-203
Bowman Traffic Impact Study dated March 5, 2026	R-235
Brevard County Public Works Traffic Operations Program Response to Traffic Impact Study dated February 26, 2026	R-641
Public Comment/Communication	R-645 – R-1028
Section 62-1151, Brevard County Code of Ordinances, Amendments to official zoning map – Amendments initiated by property owner.	R-1029
Section 62-1334, Brevard County Code of Ordinances, Agricultural residential, AU and AU(L)	R-1032
Section 62-1372, Brevard County Code of Ordinances, Medium-density multiple- family residential, RU-2-10, RU-2-12 and RU-2-15	R-1035
Section 62-1373, Brevard County Code of Ordinances, High-density multiple-family residential, RU-2-30	R-1038
Future Land Use Element, Chapter XI, Brevard County Comprehensive Plan	R-1041
Section 62-602, Brevard County Code of Ordinances, Concurrency evaluation procedure	R-1180
Section 62-3694, Brevard County Code of Ordinances, Permitted uses *wetlands	R-1187
Brevard County Public School Impact Analysis	R-1193
ALTA/NSPS Land Title Survey	R-1201
Aerial Map	R-1205
Proposed Binding Development Plan from Merritt Bidco	R-1206
Images of Proposed Development	R-1213
Communication from Brevard County Public Works Traffic Operations RE: Traffic Impact Study Dated March 6, 2026	R-1221

Merritt Bidco Request for Continuance to May 7, 2026, County Commission Meeting	R-1225
District 4 Commissioner Disclosures	R-1229, 1230
District 1 Commissioner Disclosures	R-1231
District 3 Commissioner Disclosures	R-1228, 1232
District 2 Commissioner Disclosures	R-1234
Second Amended Application for Rezoning	R-1236

Merritt Bidco has owned the Property (Tax Account 2412106) since March 2025. **R-35**. The Applicant is seeking to change the zoning classification of the Property, which contains 11.24 acres, from Agricultural Residential (“AU”) with a Binding Site Plan (“BSP”) to Medium-density Multiple-family Residential (“RU-2-15”) and High-density Multiple-family Residential (“RU-2-30”) with removal of the BSP. **R-67; R-1236**. The Property has been in its current configuration since at least 1958. **R-69**. Based on the Staff Comments, the Property is currently zoned AU and has been zoned AU since 1958. **R-69**.

*The current AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2.5-acre lots, with a minimum lot width and depth of 150 feet. The AU classification also permits the raising/grazing of animals, fowl, and beekeeping.*

**R-69**. In 1983, the Property was approved for a rezoning to all AU, subject to a BSP establishing certain buffer and ingress/egress requirements, and granted a conditional use permit (“CUP”) for clinic and hospital uses, which included an abutting property. **R-47 – R-51**. The requested rezoning sought RU-2-15 and RU-2-30, with removal of the BSP.

*The proposed RU-2-15 classification medium-density multiple-family residential zoning classifications encompass lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-15 permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.*

*The proposed RU-2-30 high-density multiple-family residential zoning classification encompasses lands devoted to multiple-family residential development, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, permits high density*

*multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.*

**R-69 – R-70.** Subject to applicable land development regulations, the development potential of the Property with the existing AU zoning is five (5) single-family residences, while the requested RU-2-15 and RU-2-30 zoning classifications would result in a potential of two hundred twenty-two (222) multi-family residential units. **R-67.**

The Future Land Use (“FLU”) designation of the Property is Neighborhood Commercial (“NC”) and Residential 15 (“RES 15”). **R-69.** The Property’s AU zoning classification is consistent with the RES 15 Future Land Use designation and is consistent with NC Future Land Use designation if permitted by Policy 2.10 of the Future Land Use Element of the Brevard County Comprehensive Plan (“Policy 2.10”). Section 62-1255, Brevard County Code. The requested RU-2-15 zoning classification is consistent with RES 15, and the RU-2-30 zoning classification would be consistent with NC, subject to the requirements of Policy 2.10. **R-72.** Policy 2.10 provides, in pertinent part, that “[r]esidential development is permissible in [the NC and Community Commercial] land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. . . .” In this case, because RES 15 already exists on the same side of the street, excluding any other limitations, the NC designated portion of the Property would be eligible for the RES 30 designation. **R-72.**

As part of the staff review, a number of factors were analyzed and considered to ensure the rezoning request, and resulting increased development potential if granted, complied with the policies and objectives of the Comprehensive Plan and Land Development Regulations.

*Development on the site may be impacted by the following:*

- *Within approximately 660 feet of the site, there is a mapped eagle nest (#BE124).*
- *Relating to Natural Resources, Brevard County Code Sec. 65 3694(c)(6): For subdivisions and multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative*

**basis. This means that residential development is allowed 1.8% max impacts (with mitigation for impacts).**

- *Relating to traffic concurrency, Brevard County Code Section 62-602(F)(6) states: For site plans and subdivisions, the vesting provisions shall apply in the following circumstances: (a)(1): Road Capacity: The affected roads are operating or committed at a level equal to or less than 85 percent of the acceptable level of service. **Currently, the roadway is operating at 88% capacity, per the most recent Space Coast TPO traffic counts.***
- *Also relating to traffic concurrency, Brevard County Code Section 62-602(F)(6)(b) states: The threshold capacity restrictions described in subsection (f)(6)a. of this section, a site plan or subdivision shall be allotted no more than 25 percent of the remaining capacity of a facility. Project size shall be determined utilizing the most restrictive of the facilities named in subsection (f)(6)a. of this section. No more than one phase shall be approved for development until 50 percent of the residential lots or units or commercial projects approved for that phase have been sold or developed. **The proposed development would utilize more than the allowable 25% of the remaining capacity.***
- *Based on staff analysis, the above impacts could lead to a finding of concurrency deficiency at site plan as it is anticipated that the development will increase the roadway utilization by 6% bringing the roadway to 93.57% daily use, reduce operating times of construction, reduce the maximum density of the property, and phase development based on concurrency to ensure no reduction in the traffic level of service. A finding of deficiency may be the effect of preventing future development approval on the site and the surrounding area.*

*The information above regarding concurrency is preliminary, as outlined in Section 62-602(b)-“Preliminary evaluation prior to zoning action. For review of zoning applications, a preliminary concurrency evaluation shall be completed as part of the zoning review process to illustrate the relationship between the proposal and the availability of services and facilities for the planning and zoning board, the School Board of Brevard County, and the board of county commissioners. This review will be based on the information described in the zoning application. The results of this preliminary review are for the use of the county in its review of the zoning*

*application and a school area impact analysis application.” (See also Sec. 62-604(e),” For review of zoning applications, the preliminary concurrency evaluation shall be used for general information purposes only as part of the zoning review. Subsequent to the approval of a zoning application, a formal concurrency evaluation prior to site plan, subdivision plat or building permit approval shall be required.”) Binding concurrency analysis will occur at the Subdivision/Site Plan stage of development.*

**R-68 – R-69.**

Furthermore, the Staff Comments provide,

***FLUE Policy 1.2- Public Facilities and Service Requirements***

*Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:*

***Criteria:***

*A. Adequate roadways, solid waste disposal, drainage and recreation facilities to serve the needs of associated development shall be available concurrent with development in all residential land use designations.*

***The proposed development is anticipated to create a deficiency in LOS, other than a potential traffic concurrency issue due to the roadway being at 88% MAV utilization currently.***

***The proposed development will be required to connect to Brevard County sewer system.***

**R-71.**

Staff Comments also identified issues with traffic concurrency and the potential negative impact the proposed development would have on the transportation corridor.

***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 corridor currently operates at 88% capacity, and the proposed development is anticipated to increase the traffic to a level of 93.57% of daily capacity. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.***

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***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;***

***The proposed use is not consistent with the existing pattern of surrounding development, which is characterized as single-family residential to the east, a medical facility to the west, and an assisted living facility to the south. The proposed development could be considered a transition from the high intensity uses along N. Courtenay Pkwy. and the low intensity uses to the east which is the platted single-family residential subdivision.***

***There are five (5) FLU designations: Community Commercial (CC), Neighborhood Commercial (NC), Residential 15 (RES 15), Residential 6 (RES 6) and Residential 4 (RES 4) within a 0.5-mile radius of the subject property. RES 6 is the prominent FLU in the surrounding area on the east side of N. Courtenay Pkwy.***

***There are eleven (11) zoning classifications within a 0.5-mile radius of the subject property: RU-2-15, IN(L), BU-1, RU-1-11, RU-1-7, BU-2, EA, AU, RU-2-10, PUD, and BU-1-A zoning classifications. RU-1-***

**11 is the predominant zoning on the east side of N. Courtenay Pkwy.**

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

**There have been three new developments within 0.5 miles of the subject property within the last three years. Three (3) developments have been on commercial properties with a bank, a car wash, and an assisted living facility.**

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

**There has not been any approved development within this area in the preceding three (3) years that has yet to be constructed. However, there was one zoning action:**

- **25AA00030: Administrative approval on 06/23/2025 for one premise consumption of beer and wine, 2COP, for unit #31.**

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

**The Board may consider whether the proposed development results in a material violation based on Administrative Policy 5.**

**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 (including but not limited to volume, time of day*

of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**Based on preliminary concurrency with the proposed development, MAV utilization is shown to increase by 6.01%. The corridor is anticipated to operate at 93.57% of capacity daily. This has the potential to cause traffic impacts that could adversely impact the established residential areas, agricultural lands, and a residential subdivision by introducing types or intensity of traffic, parking, or trip generation. This is not an introduction of commercial activity within the identified boundaries of a neighborhood.**

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.

**The subject property is in a highly developed area with a mixture of commercial and residential properties. There are a couple of subdivisions in the area as well. There are clearly established boundaries such as roads, canals, lakes, open spaces, or similar features.**

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.

**The surrounding is considered a mixed area with residential and commercial uses. The proposed use would not preclude the existence of the existing residential neighborhood.**

- a. 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.

***This area is presumed to be predominantly residential. However, there are commercial uses within the area of the subject property, along with large lot undeveloped properties.***

***Administrative Policy #5 - Transportation facilities either serving the site or impacted by the use(s)***

*In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:*

***Criteria:***

- A. *Whether adopted levels of service will be compromised;*

***Current traffic counts provided by SCTPO for this section of N. Courtenay Pkwy. from Pioneer Rd. to S. Ramps (S.R.528), indicates the roadway is operating at 87.56% capacity. Approval of the rezoning request for 222 units has the potential to increase roadway MAV utilization by 6.01%. The corridor is anticipated to operate at 93.57% of capacity daily.***

- B. *Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;*

***Has not been evaluated at this time.***

- C. *Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;*

***Has not been evaluated at this time.***

- D. *Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;*

***Has not been evaluated at this time.***

E. *Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;*

***The proposed development has the potential to cause traffic capacity issues that potentially could impact design capabilities or a de facto change in functional classification.***

F. *Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;*

***The proposed development has the potential to produce 2,308 trips daily. The physical deterioration of the surrounding roadway has not been evaluated at this time.***

G. *Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.*

***This development has the potential to cause traffic impacts that could adversely impact the safety or welfare of residents in the existing surrounding residential neighborhoods.***

#### ***Analysis of Administrative Policy #7***

*Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.*

***The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils. For subdivisions and multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Sec. 65 3694(c)(6). The entire property is mapped***

***within the Indian River Lagoon Nitrogen Reduction Overlay. Approximately within 660 feet of the site there is a mapped eagle nest (#BE124).***

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### ***Preliminary Concurrency***

*The closest concurrency management segment to the subject property is N. Courtenay Pkwy. (S.R. 3) between Pioneer Road and S. Ramps (S.R. 528), which has a Maximum Acceptable Volume (MAV) of 38,430 trips per day, a Level of Service (LOS) of D, and currently operates at 87.56% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 6.01%. The corridor is anticipated to operate at 93.57% of capacity daily.*

*There is the potential to have concurrency issues related to traffic at the site plan stage due to Brevard County Code Section 62-602:*

- (F)(6) states for site plans and subdivisions, the vesting provisions shall apply in the following circumstances: (a)(1): Road Capacity: The affected roads are operating or committed at a level equal to or less than 85 percent of the acceptable level of service.*
- (F)(6)(b) Maximum capacity allotment: The threshold capacity restrictions described in subsection (f)(6)a. of this section, a site plan or subdivision shall be allotted no more than 25 percent of the remaining capacity of a facility. Project size shall be determined utilizing the most restrictive of the facilities named in subsection (f)(6)a. of this section. No more than one phase shall be approved for development until 50 percent of the residential lots or units or commercial projects approved for that phase have been sold or developed.*

*Staff analysis has determined that a reduction of the proposed development, for example, to 130 multi-family units, would increase the MAV utilization by 3.01%. The corridor would be anticipated to operate at 90.57% of capacity daily. Reduction of units may be a consideration by the Board, and such a reduction would meet the requirement that restricts utilization of no more than 25% of the remaining roadway capacity.*

During the public hearings before the P&Z Board, the Applicant, through its legal counsel, Attorney Kimberly Rezanka, made statements relating to traffic concurrency, transportation impacts, Comprehensive Plan consistency, and applicable zoning approval

criteria for the subject rezoning request, that County staff subsequently clarified or refuted. The County issued two addenda to correct the record. **R-99 – R-100; R-127**. The Applicant filed a response to these addenda. **R-128 – R-136**.

At the County Commission's Zoning meeting on May 7, 2026, the Board heard from the Applicant's representatives, members of the public, and Brevard County staff. In addition, the County received public comment letters and emails opposing the rezoning request. **R-645 – R-1028**. Attorney Rezanka described the request as a change of zoning of "7.5 acres adjacent to single-family homes to RU-2-15 and rezoning west on State Road 3 of 3.66 acres to RU-2-30, a total of 222 units possible. It is also seeking a removal of a 1983 Binding Site Plan for hospital and CUPs for hospital and medical clinics." **R-139**.

Attorney Rezanka stated that, "[t]his rezoning is supported by the MIRA staff report on December 11, 2025, which stated the requested rezoning is consistent with the County [Comprehensive] Plan and the MIRA redevelopment plan. . . ." **R-140**. However, the MIRA staff report (R-82 – R-84) does not accurately identify the requested rezoning being from AU to RU-2-15 and RU-2-30. Instead, the MIRA agenda item states "[t]he request is to rezone the property from its current designation of AU to RU-2-15. . . . The requested rezoning is consistent with the County Comprehensive Plan and the MIRA Redevelopment Plan, as both the existing and proposed future land use designations are NC (neighborhood commercial and Res 15 (residential, up to 15 units per acre)." **R-82**. There is no reference to the RU-2-30 component of the request in the MIRA staff report. As previously stated, pursuant to Section 62-1255, Brevard County Code, the RU-2-15 and RU-2-30 zoning classifications are consistent with the corresponding FLU designations on the Property, but it is not accurate to say that the MIRA staff report "supports" the rezoning request when the actual request was not accurately reflected on the MIRA staff report.

Mr. Michael Oliver, representative for the developer, Rangewater Real Estate, highlighted the need for housing in the area, the consistency between the requested rezoning and FLU designations, and the role the proposed binding development plan would have in reducing impacts on the surrounding properties. Mr. Oliver also stated ". . . although a traffic impact analysis was not required for this rezoning, Rangewater voluntarily completed one because [it] took the [community's] concerns seriously. The study was reviewed and accepted by County staff and concluded that the project would not negatively impact the roadway level of service on North Courtenay Parkway or Pioneer Road." **R-141**.

Mr. Kyle Shasteen, P.E. for Bowman Engineering, site engineer for the proposed project, identified the enhanced buffer along the residential houses being proposed by the Applicant. It was also acknowledged that wetlands had been identified on the Property,

and that “[a]ny impacts to those wetlands will . . . be approved by the County and the State during the site plan process.” **R-142.**

Mr. Trent Ebersole, P.E. for Bowman Engineering, traffic engineer for the proposed project, stated that “the site traffic will not worsen the levels of service on any of the facilities in the study area.” **R-142.** Mr. Ebersole stated that “the amount of trips that this project would put on that . . . westbound left turn would be about one vehicle every two minutes. . . . To further that point, the traffic that would be generated by the . . . use of the hospital, would be four times as many trips. So this is in effect a very large reduction in the potential traffic . . . for the development on the site.” **R-143.**

After the Applicant completed its initial presentation, members of the public were given the opportunity to provide comments. Those who spoke were all against the request. The major issues raised by citizens related to the intensity and volume of traffic the development would bring, compatibility with the surrounding area, existing flooding, and lack of capacity for existing road and drainage infrastructure. Members of the public relied on provisions of the Brevard County Comprehensive Plan and Land Development Regulations to support denial of the request, including, but not limited to, Sections 62-602 and 62-1151, Brevard County Code, and Administrative Policies 3, 4, and 5 of the Administrative Policies of the Future Land Use Element of the Comprehensive Plan. Upon conclusion of the public comment portion of the hearing, the Applicant’s legal counsel argued, among other things, that the citizens’ traffic concerns were just based on fears, that it is improper to require the Applicant to provide concurrency at the zoning stage, that MIRA’s staff thinks the project is a “great idea”, and that the requirements of the Brevard County Comprehensive Plan have been met. **R-180 – R-181.**

After the public hearing portion was closed and the County Commission completed its discussion, Commissioner Goodson made a motion to deny the request, which was seconded by Commissioner Adkinson. The County Commission voted unanimously to deny the request.

## **FINDINGS OF FACT**

The County Commission finds:

1. The Property was purchased by the Applicant on March 12, 2025, per the Special Warranty Deed recorded in Brevard County Official Records at Book 10286, Page 665. **R-35.**
2. The Property is currently undeveloped and consists of 11.24 acres. **R-67.**
3. The Applicant requested a rezoning from AU, with a BSP, to RU-2-15 and RU-2-30, with removal of the BSP. **R-67; R-139; R-1236.** The Applicant voluntarily

proposed a binding development plan to address things like buffering, extension of the west-bound right turn lane on Pioneer Road, agreeing to certain setbacks, and entering into a proportionate fair share agreement to address traffic capacity on N. Courtenay Parkway. **R-139; R-1207-1208.**

4. The Property has two (2) separate future land use designations: RES 15 and NC. **R-67.**
5. The portion of the Property designated RES 15 can have a maximum overall density of fifteen (15) units per acre, subject to applicable provisions of the Comprehensive Plan and Land Development Regulations. RES 15 is consistent with the RU-2-15 zoning classification. Section 62-1255, Brevard County Code.
6. Pursuant to Policy 2.10, the portion of the Property designated NC can have a maximum overall density of thirty (30) units per acre, subject to applicable provisions of the Comprehensive Plan and Land Development Regulations. In accordance with Policy 2.10, NC can be considered consistent with the RU-2-30 zoning classification. Section 62-1255, Brevard County Code.
7. The County Commission must consider traffic impacts when presented with a rezoning request. Sections 62-602 and 62-1151(c)(3), Brevard County Code, and Administrative Policies 3, 4, and 5 of the Future Land Use Element of the Brevard County Comprehensive Plan.
8. Section 62-1151(c)(3), Brevard County Code, provides that the P&Z Board makes a recommendation to the County Commission; “[t]he planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors: . . . [t]he impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.”
9. The County Commission is both permitted and required to consider the impact of the requested rezoning on available and projected traffic patterns, as well as the impact on other public facilities. Record evidence shows the proposed development would utilize more than the allowable 25% of the remaining capacity on N. Courtenay Parkway. **R-127.** The N. Courtenay Parkway corridor currently operates at 88% capacity, and the proposed development is

anticipated to increase the traffic to a level of 93.57% of daily capacity. **R-68; R-78**. While specific concurrency issues would be addressed at the time of site plan review, based on the traffic information presented, the rezoning request to allow for a two hundred twenty-two (222) multi-family unit development would cause substantial and adverse impacts to the level of service of the transportation facilities, a violation of Administrative Policy 5.

10. Section 62-602, Brevard County Code, outlines the requirements of concurrency evaluation to determine the potential impacts of development “upon the established minimum acceptable level of service for a roadway, solid waste, potable water, drainage, sanitary sewer, public schools, or park facility or service. . . .” “A preliminary concurrency evaluation shall be completed as part of the zoning review process to illustrate the relationship between the proposal and the availability of services and facilities for the planning and zoning board, the School Board of Brevard County, and the board of county commissioners. This review will be based on the information described in the zoning application. The results of this preliminary review are for the use of the [C]ounty in its review of the zoning application . . . .” Section 62-602(b), Brevard County Code.
11. Pursuant to Section 62-602(f)(6)a.1., Brevard County Code, “[t]he affected roads are operating or committed at a level equal to or less than 85 percent of the anticipated level of service.” Currently, the roadway is operating at 88% capacity, according to the most recent Space Coast Transportation Planning Organization’s traffic counts. **R-68**. The Applicant seeks to develop 222 multi-family units, adding the potential to produce 2,308 trips daily. **R-77**.
12. Administrative Policy 3.A. of the Future Land Use Element of the Brevard County Comprehensive Plan provides that “[c]ompatibility 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: . . . Whether the proposed use(s) would have . . . 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 requested rezoning would result in traffic and site activity that would exacerbate traffic conditions, causing further deleterious impacts to the level of service on the transportation facilities. The potential solutions offered by the Applicant are insufficient to address or rectify the substantial and adverse impacts it would cause.

13. Administrative Policy 4 of the Future Land Use Element of the Brevard County Comprehensive Plan provides, in pertinent part, that “[t]he proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.”
14. While the increased traffic impacts are not an introduction of commercial activity within the identified boundaries of a neighborhood, based on preliminary concurrency with the proposed development, MAV utilization is shown to increase by 6.01%. **R-75**. The transportation corridor of N. Courtenay Parkway is anticipated to operate at 93.57% of capacity daily as a result of the proposed development. **R-75**. If granted, the requested rezoning would allow the Property to develop at an intensity that would materially and adversely impact the established residential areas, agricultural lands, and a residential subdivision by introducing types and intensity of traffic and trip generation. Allowing such development would violate Administrative Policy 4.
15. Administrative Policy 5 of the Future Land Use Element of the Brevard County Comprehensive Plan specifically provides that “in reviewing a rezoning . . . the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) **shall be considered.**” (**emphasis added**). This Policy identifies a number of criteria the Board has considered: (a) the adopted level of service for the transportation facilities will be compromised if the requested rezoning is granted; (b) there is insufficient information presented by the Applicant to ensure the physical quality of the existing road system will serve the proposed uses without significant deterioration; (c) there is insufficient information presented by the Applicant to ensure the surrounding existing road system is of sufficient width and quality to serve the proposed uses without the need for substantial public improvement(s); (d) the proposed development has the potential to cause material and adverse change in traffic capacity of Pioneer Road and N. Courtenay Parkway that potentially could impact design capabilities or a de facto change in functional classification of said facilities; (e) the proposed development has the potential of producing 2,308 trips daily, but insufficient information exists to determine whether such a volume would cause physical deterioration of the surrounding roadway(s); and, (f) based on the testimony presented and record evidence, the project

impacts identified above have the potential to adversely impact the safety and welfare of residents in the existing neighborhoods that surround the Property.

16. During the public hearing, citizens identified traffic concerns that already exist in the area where the proposed development would be located. In conjunction with the record evidence found in the Staff Comments, the traffic data gathered from the Space Coast Transportation Planning Organization (**R-76**), and County Addenda, especially Addendum Number 2, which stated the project will use greater than 25% of the remaining capacity for two roadway segments located on N. Courtenay Parkway (**R-127**), serve as competent, substantial evidence beyond simple “fears” that the traffic resulting from the requested rezoning would materially and adversely impact the surrounding area(s).

### **CONCLUSION**

Based on the foregoing, the County Commission hereby finds the proposed rezoning from AU, with a BSP, to RU-2-15 and RU-2-30, with removal of the BSP, fails to meet the requirements of the Brevard County Comprehensive Plan and Land Development Regulations. Accordingly, the requested rezoning is denied.

DONE AND RESOLVED this \_\_\_\_\_ day of July, 2026.

ATTEST:

BOARD OF COUNTY  
COMMISSIONERS OF BREVARD  
COUNTY, FLORIDA

\_\_\_\_\_  
Rachel Sadoff, Clerk

\_\_\_\_\_  
Thad Altman, Chair  
As approved by the Board on: **7/9/26**