



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**25Z00028**

**Laughing Clown LLC**

**RP (Residential-professional) to BU-1-A (Restricted neighborhood retail commercial)**

Tax Account Number: 2806925  
Parcel I.D.s: 28-36-24-01-\* -8  
Location: 4030 Minton Rd., Melbourne, FL 32904 (District 5)  
Acreage: 0.63 acres

Planning & Zoning Board: 01/12/2026

Board of County Commissioners: 02/05/2026

**Consistency with Land Use Regulations**

- Current zoning cannot 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)\*

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RP	BU-1-A
<b>Potential*</b>	FAR of 1.00 or 1 Single-family Unit	FAR 1.00 or 18 Multi-family Units***
<b>Can be Considered under the Future Land Use Map</b>	NO RES 2	YES** CC

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

\*\*Approval pending approval of companion request **25SS00009** which proposes to amend the Future Land Use Map (FLUM) designation from Res 2 to CC (Community Commercial)

\*\*\*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 RP (Residential-Professional) to BU-1-A (Restricted neighborhood retail commercial) on 0.63 acres to allow an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification.

The applicant has a companion Small Scale Comprehensive Plan Amendment application, **25SS00009**, requesting a FLUM change from Residential 2 (Res 2) to Community Commercial (CC).

The subject property has been previously utilized as a doctor's office under the RP zoning designation.

The BU-1-A zoning classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Conditional uses such as convenience stores with gas pumps, private clubs, and on premise sale of or serving of alcoholic beverages accessory to a snack bar or restaurant are also permitted in this classification. An example of one of the most intense uses allowable within the BU-1-A zoning is a donut/coffee shop and an example of a low intense use would be a medical clinic.

Approval of the BU-1-A zoning classification and CC FLU designation would 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), which was enacted 2023 and revised in 2024. Pursuant to Florida Statute 125.01055, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are rental units that, for a period of at least 30 years, are affordable as defined in F.S. [420.0004](#).

The subject property is within the Lund Gardens Subdivision and records indicate that on December 14, 1998, the property was put into its current configuration as recorded in ORB 3938, Pages 1758-1759, of the Public Records of Brevard County, Florida.

## ZONING HISTORY

In December 1963, the subject property was rezoned from AU (Agricultural Residential) to RU-1 (Single-family Residential) with zoning action **Z-1258**.

In June 1972, the subject property was again rezoned from RU-1 to RU-1-13 with zoning action **Z-2980**.

On September 21, 2000, the subject property was rezoned from RU-1-13 to RP under zoning action **Z-10461**. Staff analysis at the time referred to the 1990 Minton Road Corridor Study which recommended residential-professional office as a suitable use for the subject property.

On November 19, 2025, zoning action **25V00064** was approved, allowing a variance to the required side setback for a principal structure and required side setback for an accessory structure, which was needed for the rezoning of the subject property to BU-1-A.

The subject is located adjacent to Minton Road, a county-maintained roadway. City of Melbourne public water and sewer may currently service the surrounding area.

There are currently no open Code Enforcement cases or violations noted on the property.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	RP	RES 2
<b>South</b>	Single-family residence	C-1A West Melbourne	COM West Melbourne
<b>East</b>	Roadway, Multi-family residential	R-2 West Melbourne	MD RES West Melbourne
<b>West</b>	Single-family residential	RU-1-13	RES 2

Abutting the subject property to the north is a 0.81-acre lot developed with a single-family home with an RP zoning designation and a RES 2 FLU designation.

Abutting the subject property to the south is a 0.62-acre parcel developed with a single-family home and located within jurisdiction of the City of West Melbourne.

The subject property is bordered to the east by Minton Road, a county-maintained arterial roadway. A multi-family apartment complex is located on the 32.18-acre parcel located on the east side of Minton Road and within the jurisdiction of West Melbourne.

There are two (2) properties abutting the subject property to the west. The first property is a 0.42-acre lot improved with a single-family residence. The second parcel is a 1.19-acre lot improved with a single-family residence. Both lots are zoned RU-1-13 with a RES 2 FLU designation.

The RP residential-professional zoning classification encompasses land devoted to a mixture of professional and residential uses. Principal uses and restrictions of this zoning classification are intended to promote development of low- to medium-density residential development, in conjunction with low-intensity commercial development. This zoning classification is intended to provide restricted commercial uses which are compatible with and meet a need for limited commercial services convenient to

residential development. The intent of this zoning classification is to provide for a combination of residential and professional uses on the site, although this classification does not prohibit use of the site as exclusively residential or professional.

RU-1-13 zoning encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet.

The BU-1-A restricted neighborhood retail commercial zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. The BU-1-A restricted neighborhood retail commercial zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. The minimum lot size for development in the BU-1-A zoning designation is area of not less than 7,500 square feet with a width and depth of not less than 75 feet.

## **Land Use**

The subject property's RP zoning classification is not consistent with the Res 2 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed BU-1-A zoning classification is not consistent under the current FLUM designation. A companion application **25SS00009** to amend the FLU designation from Residential 2 to Community Commercial is pending approval.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

## **Applicable Land Use Policies**

### **FLUM Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands**

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;

**All allowable business uses within the proposed BU-1-A zoning designation and all materials and products associated with those uses must be confined within substantial buildings completely enclosed with walls and a roof. Commercially intensive uses such as wholesale and warehousing are prohibited within this zoning classification.**

- B. Existing commercial zoning trends in the area;

**BU-2 is the predominant commercial zoning classification within 0.5 miles of the subject property. The first rezoning from commercial to residential was approved in January, 1987. Commercial zoning trends have increased in 2024 with a rezoning of four properties from residential to commercial to the south of the subject property.**

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

**Adjacent property uses residential. However, this structure previously used as a doctor's office since approximately 2003 according to the Brevard County Property Appraiser. There are existing nearby properties with BU-2 and BU-1 zoning. An established commercial corridor lies south of the subject property within the City of West Melbourne and the City of Palm Bay.**

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

**The subject property is within the utilities service area of the City of Melbourne.**

**The existing roadway level of service (LOS) for the proposed rezoning will potentially increase the percentage of maximum acceptable volume (MAV) utilization by 0.39%. Specific concurrency issues will need to be addressed at the time of site plan review.**

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

**Natural Resources has identified that the subject property contains mapped hydric soils, an indicator that wetlands may be present on the property. Protected tree specimens may be present on the property. Please see NRM comments at the end of this report.**

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

**This subject property will need to comply with Brevard County Performance Standards noted within Sections 62-1481 and 62-2251 through 62-2272 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 rezoning would effectively permit an existing professional office building to be converted into a general retail commercial use permitted within the BU-1-A zoning classification. Current and future development would need to meet Brevard County's Performance Standards defined within Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.**

- 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 (Master 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;

**There are four (4) FLUM designations within a half-mile radius of the subject property. They include Residential 1:2.5 (RES 1:2.5), Residential 2 (RES 2), Community Commercial (CC), and Neighborhood Commercial (NC). The subject property is surrounded by RES 2, which is the predominant FLU designation in the area.**

**Within the past three years there has been one (1) FLUM change within a half-mile radius. 24SS00001 was approved to change the property's FLU from Res 2 on 3.58 acres and NC on 1 acre to all CC.**

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

**Within a half-mile radius, there has been no actual development within County limits. Staff analysis indicates recent multi-family and residential neighborhood development to the east within the City of West Melbourne.**

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

**There has been one (1) approved rezoning within one-half mile of the subject property, but not yet constructed. In August 2024, zoning action**

**24Z00004 changed a 4.58-acre site from RP and AU to all BU-2 with a binding development plan limiting the rezoned property to mini-warehouse storage and other BU-1 allowable uses.**

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

**No material violation of relevant policies of the Comprehensive Plan has been identified.**

#### **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.

**The request is located within an established residential area, The proposed request will introduce commercial activity not already present within the immediate area. However, a preliminary concurrency evaluation indicated that the proposal does not have the potential to cause a deficiency in the transportation adopted level of service. Current and future development would need to meet Brevard County's Performance Standards defined within Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.**

- 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 located within an existing residential area.**

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 subject property is located within an existing residential area. The structure was constructed in 1978 and may have been residential until 2003 when it was used as a doctor's office until approximately 2023.**

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.

**This area is presumed to be predominantly residential with sporadic commercial uses located on the county-maintained arterial roadway of Minton Road. The proposed zoning would be the second commercial zoning to be approved in the area within at least the past five years.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Minton Rd from Palm Bay Rd. to Hield Rd., which has a Maximum Acceptable Volume (MAV) of 36,600 trips per day, a Level of Service (LOS) of E, and currently operates at 61.20% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.39%. The corridor is anticipated to operate at 61.59% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

Please refer to the complete report provided by the Natural Resource Management Department on the following page.

### **For Board Consideration**

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

The Board may consider whether a BDP would be appropriate to mitigate potential impacts to the area due to permitted uses allowed in the BU-1-A zoning classification.



**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item No. 25Z00028**

**Applicant:** Clayton Bennett (Owner: Laughing Clown LLC)

**Zoning Request:** RP to BU-1-A

**Note:** to allow for the permitted use for the subject business

**Zoning Hearing:** 01/12/2026; **BCC Hearing:** 02/05/2026

**Tax ID No.:** 2806925

- 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 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:**

- Hydric Soils
- Land Clearing and Landscape Requirements
- Protected and Specimen Trees

**Land Use Comments:**

**Hydric Soils**

The entire subject parcel contains mapped hydric soils (Malabar sand, high; Eau Gallie sand); an indicator that wetlands may be present on the property. **A wetland delineation may 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). Minton Road is an MQR in this location. 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 no net loss mitigation in Brevard County in accordance with Section 62-3696.

**Protected and Specimen Trees**

Protected and Specimen Trees may exist on the parcel. 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. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**