



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00063

Lake Geneva Group, LLC

PIP (Planned Industrial Park) with an existing Binding Development Plan (BDP) to BU-2 (Retail, warehousing and wholesale commercial) retaining the existing BDP over the south 15 feet +/- of the proposal.

Tax Account Numbers: 2411749

Parcel I.D.: 24-36-11-00-501

Location: Southeast corner of North Courtenay Parkway and Smith Road (District 2)

Acreage: 6.51 Acres

North Merritt Island Board: 02/09/2023

Board of County Commissioners: 03/02/2023

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)

	CURRENT	PROPOSED
Zoning	PIP	BU-2
Potential*	102,087 sq. ft.	79,401 sq. ft.
Can be Considered under the Future Land Use Map	YES PI	YES** PI

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

** Classification may be considered if use is transitional, per Policy 2.11 of the Future Land Use Element.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from PIP (Planned Industrial Park) to BU-2 (Retail, warehousing and wholesale commercial) on the north 6.51 acres of the parcel to develop the site as a storage yard for boat and RV storage. The south 15 feet +/- of the proposal has a Binding Development Plan (BDP) recorded in Official Records Book 5797, Page 90-94. The north 6.51 acres of subject property is currently undeveloped and has a code enforcement case (**22CE-00785**) for having Long-term storage of RV's, trailers & boats along with mechanical work also being done on the lot. The

south remaining portion of the parcel has been developed as a commercial parking lot for cruise ship parking with a Binding Development Plan (BDP) recorded in Official Records Book 5797, Page 90-94.

The subject north 6.51 acres would not be permitted to be developed as a commercial parking lot for cruise ship parking without a Conditional Use Permit (CUP) approved by the Board of County Commission for a commercial parking lot for cruise ship parking.

Binding Development Plan Stipulates: The County and the Developer/Owner agree as follows:

A. There shall be two access points to the Property; one on State Road 3, one on Smith Road, as indicated on the attached Concept Plan dated March 2, 2007.

B. A building setback of 50 feet shall be applicable along State Road 3.

C. Landscape plan must meet the criteria established by the North Courtenay Parkway Corridor Study.

The conditions of the Binding Development Plan apply only on the south 15 feet +/- of the subject 6.51 acres.

The site has frontage on North Courtenay Parkway (State Road 3) and Smith Road. The PIP zoning permits storage yard for boats and RV parking, however the setback requirement for PIP zoning is greater than in BU-2 zoning.

PIP setback requirements:

- a. Front yard. All buildings shall be set back from all street right-of-way lines at least 50 feet.
- b. Side yard. No building or wall shall be located closer than 50 feet to a side yard lot line.
- c. Rear yard. No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line.

BU-2 setback requirements:

1. Gasoline Service Station setbacks in this zoning classification shall be governed by section 62-1835.7.
2. The front setback shall be 25 feet from the front lot line.
3. The rear setback shall be 15 feet from the rear lot line. However, if the rear lot line abuts a dedicated 20-foot alley or roadway, the setback shall be five feet.
4. Side Setbacks:
 - a. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.
 - b. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.

c. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in a. or b. above shall apply to the affected side yard area.

d. Where a 20-foot dedicated alleyway or roadway exists adjacent to or abutting the rear lot line, and the zoning adjacent to the side yard area is non-residential, no side setback is required when a three-hour firewall is constructed along the side lot line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

e. Notwithstanding the requirements of section 5(a)(4)(b) above, where a 20-foot dedicated alleyway or roadway does not exist adjacent to or abutting the rear lot line, lots whose sides abut non-residential zonings may utilize a ten-foot paved driveway setback along one side and a zero-foot setback on the other provided a three-hour firewall is constructed where the building is proposed within five feet of the side property line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

f. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

The original zoning of the subject property was AU.

On September 04, 1975 zoning action **Z-3943** rezoned the parcel from AU to IU (Industrial).

On January 22, 1990 zoning action **Z-8530** rezoned the parcel IU to PIP (Planned Industrial Park).

Please note: The concept plan included in the application was provided as a courtesy. This is not a requirement for rezoning and has not been reviewed for compliance with the land development codes and other County departments. The concept plan is non-binding.

Land Use

The subject north 6.51 acres of the property is currently designated as Planned Industrial (PI) FLU. The existing PIP zoning can be considered consistent with the existing PI FLU designation. The proposed BU-2 zoning may be considered consistent with the existing PI FLU.

Applicable Land Use Policies

Future Land Use: FLUE Policy 3.5 - The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or

business parks are also appropriate. Marinas may also be considered within this land use designation.

Criteria:

- A. Planned industrial park project sites shall incorporate at least three (3) acres.

Analysis: This PIP portion of the parcel is 6.51 acres.

- B. Planned industrial parks must be within 660 feet of the major transportation corridors. Major transportation corridors include such roadways as Interstate 95, U.S. Highways 1 and 192, and State Roads 3, 46, 50, 528, 524, 520, 518, and 516.

Analysis: The parcel is located on State Road 3.

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

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

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

Criteria:

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

The applicant proposes to rezone the north 6.51 acres of the parcel to BU-2 zoning classification and develop the site as a outdoor storage yard for boat and RV parking. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review 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 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;

The character of the area is commercial along the east side of North Courtenay Pkwy. with Planned Industrial (PI) and Community Commercial (CC) FLU. There are residential land uses east of the PI and CC. There are four (4) FLU designations within 500 feet of the

subject site: PI, CC, RES 2, RES 4. The predominant FLU designation along the east corridor of North Courtenay Pkwy. is PI.

This request may be considered with PI FLU if use is transitional in the area along North Courtenay Pkwy. (SR-3), per Policy 2.11 of the Future Land Use Element.

The most recent FLU amendment (16S.04) in this area was adopted August 9, 2016 by Ordinance 16-12 to change the FLU designation from RES 2 and PI to all RES 2 on 1.57 acres located 1,425 feet to the north of the subject property on North Courtenay Pkwy.

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

56 single-family residences have been developed within one-half mile of the subject property in the preceding three (3) years. All 56 single-family residences are located in the Savannah Landing subdivision, Plat Book 69, page 17, located 1,425 feet to the north of the subject property on North Courtenay Pkwy.

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

There have been no zoning actions approved within one-half mile in the past three years.

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 has been identified.

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

The developed character of the area is Planned Industrial and Commercial along the east corridor of North Courtenay Parkway (SR-3) which transitions to residential zoning towards the east of these properties. The residential zoning in the area is AU agriculture residential zoning which allows two and one-half (2 1/2) acre lots and EU and EU-2 estate use residential zoning which allows 15,000 and 9,000 sq. ft. lots.

North Courtenay Parkway Corridor Study. The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA's Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

LU-1: *For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.*

LU-2: *No bay doors should face the roadway. All such doors should face to the side or rear of the building.*

LU-3: *No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.*

These recommendations were never codified by the Board of County Commission.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Convenience store with gas pumps and a Single-family residence with a plant nursery.	PIP, AU	PI, RES 2
South	Commercial Cruise Parking Lot.	BU-2, PIP	PI
East	Vacant Land	PIP	PI
West	Single-family residences west of Courtenay Pkwy.	RA-2-10	RES 4

To the north, across Smith Road, is a 2.02-acre parcel with PIP zoning and developed as convenience store with gas pumps. Also, across Smith Road is a 2.92-acre parcel with AU (Agricultural Residential) zoning and is developed with a single-family residence and a plant nursery.

To the south is the remainder of the subject parcel with BU-2 and PIP zoning which is developed with a commercial parking lot for cruise ship parking.

To the east is a 37.66-acre undeveloped parcel with PIP zoning.

To the west across North Courtenay Parkway are 0.26 to 0.52-acre parcels with RA-2-10 zoning which are developed with single-family residences.

The current PIP classification is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements. PIP also permits all uses permitted in the BU-1 and BU-2 classification

The proposed BU-2 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.

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.

RA-2-10 classification permits single-family attached development at a density of up to 10 units per acre. RA-2-10 is intended to provide a transition between single-family detached zoning classifications and multiple-family zoning classifications, permitting fee simple ownership of individual attached units.

Preliminary Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway, from the north ramp of SR 528 to Hall Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 43.17% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 0.89%. The corridor is anticipated to operate at 44.06% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as this site is a proposed commercial development.

The parcel is serviced by the City of Cocoa utilities for public water. The property is serviced by Brevard County sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00063

Applicant: Bruce Moia for Summit Shah

Zoning Request: PIP to BU-2

Note: Applicant wants outdoor boat/RV storage and parking.

NMI Hearing Date: 02/09/23; **BCC Hearing Date:** 03/02/2023

Tax ID No: 2411749

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

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- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Basinger sand), an indicator that wetlands may be present on the property. A wetland delineated was provided as part of the original cruise parking site plan (18SP00008). Wetlands were not delineated in the project area.

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Pomello sand) on the east side of the project area as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Septic Overlay

The entire parcel is 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 project area. These trees may have been preserved to meet landscaping requirements for Site Plan 18SP00008. If so, the applicant may need a revised landscaping plan for the entire parcel. The applicant is encouraged to incorporate robust trees into the design. Per 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.