



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
 25Z00001**

Troy Holdings LLC

BU-1-A (Restricted Neighborhood Retail Commercial) with Binding Development Plan (BDP) to BU-2 (Retail, Warehousing and Wholesale Commercial) and removal of BDP with a new BDP applied

Tax Account Number: 2501390 & 2521094 (Both parcels have same recorded Deed)
 Parcel I.D.: 25-36-02-00-8 & 25-36-02-00-26 (Both parcels have same Deed)
 Location: West side of S. Courtenay Park. and approx. 256 feet south of Cone Road. (District 2)
 Acreage: 1.86 acres combined

Merritt Island Redevelopment Agency: Unknown
 Planning & Zoning Board: 04/14/2025
 Board of County Commissioners: 05/01/2025

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	BU-1-A	BU-2
Potential*	FAR of 1.00 55 multifamily Units **	FAR of 1.00 55 multifamily units
Can be Considered under the Future Land Use Map	Yes* Community Commercial (CC)	Yes* Community Commercial (CC)

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

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

Background and Purpose of Request

The applicant requests a zoning classification change from BU-1-A (Restricted Neighborhood Retail Commercial) to BU-2 (Retail Warehousing and Wholesale Commercial) on the combined site containing 1.86 acres. The request includes the removal of an existing Binding Development Plan (BDP) on the north 0.16 acres and a new BDP applied to the combined 1.86 acres that limits the BU-2 use to RV and boat storage only. The subject is located directly on S. Courtenay Parkway, a county-

maintained roadway. BU-2 would be a new zoning classification along the west side of S. Courtenay Parkway.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Typically, 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). However, the suggested BDP would restrict the potential high intensity BU-2 uses to RV and boat storage only.

The subject property is in a mixed-use area along North Courtenay Parkway 250 feet south of Cone Road. Properties fronting on N. Courtenay Parkway are commercial in use and include development such as gasoline convenience store, retail multi-tenant centers, and multi-tenant professional building. The development west and south of the subject is single family residential.

The existing BDP **Z-8602** only covers the north 0.16 acres which abuts N. Courtenay Pkwy. and stipulates:

That the Developer, having been granted BU-1-A Classification for Restricted Neighborhood Retail Commercial, will not construct or permit the construction of a convenience market on the property and will not undertake or permit gasoline sales accessory to a convenience store or otherwise and will not undertake or permit the sale of alcoholic beverages from the property.

The new BDP proposes to limit allowable BU-2 uses exclusively to RV and boat storage while permitting all other uses allowed under the BU-1 zoning classification. This restriction aims to reduce the intensity of use within the BU-2 zoning classification if granted.

Additionally, the new BDP also proposes a vegetative buffer to the single-family subdivision abutting the parcel along the south property line. The developer/owner will be required to meet Landscape Buffers per Section 62-4342 which states when using a vegetative buffer in lieu of the required fence or wall, a minimum 20 foot vegetated area shall also be provided.

The applicant has submitted a preliminary site plan as part of the BDP. Any changes/amendments to the preliminary site plan or the BDP would require the applicant to come back before the Board of County Commission for approval.

In 2023, the Live Local Act was enacted and was revised in 2024. The Act is intended to address the state's growing housing affordability crisis through significant land use, zoning, and tax benefits. 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. In unincorporated Brevard County, the Live Local Act effectively allows for the development of up to 30 dwelling units per acre. The subject property, encompassing 1.86 acres zoned BU-1-A, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 55 multi-family units as stipulated by the Live Local Act. There is no difference in development potential under the Live Local Act with the approval of this rezoning request.

The subject property is located within the Merritt Island Redevelopment Area. Contractor's offices, plants and storage yards shall not be located on any parcel with frontage on State Road 520. Within the remainder of the Merritt Island Redevelopment Area, there shall be no visible outside storage. *Storage yards must be enclosed with a six-foot opaque wall or fence.*

The two parcels are under single ownership and were recorded in ORB 10092 Page 316 on June 18, 2024 under a single deed, but have not been joined into a single parcel with the Brevard County Property Appraiser. Each parcel includes its own Tax Account number.

For ease of understanding the smaller 0.16 acre portion will be identified as the north parcel and the larger 1.70 acre portion will be identified as the south parcel.

According to the best available data from the Brevard County Property Appraiser, the north portion of the subject was created on January 30, 1991, as described in Official Records Book 3102 Page 3810, and the south portion was created on February 28, 1982, as described in Official Record Book 2334 Page 2381.

Please note: The applicant has provided a proposed site plan with the rezoning application which includes a preliminary BDP. This is not a requirement for rezoning and a site plan has not been reviewed for compliance with the land development codes and other County departments.

Previously Approved Zoning Actions:

North 0.16 acre Parcel;

Z-8602 requested a rezoning from AU to BU-1-A with a Binding Development Plan and a CUP for a child care center. This was approved in May 1990. The CUP has since been removed.
Z-8531 request for AU to BU-1 denied January 1990.

South 1.7 acre Parcel;

Z-3319 Special Use Permit for a nursery and sale of nursery products from an AU use approved May 1973.

Z-5769 change from AU to RU-1-9 approved 09/10/1982.

Z-8656 change from RU-1-9 to BU-1-A approved September 24, 1990.

Zoning Action to combined parcels;

Z-11326 rezoning request from BU-1-A to BU-1 with a FLU change from NC to CC, denied March 1, 2007.

There was a request for a small-scale amendment to change the FLU from NC to CC (**23SS00015**) with a companion rezoning request (**23Z00053**). The small-scale amendment to the comprehensive plan was granted in September 2023

A rezoning application **23Z00053** to change the zoning from BU-1-A with the removal of the BDP was granted subject to the drafting and recording of a new BDP. The BDP was never executed and is unapproved. This is a new application for the same action.

The subject has access from N. Courtenay Parkway, a county maintained right of way. There are no current Code Enforcement cases on the subject property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Convenience store with gas pumps	BU-1	CC
South	Single-family residence	RU-1-9	NC
East	Retail store	BU-1	CC
West	Single-family residence	AU	RES 15

The current BU-1-A 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.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

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 minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

RU-1-11 classification 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 a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

Future Land Use:

The subject property contains the Community Commercial (CC) FLU designation. The existing BU-1-A may be considered consistent with the CC FLU designation. The proposed BU-2 zoning classification is considered consistent with the CC FLUM designation.

FLUE 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 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services, and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence, or chain-link fence. This request could be considered an introduction of BU-2 zoning on the west side of S. Courtenay Pkwy.

- B. Existing commercial zoning trends in the area;

There has been a retail commercial zoning trend in the immediate area specifically to the north of the parcel and to the east of the subject property to allow BU-1 uses.

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

The Land Use in the surrounding area is Commercial to the north and east with residential to the south and to the west.

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

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property has access to the City of Cocoa potable water and Brevard County sewer located along the west side of S. Courtenay Pkwy. It is not anticipated to have sufficient impact on the LOS for potable water service, sanitary sewer or solid waste disposal due to the proposal being for a mini-warehouse and storage facility.

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

The presence of hydric soils (Anclote sand, frequently flooded) is an indicator 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.*

In accordance with Section 62-3694(c)(3) when two properties are under one site plan and only one portion has frontage on a mitigation qualified roadway, those parcels must be joined if wetlands are confirmed. (see attached Natural Resource Management report)

Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

- 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 the 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 utilize the subject parcel for indoor RV and boat storage per the BDP. Hours of operation, noise levels, and traffic operations will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272 to minimize the potential effects upon the neighborhood and adjacent commercial activities.

- 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;

The subject property is located in the Merritt Island Redevelopment Agency (MIRA) district, along a commercial corridor on the west side of S. Courtenay Pkwy. from Cone Road to the residential subdivision Tropical Gardens abutting the subject parcel to the south. North of Cone Road, along the West side of S. Courtenay Pkwy. is a residential subdivision, Merritt Ridge.

To the immediate north and east is Community Commercial (CC) FLU. The southern 120 feet portion of the subject parcel is NC FLU. The abutting parcels to the south are Neighborhood Commercial (NC) FLU. The abutting parcel to the west is Residential 15 (RES 15) FLU. All immediate surrounding areas to the north, south, and west of S. Courtenay Pkwy. have commercial and residential uses within 500-feet of this site. Directly to the east of S. Courtenay Pkwy. are all commercial uses.

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

There have been three zoning actions within a half-mile of the subject property within the last three years.

22Z00002 was approved on April 7, 2022, to rezone a parcel from AU to RU-1-13

23Z00054 was approved on September 7, 2023, to rezone a parcel from RU-1-11 to BU-1

23SS00014 was approved on August 14, 2023, to change the FLU from RES 6 to CC

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

There has been 1 new development approved within this area which has been developed with a parking lot.

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

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

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.

The subject property is located along a commercial corridor on the west side of S. Courtenay Pkwy. from Cone Road to the residential subdivision Tropical Gardens abutting the subject parcel to the south. North of Cone Road, along the West side of S. Courtenay Pkwy. is a residential subdivision, Merritt Ridge. The abutting parcel to the north is developed with a convenience store with gas pumps zoned BU-1. The abutting parcel to the east is developed with a commercial building zoned BU-1. This may be considered an introduction of BU-2 zoning in the surrounding area. BU-1-A zoning was used to buffer the adjacent residential neighborhood to the south.

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

Staff analysis does not indicate the property is located within an established neighborhood. It is not located in a neighborhood or subdivision but is along a commercial corridor.

- b. 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 Developer/Owner requests a BDP which shall limit uses to indoor RV and boat storage as allowed in BU-2 and those uses allowed in the BU-1 zoning district. The Board may consider additional conditions to the BDP to mitigate the potential impacts of introducing BU-2 zoning.

- c. 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.

As the immediate area is commercial, the proposed uses maintain the commercial integrity of the area. The difference between the current zoning to the requested change of zoning is due to the ability to have RV and Boat storage. The abutting parcel to the north is developed with a convenience store with gas pumps with BU-1 zoning. The abutting parcel to the east is developed with a 4,560 sq. ft. commercial building with BU-1 zoning. The abutting parcels to the south and west have single-family zoning RU-1-9 and AU and are developed with single-family residences.

The next closest parcel with BU-2 zoning classification is along the east side of S. Courtenay Pkwy directly east of the subject parcel. This parcel has both BU-1 along the front of the parcel and BU-2 in the rear of the parcel. In the current zoning classification of the subject property, you are not able to conduct commercial business having outdoor storage.

Preliminary Concurrency

The closest concurrency management segment to the subject property is S. Courtenay Parkway, between Cone Road and Banana Blvd, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 74.17% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 74.33% 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 the proposed project is a commercial development and not intended for residential uses.

The subject property has access to The City of Cocoa potable water. The subject property has access to Brevard County sewer which runs along the west side of S. Courteney Pkwy.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

For Board Consideration

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area. The Board may consider whether the proposed conditions of the BDP mitigate the potential impacts of introducing BU-2 zoning.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary

Item No. 25Z00001

Applicant: Jessica Williams (Owner: Troy Holdings LLC)

Zoning Request: BU-1-A with removing BDP to BU-2 with new BDP

Note: for executive storage

Zoning Hearing: 04/14/2025; **BCC Hearing:** 05/01/2025

Tax ID No.(s): 2501390 and 2521094

- 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:

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

Land Use Comments:

Hydric Soils

A portion of the subject parcel contains mapped hydric soils (Anclote sand, frequently flooded); an indicator 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). S. Courtenay Parkway is a MQR at this location. Insert Assemblage of parcel language. 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.

Indian River Lagoon Nitrogen Reduction Septic Overlay

The majority of this property 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 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.