



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**25Z00019**

**Still Florida Properties, LLC. (Kelly Delmonico)**

**AU (Agricultural Residential) to BU-1 (General Retail Commercial)**

Tax Account Number: 2000338  
Parcel I.D.: 20-35-31-00-254  
Location: 4150 Highway 1 Mims, FL 32754 (District 1)  
Acreage: 3.49 acres

Planning and Zoning Board: 8/18/2025  
Board of County Commissioners: 9/04/2025

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU	BU-1
<b>Potential*</b>	1 single-family residence	FAR of 1.0 104 dwelling units***
<b>Can be Considered under the Future Land Use Map</b>	Yes NC**, RES 2	Yes CC

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

\*\* Yes, classification may be considered, if permitted by Policy 2.10 of the Future Land Use (FLU) Element.

\*\*\* 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 AU (Agricultural Residential) on 3.49 acres to BU-1 (General Retail Commercial) to allow for commercial use and future development of the subject property. After a phone call with the applicant, it was clarified that,

“The property owner desires to construct a flex- contractor office building with a layout of several units and no outside storage to allow for permitted uses within the BU-1 zoning district.” The applicant has been advised on the limitations of warehousing within the BU-1 zoning district.

The subject parcel has access to Highway 1, a state-maintained roadway. The subject parcel is currently undeveloped and is located on the west side of Highway 1, approximately 455 feet south of Grantline Road.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **25SS00006** to change the Future Land Use Element from Neighborhood Commercial (NC) and Residential 2 (RES 2) to Community Commercial (CC). This request, if approved, would provide consistency with the requested zoning of BU-1.

The property's current configuration has remained the same since the earliest recorded deed available from February 05, 1962.

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.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling. Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in Section 62-2115.

Sec. 62-2115. - Metal buildings.

(a) Metal buildings are permitted in the BU-1 general retail commercial, TU-1 general tourist commercial, TU-2 highway transient tourist and the PBP planned business park zoning classifications subject to the following criteria:

(1) The front of the metal structure shall be galvanized, and shall utilize factory finished painted siding, at a minimum.

(2) The roofline shall be architecturally treated with a mansard roof or in another acceptable manner to enhance the appearance of the front of the metal structure.

(b) Accessory metal structures with exterior metal skin may be utilized in the commercial zones listed in this section if they are located to the rear of the rear building line of the principal structure and to the rear of the side building line of the principal structure from a side street.

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 3.49 acres with approval of rezoning to BU-

1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 104 multi-family units as stipulated by the Live Local Act.

The subject property retains its original zoning classification of AU when the Brevard County zoning code was adopted on May 22, 1958.

Both the NC and RES 2 FLU designations are original from the adoption of the Brevard County Comprehensive Plan on September 8, 1988.

The subject property is located within the 2007 Mims Small Area Study, situated approximately 0.6 miles north of Lionel Road. The study notes that commercial needs should generally be focused on providing goods and services to Mims residents, as opposed to larger regional markets. The commercial character in Mims north of Lionel Road should be minimal, in keeping with the area's current and future low-density rural character. Please be advised, this is from a study note that was not part of the adopted actions.

The Board may wish to consider mitigating the potential intrusion of this land use into the surrounding residential areas by limiting the use to only a flex- contractors' offices, with no outside storage.

There are no current code enforcement complaints on the property.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	AU	RES 2
<b>South</b>	Vacant	BU-1	CC
<b>East</b>	Highway 1	N/A	N/A
<b>West</b>	Vacant, Residential related amenities	AU	RES 1

North of the subject property is one (1) parcel, 3.37 acres developed with a single-family residence, AU zoning classification and RES 2 FLU.

South of the subject property is one parcel, 2.15 acres, vacant property with BU-1 zoning classification and CC FLU.

East of the subject property is Highway 1, a four lane, state maintained roadway.

West of the subject property is three (3) parcels: one (1) parcel, 1 acre of vacant land, a second parcel, 1.07 acres with residential related amenities and a third parcel, 1.07 acres of vacant land with all three parcels having AU zoning classification and RES 1 FLU.

The 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.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling.

### **Future Land Use**

The AU zoning classification can be considered consistent with the NC Future Land Use designations provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan if provided by Policy 2.10 of the Future Land Use (FLU) Element. The AU zoning can be considered consistent with the RES 2 Future Land Use designations. The proposed BU-1 zoning is not consistent with the existing RES 2 and NC FLUM designation. A Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **25SS00006**, request for Community Commercial (CC) FLU designation, would allow the proposed zoning and future land use to be consistent, if approved.

### **Applicable Land Use Policies**

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

**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-1, General Retail Commercial zoning classification encompasses lands devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling. Where the property abuts a residential zoning classification, the maximum height threshold of any building or structure shall be 35 feet. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.**

**The development will need to comply with buffering criteria in Section 62-4342. The purpose of the landscape buffers are to provide visual and physical screening and buffering between potentially incompatible uses and to reduce the effects of glare,**

**noise and incompatible activities, to include commercial, institutional, public, and industrial uses when they abut existing residential uses.**

- B. Existing commercial zoning trends in the area;

**The closest commercial zoning classification is the abutting south property which is zoned BU-1. The closest property with BU-2 zoning classification is located approximately 0.1 miles south of the subject property and is developed with a business, Pure Clean Systems Inc.**

**The most recent commercial development was a trucking terminal and warehouse in 2023. This property is located south of the subject property approximately 0.2 miles.**

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

**Staff analysis has determined the surrounding area north and west of the subject property is single-family residences mixed with agricultural pursuits and vacant lands.**

**The closest commercial use is the south of the subject property approximately 0.1 miles.**

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

**It is not anticipated that the proposed development would cause a deficiency in adopted LOS standards for roads and solid waste based on the preliminary concurrency analysis.**

**Connection to centralized water and sewer are not available in this area. The subject property will need to provide their own services for water and sewer.**

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and the following land use issues were identified:

**The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, and hydric soils (Anclote sand), as shown on the NWI Wetlands, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. An Environmental Assessment (Report) prepared by Atlantic Environmental in January 2025, found approximately 1.93 acres of wetlands and 1.56 acres of uplands on the site. The wetland delineation shall be verified at time of site plan submittal.**

**This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency (FEMA), and as shown on the FEMA Flood Map.**

**Federally and/or state protected species may be present on the property.**

- 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 the regulations of Section 62-1482, 62-2115 and 62-4342 of Brevard County Code. In addition, it will need to comply with performance standards within Sections 62-2251 through 62-2272, which will be reviewed at the site plan stage should the zoning change be approved.**

**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;

**This property will need to comply with the regulations of Section 62-1483 and 62-4342 of the Brevard County Code. In addition, the performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage should the zoning change be approved.**

**Traffic from the proposed development will impact the surrounding area, however, the corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed FLUM amendment increases the percentage of MAV utilization by 0.09%. The corridor is anticipated to operate at 27.81% of capacity daily. Specific concurrency issues will be addressed at the time of site plan review.**

- 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;

**Within the 0.5-mile radius of the subject property, there are four (4) FLU designations: RES 1, RES 1:2.5, RES 2, NC and CC. RES 1 is the predominant FLU designation.**

**The existing pattern is a mixture of residential dwellings, a commercial cleaning business, a trucking terminal with a warehouse and large vacant lots.**

**There have been no FLUM amendments within one-half mile of the subject property in the past three years.**

**There are several zoning classifications: AU, RR-1, SR, BU-1, BU-2 and IN(L) within the 0.5-mile radius of the subject property, with the predominant zoning classification being AU.**

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

**One new development has occurred within 0.5 miles of the subject property within the last three years. It is located approximately 0.2 miles south of the subject property and is developed as a trucking terminal.**

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

**It appears no changes in actual development have occurred in the immediate area within the last three years. However, there has been one zoning action:**

- **24Z00003: On 5/2/3024, approved rezoning from RR-1 to AU(L) on 3.33 acres.**

- D. 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.**

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

**Staff analysis of a preliminary traffic concurrency indicates the proposed use will not materially and adversely impact the established residential area by introducing types or intensity of traffic, parking, trip generation. The proposed flex warehouse building with several units is a new commercial activity in the adjoining area that is not already present. However, the proposal is not within the identified boundaries of a neighborhood, but will abut a lot with a single-family residence.**

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 area is not considered an established residential neighborhood. However, there are clearly established boundaries such as roads and open spaces.**

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 residential area, not residential neighborhood. The proposed use would not preclude the existence of the existing residential area.**

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. The proposed zoning would be the first commercial zoning to be approved in the area within at least the past five years.**

## **FLUE 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) wetlands, hydric soils (Anclote sand) and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property.**

**This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency (FEMA), and as shown on the FEMA Flood Map.**



**Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along “Mitigation Qualified Roadways” (MQRs). U.S. Highway 1 is an MQR at this location. If wetlands are confirmed, 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.**

**Federally and/or state-protected species may be present on the property.**

**Please refer to all comments provided by the Natural Resource Management Department at the end of this report.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is U.S.1, between Lionel Rd. and Burkholm Rd., which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 27.72% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.09%. The corridor is anticipated to operate at 27.81% 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 is not within access for centralized water or sewer. The subject property will have to provide their own services for water and sewer.

### **Environmental Constraints**

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

- Wetlands and Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Protected Species

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

### **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 wish to consider mitigating the potential intrusion of this land use into the surrounding residential areas by limiting the use to only a flex- contractors' offices, with no outside storage

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 25Z00019**

**Applicant:** Kelly Delmonico (Owners: Still Florida Properties LLC)

**Zoning Request:** AU to BU-1 and NC

**Note:** to allow for commercial use and future development of flex-warehouse building

**Zoning Hearing:** 08/18/2025; **BCC Hearing:** 09/04/2025

**Tax ID No.:** 2000338 (3.49 ac)

- 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:**

- Wetlands and Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Protected Species

**Land Use Comments:**

**Wetlands and Hydric Soils**

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, and hydric soils (Anclote sand), as shown on the NWI Wetlands, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. An Environmental Assessment (Report) prepared by Atlantic Environmental in January 2025, found approximately 1.93 acres of wetlands and 1.56 acres of uplands on the site. The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694(c)(3)(b) has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). U.S. Highway 1 is an MQR at this location. If wetlands are confirmed, 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 accordance with Section 62-3696.

### **Floodplain Protection**

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees likely 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.**

### **Protected Species**

Federally and/or state protected species may be present on the property. According to the Report by Atlantic Environmental, no gopher tortoises or burrows were observed during the site visit on January 22, 2025. However, due to potentially suitable habitat in the uplands of the site, Atlantic Environmental recommends that a formal gopher tortoise survey be conducted prior to land clearing/development. The applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable prior to any plan, permit submittal, or development activity, including land clearing. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.